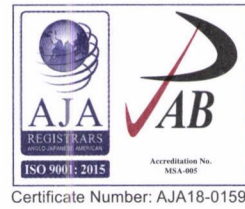




Republic of the Philippines
 Department of Finance
INSURANCE COMMISSION
 1071 United Nations Avenue
 Manila



Legal Opinion (LO) No.:	2020 - 02
Date:	04 March 2020

PROF. E. (LEO) D. BATTAD

Program Director

UP College of Law Gender Law and Policy Program

Malcolm Hall, Diliman,

Quezon City 1101

SUBJECT: Insured’s Right to Designate Beneficiary

Dear **Prof. Battad**:

This refers to your letter received by the Insurance Commission on 20 January 2020 requesting for the issuance of guidelines in relation to the right of the insured to designate a beneficiary, particularly the right of members of the lesbian, gay, bisexual, transgender, and queer (LGBTQ+) community to designate their domestic partners as beneficiaries of their life insurance. Per your letter, the position of the UP College of Law Gender Law and Policy Program (hereinafter “UP GLPP”) is that the insured who secures a life insurance policy on his or her own life has the freedom to designate any person as his or her beneficiary, with the exception of those disqualified under Articles 739 and 2012 of the Civil Code.

Upon careful consideration of the present matter, **the Insurance Commission affirms your position that the insured who secures a life insurance policy on his or her own life may designate any individual as beneficiary, subject only to the exceptions provided in Article 2012 in relation to Article 739 of the Civil Code.**

While there is no express provision in the Amended Insurance Code on who may be designated as beneficiary in a life insurance policy, the right of the insured to designate any person as beneficiary in such insurance policy may be implied from Section 11 of the Amended Insurance Code, to wit:

“Section 11. The insured shall have the right to change the beneficiary he designated in the policy, unless he has expressly waived this right in said policy. x x x”

Please note that insofar as the Amended Insurance Code is concerned, there are no restrictions as to who may be designated as beneficiary in a life insurance policy, subject to the application of Section 12 thereof which provides thus:

“Section 12. The interest of a beneficiary in a life insurance policy shall be forfeited when the beneficiary is the principal, accomplice, or accessory in willfully bringing about the death of the insured. x x x”

Meanwhile, Article 2011 of the Civil Code provides that the contract of insurance is governed by special laws and, for matters not expressly provided for in such special laws, by the Civil Code. Hence, insofar as the restriction on the designation of beneficiary in a life insurance policy is concerned, Article 2012 of the Civil Code is controlling, to wit:

“Art. 2012. Any person who is forbidden from receiving any donation under Article 739 cannot be named beneficiary of a life insurance policy by the person who cannot make any donation to him, according to said article.”

Under Article 739 of the Civil Code, the following individuals cannot be named beneficiary of a life insurance policy:

“Art. 739. The following donations shall be void:

- (1) Those made between persons who were guilty of adultery or concubinage at the time of the donation;
- (2) Those made between persons found guilty of the same criminal offense, in consideration thereof;
- (3) Those made to a public officer or his wife, descendants and ascendants, by reason of his office. x x x”

The foregoing considered, the rule, therefore, is that **an individual who has secured a life insurance policy on his or her own life may designate any person as beneficiary provided that such designation does not fall under the enumerations provided in Article 739 of the Civil Code, without prejudice to the application of Section 12 of the Amended Insurance Code.**

You have mentioned in your letter that based on the research of UP GLPP, there are instances when insurance companies refuse the designation of non-relatives as beneficiary of the insured, resulting in the inability of members of the LGBTQ+ community to designate their domestic partners as beneficiaries of their life insurance notwithstanding the fact that their partners are not disqualified from being designated as beneficiaries under Article 739 of the Civil Code. Per your

letter, the reason for the refusal of such designation is the lack of an “insurable interest” of the domestic partner on the life of the insured.

In light of the apparent confusion in the application of the concept of “insurable interest” on the designation of beneficiary in a life insurance policy, the Commission clarifies that unlike in the case of property insurance where the Amended Insurance Code specifically provides that the beneficiary must have an insurable interest in the property insured, there is no equivalent provision in the case of life insurance. Hence, insofar as life insurance is concerned, it suffices that the person securing the life insurance policy has an insurable interest in the life being insured. As provided in Section 10 of the Amended Insurance Code:

“Section 10. Every person has an insurable interest in the life and health:

- (a) **Of himself**, of his spouse and of his children; x x x”
(Emphasis supplied.)

Thus, in the case where the insured secures a life insurance policy on his or her own life, it is of no moment whether or not the individual designated by such insured as beneficiary has an insurable interest in the life of the insured, there being no provision in either the Amended Insurance Code or the Civil Code requiring that the beneficiary have an insurable interest in the life of the insured, subject to the application of Article 2012 in relation to Article 739 of the Civil Code. Therefore, there is no legal impediment to the designation as beneficiary of the domestic partner of an insured who has secured a life insurance policy on his or her own life.

Please note that this legal opinion is based solely on the facts presented and disclosed before the Commission and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases.

For your information and guidance.

Very truly yours,

DENNIS B. FUNA
Insurance Commissioner

