



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**GENWORTH LIFE AND  
ANNUITY INSURANCE COMPANY  
LYNCHBURG, VA**

**As of: October 2, 2015  
Issued: November 13, 2015**

**BUREAU OF MARKET ACTIONS  
LIFE, ACCIDENT AND HEALTH DIVISION**

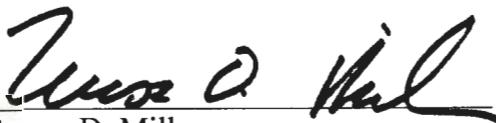
**GENWORTH LIFE AND ANNUITY INSURANCE COMPANY**  
**TABLE OF CONTENTS**

	<b>Order</b>	
<b>I.</b>	<b>Introduction</b>	<b>2</b>
<b>II.</b>	<b>Scope of Examination</b>	<b>5</b>
<b>III.</b>	<b>Company History and Licensing</b>	<b>6</b>
<b>IV.</b>	<b>Company Operations and Management</b>	<b>7</b>
<b>V.</b>	<b>Forms</b>	<b>8</b>
<b>VI.</b>	<b>Producer Licensing</b>	<b>9</b>
<b>VII.</b>	<b>Consumer Complaints</b>	<b>10</b>
<b>VIII.</b>	<b>Underwriting</b>	<b>11</b>
	<b>A. Underwriting Manuals</b>	<b>11</b>
	<b>Long Term Care Issued</b>	
	<b>B. Individual Universal Life with Riders Issued</b>	<b>12</b>
<b>IX.</b>	<b>Claims and Claims Manuals</b>	<b>13</b>
	<b>A. Claims Manuals – Long Term Care</b>	<b>13</b>
	<b>B. Individual Long Term Care Claims Paid</b>	<b>14</b>
	<b>C. Individual Long Term Care Claims Denied</b>	<b>14</b>
	<b>D. Policy Inquiries</b>	<b>15</b>
<b>X.</b>	<b>Marketing &amp; Sales</b>	<b>16</b>
	<b>Advertising</b>	<b>16</b>
<b>XI.</b>	<b>Recommendations</b>	<b>17</b>
<b>XII.</b>	<b>Company Response</b>	<b>18</b>

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: The Act of April 9, 1929, P.L. 177, No. 175, known as The  
Administrative Code of 1929

AND NOW, this 7<sup>th</sup> day of April, 2015, Christopher R. Monahan,  
Acting Deputy Insurance Commissioner, is hereby designated as the Commissioner's  
duly authorized representative for purposes of entering in and executing Consent Orders.  
This delegation of authority shall continue in effect until otherwise terminated by a later  
Order of the Insurance Commissioner.

  
Teresa D. Miller  
Acting Insurance Commissioner



BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
GENWORTH LIFE and ANNUITY	:	31 Pa. Code §§83.3, 83.4(a), 83.4(b)
INSURANCE COMPANY	:	and 146.6
700 Main Street, Mail Stop 3-040	:	
Lynchburg, VA 24504	:	
	:	
	:	
	:	
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	:	
	:	
	:	
Respondent.	:	Docket No. MC15-10-002

CONSENT ORDER

AND NOW, this 13<sup>th</sup> day of November, 2015, this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

3. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein. No acts by Respondent that are alleged to be violations of Pennsylvania law in the referenced provisions were the result of any conscious policy to evade the requirements of Pennsylvania law.

#### FINDINGS OF FACT

4. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Genworth Life and Annuity Insurance Company, and maintains its address at 700 Main Street, Mail Stop 3-040, Lynchburg, VA 24504.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2014 to December 31, 2014.

- (c) On October 2, 2015, the Insurance Department issued a Market Conduct Examination Report to Respondent.
  
- (d) The Examination Report notes violations of the following:
  - (i) 31 Pa. Code §83.3, which requires written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such;
  
  - (ii) 31 Pa. Code §83.4(a), which requires the agent to submit to the insurer with, or as a part of the application for life insurance, a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant;
  
  - (iii) 31 Pa. Code §83.4(b), which requires the insurer to maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years. The absence of the agent's certification from the appropriate files of the insurer shall constitute *prima facie* evidence that no disclosure statement was provided to the prospective purchaser of life insurance;

- (iv) 31 Pa. Code §146.6, which states that if an investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected.

#### CONCLUSIONS OF LAW

5. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violations of 31 Pa. Code, Chapter 83 are punishable under 31 Pa. Code §83.6:
  - (i) For failing to insure adequate disclosure of basic information, after a hearing, a company may be subject to the penalties provided under 40 P.S. §475, for violations of 40 P.S. §§472 through 474. In addition, failure to make the disclosure outlined in this subchapter may be considered a violation of 40 P.S. §§1171.1 through 1171.15.

- (c) Respondent's violations of 31 Pa. Code §146.6 are punishable under Sections 1 through 5 and Section 9 of the Unfair Insurance Practices Act (40 P.S. §§1171.1 – 1171.5 and 1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
  
- (d) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
  - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
  - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.
- (c) Respondent shall comply with all recommendations contained in the attached Report.
- (d) Respondent shall pay Five Thousand Dollars (\$5,000.00) to the Commonwealth of Pennsylvania in settlement of all violations contained in the Report.
- (e) Payment of this matter shall be made by check payable to the Pennsylvania Insurance Department. Payment should be directed to April Phelps, Bureau of Market Actions, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

7. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of

Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

8. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

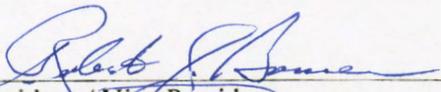
9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

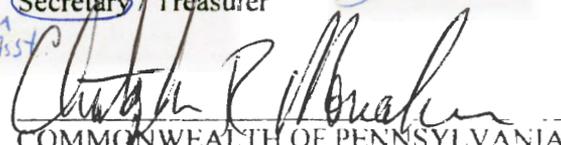
11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: GENWORTH LIFE and ANNUITY  
INSURANCE COMPANY. Respondent

  
\_\_\_\_\_  
President / Vice President

  
\_\_\_\_\_  
Secretary / Treasurer

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
Christopher R. Monahan  
Acting Deputy Insurance Commissioner

## **I. INTRODUCTION**

The Market Conduct Examination was conducted on Genworth Life and Annuity Insurance Company; hereafter referred to as “Company,” at the Company’s office located in Lynchburg, Virginia the weeks of June 15, 2015, through June 26, 2015, and in the Department Offices June 29, 2015, through September 27, 2015. The Subsequent review and follow-up was conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items, to which the Department, after review, takes exception. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the Officers and Employees of the Company during the course of the examination is acknowledged.

The following examiners participated in the Examination and in the preparation of this Report.

Deborah Lee  
Pennsylvania Insurance Department  
Market Conduct Division Chief

Gary L. Boose, LUTC, MCM  
Pennsylvania Insurance Department  
Market Conduct Examiner  
Examiner in Charge

Monique Miller  
Pennsylvania Insurance Department  
Market Conduct Examiner

Samuel D. Binnun, LUTCF, MCM  
Risk & Regulatory Consulting LLC  
Senior Director

Teri Harkenrider, MCM  
Risk & Regulatory Consulting LLC  
Manager

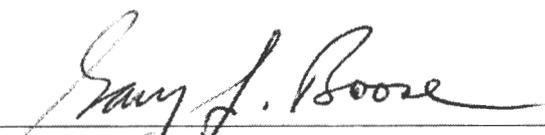
Ernest L. Nickerson, FLMI, ACS, AIRC, ARM, RHU, AIE, AMCM  
Risk & Regulatory Consulting LLC  
Senior Manager

Pat Lee, FLHC, AIRC, ACS, ALMI, AIE  
Risk & Regulatory Consulting LLC  
Senior Consultant

Eric Scott  
Risk & Regulatory Consulting LLC  
Senior Manager

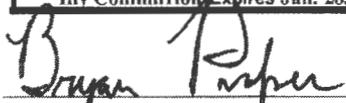
**Verification**

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

  
\_\_\_\_\_  
Gary L. Boose, UTC, MCM, Examiner-In-Charge

Sworn to and Subscribed Before  
me This 10 of September, 2015

**COMMONWEALTH OF PENNSYLVANIA**  
NOTARIAL SEAL  
Bryan Proper, Notary Public:  
City of Hantibutg, Dauphin Coum.  
Illy Collml11lon Expires Jan. 28, 2011

  
\_\_\_\_\_  
Notary Public

## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted pursuant to the authority granted by 40 P.S. §§323.3 and 323.4 of the Insurance Department Act and covered the experience period of January 1, 2014, through December 31, 2014, unless otherwise noted. The purpose of the examination was to ensure compliance with Pennsylvania insurance laws and regulations.

The examination focused on the market conduct activities in areas such as: Forms, Producer Licensing, Appointments and terminations, Consumer Complaints, Underwriting Practices and Procedures including surrenders and replacements, life and annuity products of cash value, Long Term Care and Data Integrity. The examination was called on Genworth Life and Annuity Insurance Company (Company) as a result of recent market and complaint analyses.

During the course of the examination, for control purposes, some of the review segments identified in this Report may have been broken down into various sub-categories by line of insurance category of Company administration. These specific sub-categories, if not reflected individually in the Report, would be included and grouped within the respective general categories of the Examination Report.

### **III. COMPANY HISTORY AND LICENSING**

Genworth Life and Annuity Insurance Company (Company) commenced business on March 21, 1871, operating under a charter granted by the Commonwealth of Virginia to the Life Insurance Company of Virginia. The Company received its certificate of authority to operate in the Commonwealth of Pennsylvania on March 3, 1939. The Company is authorized to do business in 49 states, the District of Columbia, and Bermuda.

On January 1, 1997, the Harvest Life Insurance Company was merged into the Company. At that time the Company was renamed GE Life and Annuity Assurance Company. In May 24, 2004, the Company became a wholly owned subsidiary of Genworth Financial Inc. On January 1, 2006, the name of the Company was changed to Genworth Life and Annuity Insurance Company. On January 2, 2007, Federal Home Life Insurance Company and First Colony Life Insurance Company were merged into the Company.

The Company offers individual and group fixed life insurance, individual and group fixed annuities, and individual and group long-term care insurance.

In its 2014 Annual Statement, the Company reported direct premium for ordinary and group life insurance of \$1,374,883,483, direct premium for annuities of \$1,993,336,055, and direct premium for accident and health insurance of \$66,596,111.

#### **IV. COMPANY OPERATIONS AND MANAGEMENT**

The Company was requested to provide information documenting its management and operational procedures in areas for which they conduct business for the Commonwealth of Pennsylvania. The following areas were reviewed:

- General Procedures and Company History
- Internal Audit and Compliance Procedures
- Controls of Computer Information
- Antifraud and Disaster Recovery Plans
- Outsourcing and Monitoring of Management Services
- Retention of Records
- Information: Collection, Use, & Disclosure (including Privacy of Personal Info)
- Licensed for Lines of Business

These areas were reviewed to ensure compliance with the Commonwealth of Pennsylvania's Statutes and Regulation. No violations were noted.

## **V. FORMS**

The Company was requested to provide a list and copies of all policy and/or member forms, conversion contracts, applications, riders, amendments and endorsements used during the experience. The forms provided and forms reviewed in various underwriting sections of the exam were reviewed to ensure compliance with 40 P.S. §477b and 18, Pennsylvania Consolidated Statutes §4117(k), Fraud notice. No violations were noted.

## **VI. PRODUCER LICENSING**

The Company was requested to provide a list of all producers active and terminated during the experience period. Section 671-A (40 P.S. §310.71) of the Insurance Department Act prohibits producers from doing business on behalf of or as a representative of any entity without a written appointment from that entity. Section 641.1-A (40 P.S. §310.41a) of the Insurance Department Act prohibits a company from accepting insurance applications or securing any insurance business through anyone acting without a license. Section 671.1-A (40 P.S. §310.71a) of the Insurance Department Act requires the Company to report all producer terminations to the Department.

The Company provided a list of 8,109 active producers and 4,839 terminated producers. A random sample of 50 producers each was compared to departmental records of producers to verify appointments, terminations and licensing. In addition, a comparison was made on the individuals identified as producers on applications reviewed in the policy issued sections of the exam. No violations were noted.

## **VII. CONSUMER COMPLAINTS**

The Company was requested to identify all consumer complaints received during the experience period of January 1, 2014 through December 31, 2014 and to provide copies of consumer complaint logs/registers for the preceding three years. The Company identified a universe of 35 consumer complaints received during 2013 and the experience period. All complaints identified were forwarded from the Department. All 35 files were requested, received and reviewed. The Company also provided complaint registers as requested. The Department's list of written consumer complaints that were forwarded to the Company during the experience period was compared to the Company's complaint register.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, (40 P.S. §§1171 – 1171.5). Section 5(a)(11) of the Act (40 P.S. §1171.5(a)(11)), requires a company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files involving claims were reviewed for the relevancy to applicable statutes and to verify compliance with 31 Pa. Code §146.5(b)(c). No violations were noted.

## **VIII. UNDERWRITING**

The Underwriting review is comprised of individual and group underwriting areas and consists of 2 general segments.

**A. Underwriting (Manuals) Guidelines**

**B. Individual Universal Life with Riders Issued**

Each segment was reviewed for compliance with underwriting practices and included forms identification and producer identification. Issues relating to forms or licensing appear in those respective sections of the Report and are not duplicated in the Underwriting portion of the Report.

### **A. Underwriting (Manuals) Guidelines**

The Company was requested to provide all underwriting guidelines and manuals utilized during the experience period. The manuals were reviewed to ensure that the guidelines in place were being followed in a uniform and consistent manner and that no underwriting practices or procedures were in place that could be considered discriminatory in nature, or specifically prohibited by statute or regulation. No violations were noted.

The following Underwriting Manuals were reviewed:

1. Underwriting Manual 3-13-2014.
2. Underwriting Manual 6-30-2014.
3. Underwriting Manual 7-30-2014.
4. Underwriting Manual 9-30-2014.
5. Underwriting Manual 10-30-2014.

6. Underwriting Manual 11-30-2014.
7. Underwriting Manual 12-30-2014.

## **B. Insurance Universal Life Policies with Riders Issued**

The Company was asked to provide all policies issued during the experience period. The Company identified a universe of one (1) Insurance Universal Life policy issued with riders during the experience period. The file was requested, received and reviewed. The policy file was reviewed to determine compliance to issuance, underwriting, and replacement statutes and regulations. The following violations were noted:

### **1 Violation – 31 Pa. Code §83.3 Disclosure Statement**

(a) Required written disclosure. A life insurance agent, broker or insurer soliciting the type of business to which this subchapter applies shall provide a prospective purchaser with a written disclosure statement clearly labeled as such. An acceptable disclosure statement is attached as Appendix A. The noted file did not contain evidence that a written disclosure was provided.

### **1 Violation – 31 Pa. Code §§83.4a and 83.4b**

(a) The agent shall submit to the insurer with or as a part of the application for life insurance a statement, signed by him, certifying that the written disclosure statement was given no later than the time that the application was signed by the applicant.

(b) The insurer shall maintain the agent's certification of disclosure statement delivery in its appropriate files for at least three years.

The absence of the agent's certification from the appropriate file of the insurer shall constitute prima facie evidence that no disclosure statement was provided to the prospective purchaser of life insurance.

## **IX. CLAIMS & CLAIMS MANUALS**

The Claim review consisted of 4 general segments.

- A. Claims Manual**
- B. Individual Long Term Care Claims Paid**
- C. Individual Long Term Care Claims Denied**
- D. Policy Inquiries**

### **A. Claim Manuals**

The Company was requested to provide copies of all procedural guidelines including all manuals, memorandums, directives and any correspondence or instructions used for processing claims during the experience period. The Company provided the following claim manuals information. The claim manuals and procedures were reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. No violations were noted.

**The following list includes but is not limited to all that was reviewed by the Department:**

- Claims Processing
- Producer Compliant Model Procedures
- Contestable Claim Procedures
- Revised Authorized Claims Exceptions
- Life Claims
- PA – Claims

- Procedures (*various*)
- Universal Life Processing Procedures

### **B. Individual Long Term Care Claims Paid**

The Company was requested to provide a list of claims received during the experience period. The Company identified 18 individual long term care claims paid. All 18 individual long term care claims paid were requested, received and reviewed. The claim files were reviewed for compliance with 31 Pa. Code §§146 and 511b(a). The following violations were noted:

#### **3 Violations – 31 Pa. Code §146.6**

Every insurer shall complete investigation of a claim within 30 days after notification of a claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company failed to provide a reasonable written explanation for the delay for the noted claims.

### **C. Individual Long Term Care Claims Denied**

The Company was requested to provide a list of home health care claims denied during the experience period. The Company identified a universe of one (1) individual long term care claim denied. The claim denied was requested, received and reviewed. The file was reviewed for compliance with 31 Pa. Code §146. No violations were noted.

#### **D. Policy Inquiries**

The Company was requested to provide a list of all policy inquiries for long-term care insurance services during the experience period. The Company identified a universe of 5 policy inquiries for long-term care services during the period. All 5 policy inquiries for long-term care services were requested, received and reviewed. The policy inquiries were reviewed to ensure compliance with 31 Pa. Code §146. No violations were noted.

## **X. MARKETING & SALES**

### **A. Advertising**

The Company was requested to provide a list of all advertising and marketing material used during the experience period. The Company provided 18 pieces of advertising utilized in the Commonwealth. The advertising consisted of: brochures, web page, and illustrations. The advertising materials were reviewed to ascertain compliance with 40 P.S. §1171.5, Unfair Methods of Competition and Unfair or Deceptive Acts or Practices and 31 Pa. Code §51. The Company was also requested to provide a copy of the Advertising Certificate of Compliance submitted to the Department for the experience period. The certification was requested to ensure compliance with 31 Pa. Code §51.5. Section §51.5 provides that “A company required to file an annual statement which is now or which hereafter becomes subject to this chapter shall file with the Department with its Annual Statement a Certificate of Compliance executed by an authorized officer of the company wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the company during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws and regulations of this Commonwealth.” No violations were noted.

## **XI. RECOMMENDATIONS**

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other violations, noted in the Report.

1. The Company must review and revise procedures to ensure compliance with the unfair claims settlement practices of 31 Pa. Code §146.
2. The Company must review and revise procedures to ensure compliance with the disclosure requirements of 31 Pa. Code Chapter 83.

## **XII. COMPANY RESPONSE**