



INSURANCE MEMORANDUM
CIRCULAR NO. 2021 - 02

RULES OF PROCEDURE ON THE INVESTIGATION OF UNLICENSED ENTITIES

RULE I
GENERAL PROVISIONS

SECTION 1. Title – These Rules shall be known as the “Rules on the Investigation of Unlicensed Entities”.

SECTION 2. Applicability – These Rules shall apply to cases before the Insurance Commission in the exercise of its investigative powers and functions under the Insurance Code, as amended by Republic Act No. 10607, Republic Act No. 9829, otherwise known as the “Pre-Need Code of the Philippines”, and Executive Order No. 192, s. 2015 entitled “Transferring the Regulation and Supervision Over Health Maintenance Organizations from the Department of Health to the Insurance Commission, Directing the Implementation Thereof and For Other Purposes” against unlicensed entities engaged in the business of insurance, pre-need, or health maintenance organizations. These Rules shall be without prejudice to the right of a party to file an administrative case in accordance with Insurance Memorandum Circular No. 1-93 or any amendments thereto.

SECTION 3. Construction – These Rules shall be liberally construed to promote public interest and to assist the parties in obtaining just, prompt, expeditious, and inexpensive resolution, settlement, and/or disposition of every action brought before the Insurance Commission in the exercise of its regulatory power.

SECTION 4. Nature of Proceedings – The proceedings filed before the Insurance Commission in accordance with these Rules shall be non-litigious in nature, and the technical rules of evidence and procedure obtaining in the courts of law shall not strictly apply thereto.

SECTION 5. Suppletory Application of the Rules of Court – In the absence of any applicable provision in these Rules, the pertinent provisions of the Rules of Court and prevailing jurisprudence may, in the interest of justice and whenever practicable and convenient, be applied by analogy or in a suppletory character and effect.

SECTION 6. Parties – In all cases filed with the Insurance Commission in accordance with these Rules, the party initiating the action shall be called the “Complainant” and the party against whom the action is made shall be called the “Respondent”.

RULE II VENUE AND AUTHORITY

SECTION 1. Venue – All actions brought under these Rules shall be commenced at the principal office of the Insurance Commission in Manila or in any of its regional district offices or branches.

All actions brought under these Rules shall be heard by the Regulation, Enforcement and Prosecution Division (REPD) or such other regional district offices or branches of the Insurance Commission where such actions may be filed.

SECTION 2. Hearing Officer – The proceedings shall be heard by the head of the REPD or by any hearing officer within the same division with a lawyer designation or, in their absence, the available next-in-rank personnel with a rank of Insurance Specialist II or higher. The Insurance Commissioner or the Deputy Commissioner for Legal Services may likewise authorize other officer/s outside REPD to act as hearing officer in proceedings filed pursuant to these Rules.

For actions commenced in the Commission's regional district offices or branches, the heads of such offices or branches shall hear the proceedings or, in case of their absence, by the next-in-rank personnel with a rank of Insurance Specialist II or higher.

RULE III INVESTIGATION PROCEEDINGS IN GENERAL

SECTION 1. Commencement of Investigation Proceedings – An investigation for possible violation of laws, rules, regulations, circulars and orders being implemented by this Commission may be commenced by the REPD, the Commission's regional district offices or branches, or by such other officer/s as may be authorized by the Insurance Commissioner or the Deputy Commissioner for Legal Services, either *motu proprio*, or upon receipt of a complaint from the public, a referral from a government instrumentality or a self-regulatory organization, or an anonymous tip.

Unless otherwise provided, the procedures set forth in the succeeding Rules shall similarly apply to *motu proprio* investigations conducted by this Commission.

SECTION 2. Investigative Discretion – The Commission shall not be bound by the contents of the complaint, tip, or referral, and has full discretion to expand its investigation based on the evidence gathered.

The officer/s authorized to conduct an investigation pursuant to these Rules may request another Division in the Insurance Commission to provide assistance within its expertise on a matter subject of and relevant to the investigation or proceeding.

RULE IV COMMENCEMENT OF ACTIONS

SECTION 1. Complaint – An action shall commence upon the filing of a complaint, which must be in writing and duly subscribed and sworn to under oath. The complaint shall include the following:

- (a) Full name of the parties to the case;
- (b) Concise statement of ultimate facts constituting the complainant's cause/s of action;
- (c) The relief/s sought, which may include a general prayer for such other relief/s as may be deemed just or equitable; and
- (d) Affidavits and such other documents or evidence as to support the allegation/s in the complaint.

This shall be without prejudice to the Commission's authority to conduct an investigation *motu proprio* in accordance with Rule III of these Rules.

SECTION 2. Docketing of Cases – Upon evaluation of the complaint by any hearing officer and if found sufficient in form and substance, the complaint shall be docketed and assigned a case number.

In the case of a *motu proprio* investigation conducted by this Commission, the Hearing Officer, upon finding of sufficient grounds that warrant the commencement of an action under these Rules, shall issue a formal charge. The unlicensed entity subject of the formal charge shall be referred as "Respondent".

SECTION 3. Summons; Formal Charge – Within five (5) working days from receipt of a complaint, the Commission shall issue a summons requiring the respondent/s to file an answer or written explanation within fifteen (15) days from receipt thereof. A copy of the complaint and its annexes, if any, shall be attached to the said summons.

In the case of a *motu proprio* investigation, the Commission shall issue a formal charge which shall contain a specification of charge/s, a brief statement of material or relevant facts, accompanied by copies of the documentary evidence, if any, and a directive to file an answer or written explanation within fifteen (15) days from receipt thereof.

SECTION 4. Service of Summons, Formal Charge, Orders, and Other Processes – Summons, formal charge, orders, and other processes shall be served personally upon the parties by a duly authorized public officer, by registered mail, by private courier, or electronically, as may be warranted, prior to the proceeding.

SECTION 5. Answer or Written Explanation – Within fifteen (15) days from service of summons or formal charge, the respondent shall file an answer, not a motion to dismiss, to the complaint or formal charge and serve a copy thereof on the complainant. Affirmative and negative defenses not pleaded therein shall be deemed waived.

SECTION 6. Effect of Failure to File Answer or Written Explanation – Should the respondent fail to file an answer or written explanation to the complaint within the period stated above, the same shall be considered a waiver to participate in the investigation and the Commission shall render judgment as may be warranted by the allegations of the complaint, as well as the affidavits and other evidence on record, unless the Commission, in its discretion, requires the complainant to submit additional evidence.

RULE V PROHIBITED PLEADINGS

SECTION 1. Prohibited Pleadings – The following pleadings are prohibited:

- (a) Motion for Bill of Particulars;
- (b) Second Motion for Reconsideration;
- (c) Reply;
- (d) Petition for relief from judgment;
- (e) Motion for extension of time to file pleadings or any other written submissions, except for meritorious reasons;
- (f) Dilatory motions for postponement;
- (g) Third-party complaint;
- (h) Intervention;
- (i) Motion to hear affirmative defenses;
- (j) Modes of discovery; and
- (k) Any pleading or motion similar in effect to any of the foregoing.

**RULE VI
DISMISSAL OF THE COMPLAINT**

SECTION 1. Grounds for Dismissal – The Commission may *motu proprio* dismiss the complaint if it appears from the complaint and/or the documents attached thereto that it has no jurisdiction over the subject matter.

**RULE VII
CLARIFICATORY HEARING**

SECTION 1. Clarificatory Hearings – After the filing of answer or written explanation, the Hearing Officer may set the case for clarificatory hearing. The parties or their duly authorized representatives are required to attend the clarificatory hearing/s and should be ready to provide clarifications and/or documents as may be directed by the Commission.

SECTION 2. Position Papers – The Hearing Officer shall, at the conclusion of the clarificatory hearing/s, require the parties to submit their respective position papers within a period of thirty (30) days from receipt of the order.

The position paper shall set forth their claims and defenses, as well as the law and the facts relied upon by them, and attaching thereto affidavits of their witnesses in question-and-answer format numbered consecutively, and other evidence on the factual issues.

**RULE VIII
DECISIONS OR ORDERS**

SECTION 1. Submission of the Case for Decision – Upon the submission by the parties of their position papers, the case shall be deemed submitted for decision.

SECTION 2. Finality of the Decision or Order – Any decision or order determining the merits of a case, including the issuance of a cease and desist order, shall be in writing and signed by the Commissioner, and a copy thereof shall be served upon the parties personally, by registered mail, or by private courier. The Decision or Order, or issuance of a cease and desist order, as the case may be, shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy thereof by the parties unless a Motion for Reconsideration of such Decision or Order is filed within the period herein prescribed.

**RULE IX
MOTION FOR RECONSIDERATION**

SECTION 1. Motion for Reconsideration – Within fifteen (15) days from receipt of the Decision or Order of this Commission, the aggrieved party may be allowed

to file a Motion for Reconsideration of such order, ruling, or decision. No second Motion for Reconsideration shall be allowed or entertained.

If no Motion for Reconsideration is filed within the period above, the same Decision or Order shall become final and executory.

SECTION 2. Grounds – A Motion for Reconsideration shall be based on any of the following grounds:

- (a) Newly discovered evidence which could not have been discovered and produced during the proceedings and which, if produced, would probably alter the results;
- (b) The Decision is not supported by the evidence on record;
- (c) Errors of law or irregularities have been committed prejudicial to the interest of the movant; and
- (d) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired of their rights.

SECTION 3. Comment or Opposition to Motion for Reconsideration – Except in the case of *motu proprio* investigations, within fifteen (15) days from receipt of a copy of a Motion for Reconsideration, the adverse party may file a comment or opposition thereto and serve a copy thereof upon the party who filed the Motion for Reconsideration.

SECTION 4. When Deemed Submitted – After the opposition is filed, or upon the expiration of the period for filing the same without any opposition having been filed, the Motion for Reconsideration shall be deemed submitted for resolution by the Commission unless the latter shall consider it necessary to hear the oral arguments of the parties, in which case, it shall issue a corresponding order or notice to that effect.

SECTION 5. Denial of Motion for Reconsideration – The denial of the Motion for Reconsideration shall become final and executory after the lapse of fifteen (15) days from the date of receipt of a copy of said denial.

RULE X CONTEMPT

SECTION 1. Direct Contempt – Pursuant to Section 437(g) of the Insurance Code, as amended, Section 4(l) of EO No. 192, s. 2015, and Section 6(f) of the Pre-Need Code, the Commissioner or Hearing Officer under Section 2, Rule II of these Rules may summarily adjudge in direct contempt any person who has committed or is committing any act of misbehavior in their presence and while the proceedings is ongoing, including disrespect towards them, offensive

personalities towards others, or refusal to be sworn or to answer as a witness or to subscribe an affidavit or deposition when lawfully required to do so in accordance with the Rules of Court. If the offense is committed against the Commissioner, the same shall be punished by a fine not exceeding Ten Thousand Pesos (Php. 10,000.00). If the offense is committed against any hearing officer acting under the authority of the Insurance Commissioner, the same shall be punished by a fine not exceeding Five Thousand Pesos (Php. 5,000.00).

SECTION 2. Remedy – The person adjudged in direct contempt by the Commission may not appeal therefrom, but may avail themselves of the remedies of certiorari or prohibition in accordance with the Rules of Court. The execution of the contempt order shall be suspended pending resolution of such petition, provided such person files a bond fixed by the Commission and conditioned that they will abide by and perform the said order should the petition be decided against them.

SECTION 3. Indirect Contempt – The Commissioner or Hearing Officer may also cite any person for indirect contempt upon grounds and in the manner prescribed under Section 3, Rule 71 of the Rules of Court.

RULE XI APPEARANCE OF ATTORNEYS

SECTION 1. Appearance of Lawyers in the Commission – Every lawyer appearing before any hearing or investigation conducted by the Commission pursuant to these Rules shall manifest orally or in writing their appearance for a party, indicating their name and exact address, their Professional Tax Receipt for the current year, MCLE compliance, and IBP Receipt Number. Any pleading filed and signed by them shall likewise contain such information, otherwise they shall not be allowed to represent a party in any proceedings before this Commission pursuant to these Rules.

RULE XII JUDGMENTS, FINAL ORDERS, AND ENTRY THEREOF

SECTION 1. Final and Executory Judgment, Order, or Decision –All decisions or final order issued by the Commission are final and executory unless a Motion for Reconsideration is filed within the allowable period.

Decisions shall also be forwarded to relevant government agencies for their reference and for appropriate action.

Corresponding notice to the public shall likewise be published in a newspaper of general circulation and other means of publication for the guidance and protection of the consuming public.

SECTION 2. Entry of Judgment, Orders, or Decision – After the judgment, order or decision becomes final and executory, the same shall be entered in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry.

**RULE XIII
REPEALING AND SEPARABILITY CLAUSE**

SECTION 1. Repealing Clause – All other existing rules, circulars, procedures, and practices that are inconsistent with these Rules are hereby repealed, amended, or modified accordingly.

SECTION 2. Separability Clause – If any part or provision of these Rules is held invalid or unconstitutional, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and shall remain in force and effect.

**RULE XIV
EFFECTIVITY**

SECTION 1. Effectivity – These Rules shall take effect fifteen (15) days from the date of publication in a newspaper of general circulation in the Philippines.

Manila, Philippines, September 24, 2021.

DENNIS B. FUNA
Insurance Commissioner

