

**Subpart E. ADVERTISING OF INSURANCE**

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**CHAPTER 51. GENERAL PROVISIONS**

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**Authority**

The provisions of this Chapter 51 issued under Article V of The Insurance Department Act of 1921 (40 P. S. §§ 201—210a) (Repealed); The Insurance Company Law of 1921 (40 P. S. §§ 361—991); The Administrative Code of 1929 (71 P. S. §§ 51—732); the Administrative Agency Law (71 P. S. §§ 1710.1—1710.111) (Repealed); The Insurance Unfair Practices Act (40 P. S. §§ 1151—1155) (Repealed); 40 Pa.C.S. §§ 6101—6335; and the Health Maintenance Organization Act (40 P. S. §§ 1551—1568), unless otherwise noted.

**Source**

The provisions of this Chapter 51 adopted May 4, 1973, effective May 5, 1973, 3 Pa.B. 839, unless otherwise noted.

**Subchapter A. GENERAL PROVISIONS**

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**§ 51.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Advertisement*—Printed and published material, audio visual material and descriptive literature of a company used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays; descriptive literature and sales aids of all kinds issued by a company, agent or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters; and prepared sales talks, presentations and material for use by agents, brokers or solicitors, and any representations made in connection therewith.

*Commissioner*—The Commissioner of the Pennsylvania Insurance Department.

*Company*—An association, individual, corporation, partnership, reciprocal or interinsurance exchange, Lloyds, hospital plan corporation, professional health services plan corporation, fraternal benefit society, beneficial society, voluntary nonprofit health service plan and any other legal entity issuing to Commonwealth residents a contract of insurance as defined in this chapter and subject to appropriate regulation by the Department.

*Compliance standards*—The criteria by which an advertisement would be judged acceptable by the Department as not being deceptive, misleading or otherwise in violation of the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15) or other applicable law or regulation.

*Contract*—A policy, plan, certificate issued by a fraternal benefit society, agreement, statement of coverage, binder, rider or endorsement which provides insurance or service benefits.

*Department*—The Insurance Department of the Commonwealth.

*Exception*—A provision in a contract whereby coverage for a specified risk is entirely eliminated.

*Invitation to inquire*—An advertisement which is designed to attract the reader's interest in the contract advertised so that he will inquire for further details and information.

*Limitation*—A provision other than an exception or reduction which restricts coverage or benefits under the contract.

*Mail-order solicitation*—An advertisement which is designed specifically to market a contract to a prospective insured where the application for the contract is made by mail. A mail-order solicitation does not include the following:

- (i) Material which relates to the renewal of an existing contract, when the renewal does not affect the benefits available, coverage included or rates payable under the contract.
- (ii) An invitation to inquire.

*Publication*—The circulation of an advertisement by any means, whereby the advertisement may reasonably be expected to reach prospective or present policyholders in this Commonwealth.

*Reduction*—A provision which reduces the amount of the benefit which would otherwise be payable either by limitation as to dollar amount or by limitation as to period of time.

#### Source

The provisions of this § 51.1 amended May 21, 1976, effective May 22, 1976, 6 Pa.B. 1135. Immediately preceding text appears at serial pages (15132) and (13286).

#### Cross References

This section cited in 31 Pa. Code § 89.1 (relating to definitions); and 31 Pa. Code § 154.16 (relating to information for enrollees).

**§ 51.2. Filings of advertisements.**

(a) *Required filing.* Mail-order solicitations of individual accident and health contracts or franchise accident and health contracts shall be filed as follows:

(1) A mail-order solicitation for an individual accident and health contract or a franchise accident and health contract shall be properly filed with the Department as an “Initial Filing of a Mail-order Solicitation,” not later than the day of first publication of the advertisement.

(2) A mail-order solicitation which has been properly filed with the Department in accord with this subsection and advertisement for which has subsequently been changed in any way, shall be filed in its changed form as an “Amended Filing of a Mail-order Solicitation” not later than the day of first publication of that changed advertisement.

(3) Once a mail-order solicitation has been properly filed with the Department as an “Initial Filing of a Mail-order Solicitation” or an “Amended Filing of a Mail-order Solicitation,” that same mail-order solicitation need not be filed with the Department upon each subsequent use for a period of 2 years from the date of that filing. An advertisement shall be refiled as a “Renewed Filing of a Mail-order Solicitation” not later than the date of first publication after the expiration of this 2-year period.

(b) *Voluntary review of advertisements.* Voluntary review shall occur as follows:

(1) Prior to first publication, a mail-order solicitation may be submitted to the Department as a “Voluntary Submission of an Advertisement” for voluntary review in regard to compliance with existing statutory requirements. In such cases, submission should be made at least 30 days prior to first publication.

(2) A mail-order solicitation submitted for voluntary review shall still be appropriately filed in accord with subsection (a).

(3) An advertisement submitted for the voluntary review will not be protected or insulated from an action that might be taken by the Department under existing statutory provisions of the law.

(c) *Department right of review for all advertisements.* Advertisements, whether or not actually filed or required to be filed with the Department under this chapter, may be reviewed at the discretion of the Department.

(d) *Filing procedures.* Advertisements filed or submitted shall be sent by certified mail and shall be accompanied by the following:

(1) Three copies of the advertisement.

(2) A stamped, self-addressed envelope to facilitate communication with the company.

(3) A cover letter submitted in duplicate which shall include the following:

(i) Proper designation of filing, as “Initial Filing of Mail-order Solicitation,” “Amended Filing of Mail-order Solicitation,” “Renewed Filing of Mail-order Solicitation” or “Voluntary Submission of an Advertisement.”

(ii) The reference number or other approved identification of the contract form to which the advertisement refers or relates shall be stated.

(iii) The date of first publication and the specific newspaper or other means of public circulation shall be stated.

(iv) If it is an amended or renewed mail-order filing, the date of filing of the last filed form of the advertisement shall be stated. Further, there shall be a clear identification of changes made, if any, from the last filed form of the advertisement.

(v) If an enrollment is to be employed, a statement shall be included with the filing indicating the minimum and maximum length of the enrollment period that will be used.

(vi) If a testimonial is to be used in a mail-order solicitation, a statement by the company shall be submitted to the Department stating all relevant facts concerning any arrangement with the company for the providing of the testimonial, including any financial interest of the provider of the testimonial in the company. Further, the company shall submit copies of correspondence or other documentation from which any recommendations, favorable comments or other forms of testimonials appearing in a mail-order solicitation were taken.

### **§ 51.3. Company’s responsibility and control.**

(a) Every company shall maintain complete control over the content, form and method of dissemination of advertisements of its contracts. The advertisements, regardless of by whom written, created or designed, shall be the responsibility of the company whose contracts are being advertised.

(b) Advertisements prepared by persons other than the company for which the advertisement is intended to be used shall, prior to its use, be approved in writing by an officer of the company or another person the company may designate for this purpose.

### **§ 51.4. Advertising file.**

(a) A company shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual contracts and typical printed, published or prepared advertisements of its blanket, franchise and group contracts hereafter disseminated in this or another state whether or not licensed in the other state.

(b) An advertisement included in this advertising file shall be annotated as to the manner and extent of distribution and the form number of the contract advertised.

(c) The advertising file kept in accordance with this section shall be subject to inspection by the Department.

(d) Advertisements and related material shall be maintained in the file for a period of either 4 years or until the filing of the next regular report of examination of the company, whichever is the longer period.

#### **§ 51.5. Certificate of compliance.**

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.

#### **§ 51.6. Compliance standards.**

The Commissioner may adopt compliance standards relating to the enforcement of statutory requirements regulating the advertisement of insurance.

#### **§ 51.7. Sanctions.**

Failure to properly file or maintain material in accord with the requirements of this chapter shall constitute a refusal to produce or maintain records as required by the Department, and shall subject an individual or company so failing to the appropriate sanctions provided by law.

### **Subchapter B. COMPLIANCE STANDARDS**

#### **PRELIMINARY PROVISIONS**

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#### **GENERAL COMPLIANCE STANDARDS**

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- 51.61. Offer to quote premium rate.

#### **PRELIMINARY PROVISIONS**

##### **§ 51.11. General.**

(a) The compliance standards promulgated by this subchapter are a guideline to Departmental enforcement of existing statutory provisions relating to the use of deceptive, misleading or false statements, practices or procedures.

(b) If a company feels that the provisions of these guidelines are especially burdensome when applied in a particular instance, that company may properly file a Voluntary Submission of an Advertisement under this subchapter. That submission should include a statement of the reasons the particular requirements of the regulation should not be applicable under the stated circumstance. The Department will then consider whether the advertisement as filed might defeat or circumvent the intent or purpose of The Unfair Insurance Practices Act (40 P. S. §§ 1151—1162) or this chapter.

(c) The General Compliance Standards applies to advertisements related to insurance. In addition to the General Compliance Standards, the Specific Compliance Standards applies to the type of insurance enumerated.

#### **GENERAL COMPLIANCE STANDARDS**

##### **§ 51.21. Form and content of advertisements.**

(a) The format and content of an advertisement of an insurance contract shall be sufficiently complete and clear to avoid deception or the capacity or tendency

to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Commissioner of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.

(b) Advertisements shall be truthful and not misleading in fact or in implication.

**§ 51.22. Misleading or deceptive statements.**

An advertisement may not be used which because of phrases, statements, references or illustrations therein or information omitted therefrom, has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any contract benefit payable, loss covered or premium payable. These standards apply notwithstanding the fact that the contract offered is made available to a prospective insured for inspection prior to the consummation of the sale, or that an offer is made to refund the premium if the purchaser is not satisfied.

**§ 51.23. Unclear statements.**

An advertisement may not be used which contains words or phrases, the meaning or understanding of which may not be reasonably comprehended by the segment of the general public to which it is directed.

**§ 51.24. Inadequate disclosures.**

An advertisement may not be used which refers to a specific benefit payable under a particular contract, the cost of a particular contract or another specific term or condition of a particular contract, without appropriately disclosing exceptions, reductions, limitations or other restricting provisions affecting the basic provisions of the contract without which the advertisement would have the capacity or tendency to mislead or deceive.

**§ 51.25. Medical examination.**

An advertisement may not represent or imply that a medical examination is not required, without disclosing conditions pertaining to or involving the health of the insured, if the conditions might prevent the contract from being issued or the insured from receiving any or full benefits under the contract.

**§ 51.26. Group or quasi-group implications.**

An advertisement may not falsely represent or imply that prospective insureds become group or quasi-group members and as such enjoy special rates or underwriting privileges.

**§ 51.27. Renewability or cancellability.**

(a) An advertisement may not represent or imply that a contract may be continued in effect indefinitely or for a period of time, when the contract contains provisions for nonrenewal or cancellation by the company, or may be terminated under any circumstances over which the insured has no control, during the period of time represented.

(b) An advertisement which refers to renewability, cancellability or termination of a contract shall disclose provisions or qualifying conditions relating to renewability, cancellability and termination and may not minimize or render obscure applicable modification of benefits, coverage or premiums which may result for any reason.

**§ 51.28. Status of company.**

(a) An advertisement originating within this Commonwealth, which is intended to be seen or heard or which may reasonably be expected to be seen or heard beyond the limits of this Commonwealth, may not imply licensing beyond this Commonwealth unless the company is so licensed. An advertisement shall appropriately indicate that the company is licensed in a specified state or states only, or is not licensed in a specified state or states, by a statement such as: "This Company is licensed only in . . ." or "This Company is not licensed in . . ."

(b) An advertisement originating outside this Commonwealth, which may reasonably be expected to be seen or heard in this Commonwealth shall comply with this chapter or prominently set forth the following disclaimer: "This offer is not available to residents of Pennsylvania."

(c) An advertisement may not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the company in the insurance business.

(d) An advertisement may not create the impression directly or indirectly that the company, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its contract forms or kinds or plans of insurance are approved, endorsed, or accredited by any division or agency of this Commonwealth or the United States Government.

(e) An advertisement may not contain a recommendation by a commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation.

**§ 51.29. Introductory, initial or special offers.**

(a) An advertisement may not directly or by implication falsely represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date or that the offer is available only to a specified group of individuals.

(b) An advertisement may not directly or by implication falsely represent that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale or the particular policy advertised.

**§ 51.30. Enrollment periods.**

(a) An advertisement which utilizes an enrollment period shall prominently display the ending date of that period.

(b) An advertisement may not contain phrases such as “special enrollment,” “special limited enrollment,” “enrollment deadline,” “acceptance period” or similar words or phrases when the words or phrases falsely imply that an application must be made by a specific deadline in order to obtain the particular insurance product advertised by “any one company.” This section is inapplicable to solicitations of employes or members of a particular group or association which otherwise would be eligible for the coverage under specific provisions of the laws or regulations of this Commonwealth governing group, blanket or franchise insurance.

(c) An enrollment period during which a particular insurance product may be purchased on an individual basis may not be offered within this Commonwealth unless there has been a lapse of not less than 90 days between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application which may not be less than 10 days and not more than 40 days from the date the enrollment period is advertised for the first time. This section applies to advertising media, such as, mail, newspapers, radio, television, magazines and periodicals, by “any one company.”

(d) The phrase “any one company” in subsections (b) and (c) includes affiliated companies or a group of insurance companies under common management or control if the companies act in concert in such a manner as is primarily intended to make a particular insurance product available with less than 90 days between the close of the immediately preceding enrollment period and the opening of a new enrollment period.

(e) The phrase “a particular insurance product” in subsections (b) and (c) means an insurance contract which provides substantially different benefits than those contained in another contract. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in an elimination period or waiting period from those available during an enrollment period for another policy may not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

**Cross References**

This section cited in 31 Pa. Code § 90c.17 (relating to enrollment period).

**§ 51.31. Testimonials or endorsements by third parties.**

(a) Testimonials used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the contract advertised and be accurately reproduced. The company, in using a testimonial, makes as its own the statements contained therein, and the advertisement, including the statement, is subject to this chapter.

(b) If the person making a testimonial, an endorsement or an appraisal has a financial interest in the company or a related entity as a stockholder, director, officer, employe or otherwise, the fact shall be prominently disclosed in the advertisement.

(c) If a person is compensated for making a testimonial, endorsement or appraisal, the fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." This rule does not require disclosures of union "scale" wages required by union rules if the payment is actually for such "scale" for TV or radio performances. However, the payment of substantial amounts, directly or indirectly, for travel or entertainment, may be sufficient compensation to require prominent disclosure as a "Paid Endorsement" in the advertisement.

(d) An advertisement may not represent or imply that a company or a contract has been approved or endorsed by an individual, group of individuals, society, association or other organizations, unless such is the fact, and unless a proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the company or is owned or controlled by the company or the person or persons who own or control the company, the fact shall be disclosed in the advertisement.

(e) If a testimonial refers to benefits received under a contract, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of 4 years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

**§ 51.32. Use of statistics.**

(a) An advertisement relating to the dollar amounts of claims paid, the number of persons insured or similar statistical information relating to an insurer or policy may not use irrelevant facts, and may not be used unless it accurately reflects the relevant facts. An advertisement may not imply that the statistics are derived from the contract advertised unless such is the fact, and when applicable to other contracts or plans shall specifically so state.

(b) The source of any statistics used in an advertisement shall be identified in the advertisement, if the failure to so identify would have the capacity or tendency to mislead purchasers or prospective purchasers.

**§ 51.33. Identification of plan or number of policies.**

(a) If a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.

(b) When an advertisement refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that the benefits are provided only through a combination of those policies.

**§ 51.34. Disparaging comparisons and statements.**

An advertisement may not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and may not disparage competitors, their policies, services or business methods, and may not falsely or unfairly disparage or minimize competing methods of marketing insurance.

**§ 51.35. Identity of the company and contracts.**

(a) The name of the actual insuring company shall be clearly identified in all of its advertisements. The contracts advertised shall be identified by form number or other appropriate identification, so as to clearly identify the contract or contracts advertised. An advertisement may not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which, without disclosing the name of the actual insurer, would have the capacity and tendency to mislead or deceive as to the true identity of the company.

(b) An advertisement may not contain an address other than that of the company's home office address, unless the "other address" is an actual branch or district office of the company and is identified as such.

(c) An advertisement may not use a combination of words or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to combinations of words or physical materials used by agencies of the Federal government or of this Commonwealth, or otherwise appear to be of a nature that the same tend to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, State or Federal government. The following are illustrations of combinations of words and physical materials which are presumed to mislead and confuse prospective insureds:

(1) Use of names as follows:

(i) Mailings sent to truck drivers living in this Commonwealth bearing the caption indicating that the sender is the "Department of Information, Pennsylvania Truckers Division, Harrisburg, Pennsylvania."

(ii) Mailings sent to employees of this Commonwealth bearing the caption indicating that the sender is the "Government Employees Division" and that the mailing is an announcement of a "Special Government Employees Health Plan."

(iii) Mailings sent to farmers living in this Commonwealth bearing the caption indicating that the sender is the "Pennsylvania Farmers Division."

(iv) Other examples include the following: "National Health Plan Agency"; "State Health Insurance Service Agency"; "Pennsylvania Hospital Service Agency, Inc."; "Labor Unions Health & Welfare, Inc."; "International Farm Agency Advisory Board"; "Disability Division"; "Senior Citizens Division."

(2) Use of physical materials as follows:

(i) Use of a window mailing envelope comparable in size, format or color to the envelopes used by the United States Treasury Department and the Federal Social Security Administration and on which are printed captions such as "Important Business" or "Do Not Destroy."

(ii) Use of computer punch cards as applications for insurance or as requests for additional information concerning the offered insurance program on which are featured prominently references to Federal statutes, as for example: The utilization of a card which is of a color and design similar to official documents and checks issued by various agencies of the Federal government which reads "Please return immediately. A regular monthly income, plus other benefits, may be coming to you under U. S. Public Law No. 85-840 (Social Security Law) if you qualify."

(iii) Use of a return address such as a post office box in Harrisburg, which is nothing more than a mail drop but which tends to add to the appearance of the mailed piece as an official government mailing.

#### **§ 51.36. Mail-order solicitation.**

(a) Mail-order solicitation shall include a complete premium rate schedule.

(b) An advertisement of a mail-order solicitation may not incorrectly represent or imply that because "no insurance agent will call and no commissions will be paid to agents" that it is "a low cost plan," or use other similar words or phrases because the cost of advertising and servicing the contracts is a substantial cost in the marketing of a direct response insurance product.

### **SPECIFIC COMPLIANCE STANDARDS FOR ACCIDENT AND HEALTH INSURANCE**

#### **§ 51.41. Benefits payable.**

(a) An advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility may not use words or phrases such as "tax free"; "extra cash"; "extra income"; "extra pay"; or substantially simi-

lar words or phrases because the words and phrases have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized. An advertisement may use complete and accurate terminology explaining the IRS rules applicable to the taxation of types of accident and sickness benefits.

(b) An advertisement which represents benefits which may be payable under a contract shall provide in close conjunction therewith, either a statement of applicable limitation of time over which the benefits will be paid, or a statement of the number of payments which will be made if by the terms of the contract payment of benefits is limited in time or number. The statement shall be made each time the benefit is so listed, if the failure to do so would result in the capacity or tendency to mislead or deceive.

(c) An advertisement of a hospital or other similar facility confinement benefit may not represent or imply that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro rata basis relating to the number of days of confinement.

(d) An advertisement of a hospital indemnity shall state that the benefits are payable during hospital confinement only.

(e) Words or phrases such as "up to" or "as high as" which are descriptive of upper limits of dollar amounts payable for represented loss or expenses may not be used in an advertisement unless the contract provides benefit payments up to such an amount in all cases for such losses or expenses actually sustained by a policyholder, or unless there is full and conspicuous disclosure in close conjunction with such words or phrases of either of the following:

(1) The complete schedule of payments provided by the contract.

(2) The specific loss or expense for which the advertised dollar amount is provided by the contract, and an equally prominent disclosure that benefits provided by the contract for losses or expenses of the kind advertised vary in amount depending on the particular kind of loss or expense incurred, and where the advertisement refers to specific dollar amounts in connection with surgical benefits, it shall set forth at least six surgical procedures for which benefits are provided by the contract, including the operations which pay the minimum and maximum benefits, and additional operations representative of the more frequently performed surgical procedures.

(f) An advertisement may not represent or imply that claim settlements by the company are "liberal" or "generous" or use words of similar import, or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and may not be used.

(g) An advertisement of a contract covering only one disease or a list of specified diseases may not imply coverage beyond the terms of the contract. Synonymous terms may not be used to refer to a disease so as to imply broader coverage than is the fact.

(h) An advertisement for a contract providing benefits for specified illnesses only, or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to, or substantially similar to the following: "THIS IS A LIMITED POLICY"; "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."

(i) An advertisement may not offer a contract which utilizes a reduced initial premium rate when the use is misleading or deceptive. Over-emphasizing the availability and the amount of the initial reduced premium shall be considered misleading or deceptive. When a company charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement may not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears.

**§ 51.42. Exceptions, reductions and limitations.**

(a) When an advertisement refers to either a dollar amount, or a period of time for which a benefit is payable or the cost of the contract, or specific contract benefit, or the loss for which the benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the contract without which the advertisement would have the capacity or tendency to mislead or deceive.

(b) An advertisement may not represent or imply broad insurance coverage when under the terms of the contract, the coverage is subject to an exception, reduction or limitation without disclosing the applicable exception, reduction or limitation. Words, terms or phrases implying the broad coverage include, but are not limited to, "all," "full," "complete," "comprehensive," "unlimited," "this policy will pay your hospital bill," and "this policy will replace your income," "this policy will help fill some of the gaps that Medicare and your present insurance leave out."

(c) If a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for the loss, the advertisement shall disclose the existence of such periods.

(d) An advertisement may not use the words "only," "just," "merely," "minimum" or similar words or phrases to describe the applicability of exceptions and reductions, such as "This policy is subject to the following minimum exceptions and reductions."

(e) An advertisement may not contain descriptions of a contract limitation, exception or reduction, worded in a positive manner to imply that it is a benefit

such as, describing a waiting period as a “benefit builder,” or stating “even pre-existing conditions are covered after 2 years.” Words and phrases used in an advertisement to describe the policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of the limitations, exceptions and reductions of the policy offered.

**§ 51.43. The preexisting condition exclusion in a mail-order solicitation.**

(a) A mail-order solicitation which contains an exception, reduction or limitation due to a disease or health condition existing prior to the effective date of the contract or prior to any other particular time specified in the contract shall be accompanied by either of the following:

(1) An application containing specific questions concerning the medical history of a person to be covered under the contract. The questions shall be immediately preceded or followed by a statement disclosing what effect the answers to the questions may have on the issuance of the contract, and what effect the answer to the question may have on the nature or extent of benefits provided by the contract.

(2) An application containing a question and provision for answer in the following form: “NOTICE: The following question must be answered: Do you understand that the company will not pay benefits during the first \_\_\_year(s) of the policy for hospitalization caused by any medical condition or illness you may now have or have had in the past? YES \_\_\_NO \_\_\_”

(i) This question and provision for answer shall be in bold-face or contrasting color type, and shall immediately precede the space for the signature of the applicant.

(ii) This question and provision for answer may be altered only to the extent to make it consistent with the preexisting condition provisions of the contract advertised. In no case may this question and provision for answer be altered to eliminate the beginning phrase “Do you understand that the company will not pay benefits during . . . ,” or to eliminate the requirements that a tentative insured be required to make a “yes” or “no” answer.

(iii) If an individual who has made a “no” response to this question or has failed to make any response is issued the advertised contract or a similar contract from the same company or a related company before the company has made certain that the individual has been made aware of the applicable limitations of the contract, the mail-order solicitation may be presumed not to be in accord with the compliance standards for advertisements.

(b) When a contract does not cover losses resulting from preexisting conditions, no advertisement of the contract may represent or imply that the applicant’s physical condition or medical history may not affect the issuance of the contract or payment of a claim thereunder. The term “automatic issue” may be used only

if an explanation thereof is given. If a company requires a medical examination for a specific contract, the advertisement shall disclose that a medical examination is required.

(c) An advertisement shall in negative form disclose the extent to which a loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the contract. The use of the term “pre-existing condition” may not be used without an appropriate definition or description.

### COMPLIANCE STANDARDS FOR AUTOMOBILE INSURANCE

#### § 51.61. Offer to quote premium rate.

An advertisement for automobile liability or physical damage insurance coverage may not invite a prospective insured to apply for a quotation of a premium rate which the company would charge for the insurance unless:

(1) It is the company’s intent and actual practice to render the quotation to each prospective insured who applies, to honor the quote with an offer of insurance.

(2) If it is the company’s intent and actual practice to refuse to render a quote to certain individuals or classes of individuals for any reason, the advertisement shall clearly and conspicuously disclose in prominent type, “WE RESERVE THE RIGHT TO REFUSE TO QUOTE ANY INDIVIDUAL A PREMIUM RATE FOR THE INSURANCE ADVERTISED HEREIN,” and on the application for such quotation immediately in bold type or contrasting color state: “Do you understand that the company reserves the right to refuse to give you a quotation for automobile insurance; YES NO ?”.

(3) If it is the company’s intent and actual practice to offer a quotation to applicants who meet its underwriting requirements and not to offer a quotation to those who do not appear to meet the company’s underwriting requirements, the company shall consider such refusal to render a quote as a refusal to write as defined in the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11) and comply with the act.

#### Source

The provisions of this § 51.61 adopted April 5, 1974, effective April 6, 1974, 4 Pa.B. 660.

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