



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**PRICE DANIEL
ATTORNEY GENERAL**

December 13, 1951.

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Opinion No. V-1374

Re: Group insurance policies
for which the Comptroller
is authorized to make pay-
roll deductions.

Dear Sir:

You have requested an opinion of this office relating to payroll deductions which you are required to make in compliance with the statutory provisions dealing with group life, health, accident, accidental death and dismemberment, and hospital, surgical and/or medical expense insurance for State employees.

The statutory provisions regulating group life insurance for State employees are as follows:

"Sec. 1. No policy of group life insurance shall be delivered in this State unless it conforms to one of the following descriptions:

" . . .

"(3) A policy issued to an independent school district, incorporated city, town or village which has assumed control of the public school system within such municipality, State colleges or universities, any association of State employees, any association of State and County employees, and any department of the State Government, which employer or association shall be deemed the policyholder, to insure the employees of any such independent school district and of the public school system of

1/ Emphasis added throughout.

any such municipality, of any such State colleges and universities, of any such department of the State Government, members of any association of State employees, and members of any association of State and County employees for the benefit of persons other than the policyholder subject to the following requirements:

"(a) The employees eligible for insurance under the policy shall be all of the employees of the employer or all of any class or classes thereof determined by conditions pertaining to their employment.

"(b) The premium for the policy shall be paid by the policy holder wholly from funds contributed by the insured employees; provided, however, that any moneys or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the prorata abatement of the insured employees' contributions therefor; and provided further, that the employer may deduct from the employees' salaries the required contributions for the premiums when authorized in writing by the respective employees so to do. Such policy may be placed in force only if at least seventy-five (75%) per cent of the eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder.

"(c) The policy must cover at least twenty-five (25) employees at date of issue.

"(d) The amounts of insurance under the policy must be based on

some plan precluding individual selection either by the employees or by the policyholder." Art. 3.50, Insurance Code (Acts 52nd Leg., R.S. 1951, ch. 491, p. 868).

The provisions relating to group health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance for State employees are as follows:

"Sec. 1. The State of Texas and each of its political, governmental and administrative subdivisions, departments, agencies, association of public employees, and the governing boards and authorities of each State university, college, common and independent school districts or of any other agency or subdivision of the public school system of the State of Texas are authorized to procure contracts insuring their respective employees or any class or classes thereof under a policy or policies of group health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance. The dependents of any such employees may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The employees' contributions to the premiums for such insurance issued to the employer or to an association of public employees as the policyholder may be deducted by the employer from the employees' salaries when authorized in writing by the respective employees so to do.

"Sec. 2. All group insurance contracts effected pursuant hereto shall conform and be subject to all the provisions of any existing or future laws concerning group insurance." Art. 3.51, Insurance Code.

In light of the above statutes you wish to know how to distinguish among the various policies

issued to State employees so that you will make only the payroll deductions authorized by statute.

Group life insurance is closely regulated by statute, and a policy is not a "group life insurance" policy unless issued in strict compliance with the statutory provisions. Board of Insurance Commissioners v. Great Southern Life Ins. Co., 230 S.W.2d 803 (Tex. Sup. 1951).

A group life insurance policy for State employees as such must be issued to the head of a department, an association of State employees, or an association of State and County employees. Art. 3.50, Sec. 1, supra. Section 2 of Article 3.50 provides in part:

"No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the Board of Insurance Commissioners of the State of Texas and formally approved by such Board . . ."

Thus, if a group life insurance policy has been issued to a proper association or a department head, and the same has been filed with the Board of Insurance Commissioners and approved by it, and the employee has authorized the deduction in writing, you are required to make the proper payroll deductions.

The cases defining an "association" are almost completely in agreement that it may be "a body of persons acting together, without a charter, but upon methods and forms used by corporations, for prosecution of some common enterprise." See 4 Words and Phrases (Permanent Ed. 1940) 565. Of course it may also be a formally chartered organization. Applying these definitions to State employees, or to State and County employees, we find they are an "association" if they are a united group, with by-laws and officers, and are in the prosecution of a common enterprise. Such an association of employees is authorized by statute to be the policyholder for such contracts of group life insurance.

Section 2 of Article 3.51, supra, requires that the group health, accident, accidental death and

dismemberment, and hospital, surgical, and/or medical expense insurance "be subject to all the provisions of any existing or future laws concerning group insurance." The only statutes at present dealing with any type of "group insurance" are the group life insurance statutes and Articles 20.01-21 of the Insurance Code, which require nonprofit group hospital service corporations to comply with certain statutory provisions.

It is manifest that nonprofit corporations organized pursuant to Article 20.01, supra, must comply with the provisions of Articles 20.01 to 20.21 when contracting for group hospital service insurance covering State employees. In our opinion, this is the only existing law relating to group insurance which is applicable to any of the types of insurance mentioned in Article 3.51. We do not think that the Legislature intended for the group life insurance provisions in Article 3.50 to be applied to insurance for public employees procured under Article 3.51. It is clear that many of the provisions of Sections 2, 3, and 5 of Article 3.50 setting out the requirements for policies of group life insurance are not appropriate to other types of group insurance policies; and Articles 20.01 to 20.21 do not impose these requirements on policies issued by corporations operating under those statutes. Moreover, the provisions of Section 1 of Article 3.50, specifying the number and percentage of employees which must be insured and other conditions for the issuance of group life insurance policies, are not applicable to other types of group insurance policies issued on behalf of the employees of a private employer. We are of the opinion that the Legislature did not intend to make the acquirement of these group policies more onerous for State employees than it would be for a comparable group of private employees. In our opinion, the purpose of Section 2 of Article 3.51 is to provide that as each of the specific types of insurance is put under statutory regulation, the provisions shall also apply to the same types of policies on public employees.

Section 1 of Article 3.51 authorizes State departments and agencies and associations of public employees to procure the types of group insurance enumerated therein. We think it is within the discretion of each department head to decide whether and with whom

he will contract for insurance covering his employees. When contracts have been made in accordance with this section, either by the head of the department or by an association of public employees, the employer is authorized to deduct the premiums from the employee's salary upon written authorization of the employee. Therefore, when payrolls have been certified to you showing deductions for an authorized group for any of these types of group insurance, you are required to make the proper deductions from the salary warrants. If the contract is with a corporation organized under Article 20.01 et seq. of the Insurance Code, the employer or association must be satisfied that the corporation has the certificate required by Article 20.02(d) before making deductions and authorizing the issuance of warrants to the corporation covering deductions for group hospital service insurance.

SUMMARY

The Comptroller is authorized by statute (Art. 3.50, Insurance Code) to make payroll deductions for group life insurance premiums of State employees if a policy issued to a department head or an association of public employees has been approved by the Board of Insurance Commissioners.

The Comptroller is authorized by statute (Art. 3.51, Insurance Code) to make payroll deductions for group health, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance policies of State employees if the policies have been procured by the head of a proper State unit or by an association of public employees.

APPROVED:

Yours very truly,

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