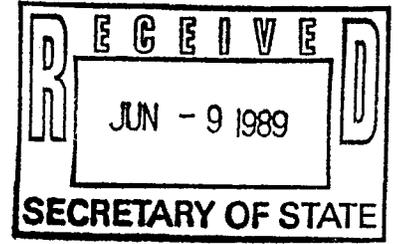


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STATE OF WISCONSIN)
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of said Office, do hereby certify that the annexed order repealing, renumbering and amending, amending, repealing, and creating a rule relating to advertisement representations, and solicitations of life insurance policies and annuity contracts was issued by this Office on June 9, 1989.

I further certify that said copy has been compared by me with the original on file in this Office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 9th day of June, 1989.

Robert D. Haase
Robert D. Haase
Commissioner of Insurance

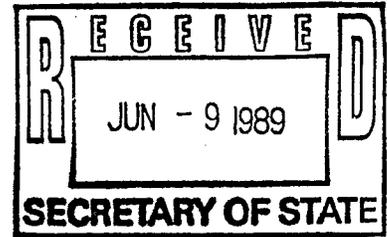
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ORDER OF THE COMMISSIONER OF INSURANCE

REPEALING, RENUMBERING AND AMENDING,

AMENDING, REPEALING AND RECREATING A RULE

To repeal Ins 2.14 (3) (d) 4, (6), (8), (9), and s. Ins 2.15 (10); to renumber and amend Ins 2.14 (7); to amend Ins 2.14 (1), (2) (b) 4, (5) (title), (a) and (h), and Ins 2.15 (2) (a), (3) (b) 5 and 6, (9) (a) and (g); and to repeal and recreate Ins 2.14 (5) (e) and (f), Ins 2.15 (9) (f), and Ins 2.16 relating to advertisements, representations, and solicitations of life insurance policies and annuity contracts.

ANALYSIS PREPARED BY THE COMMISSIONER OF INSURANCE

Statutory authority: Sections 601.41 (3) and 628.34 (12), Stats.

Statutes interpreted: Sections 601.01 (2) and (3) and 628.34 (1) and (11), Stats.

The purpose of this rule is to safeguard the interests of prospective purchasers of life insurance and annuities by providing these people with clear and unambiguous statements, explanations, advertisements, and written proposals concerning the policies and contracts offered to them. The rule achieves this purpose by creating minimum standards and guidelines relating to advertisements, representations, solicitations, and marketing of life

insurance and annuities. These minimum standards and guidelines help prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of life insurance policies or annuity contracts.

The rule also fulfills the legislative mandate found in section 47, subsection (2) of 1987 Wisconsin Act 247. That nonstatutory provision directs the commissioner to promulgate administrative rules regulating life insurance which is issued by insurers that guarantee acceptance of any person who applies and which provides no death benefits or reduced death benefits for a specified period after the policy is issued. This rule contains provisions that serve this purpose.

The rule also seeks to clarify the type of information that must be included or excluded from a life insurance or annuity advertisement. The commissioner finds that the current life insurance advertising rule does not contain sufficient details in this regard.

The rule is modeled after the current health insurance advertising rule, s. Ins 3.27. It also contains provisions found in the National Association of Insurance Commissioners' recently revised model life insurance advertising rule.

The rule modifies the current life insurance solicitation and annuity benefit solicitation rules, ss. Ins 2.14 and 2.15, to (1) make clear that the requirements of those rules are in addition to and not a substitute for the requirements set forth in the recreated life insurance advertising rule, (2) apply provisions in the recreated life insurance advertising rule regarding comparisons to savings plans and suitability requirements to life insurance solicitations and annuity benefit solicitations, and (3) repeal references in the life insurance solicitation rule to Average Annual Rate of Return Index

Figures. The rule also repeals the penalty provisions in ss. Ins 2.14 and 2.15. A violation of any administrative rule promulgated by the insurance commissioner may result in a penalty under s. 601.64, Stats. This does not need to be expressly stated in ss. 2.14 and 2.15.

The rule repeals and recreates the life insurance advertising rule, s. Ins 2.16. The recreated rule has been extended to include annuity contracts. Major provisions of the recreated rule include:

Interpretation. When interpreting the rule, the commissioner must account for the purpose of the advertisement and the type of product being advertised. The commissioner must consider the entire content of the advertisement. The commissioner's principal concern is whether an advertisement has the capacity or tendency to mislead or deceive. The commissioner determines this by evaluating the overall impression that the advertisement may reasonably be expected to create upon a person of average education or intelligence within that segment of the public to which the advertisement is addressed.

Suitability. An insurer or agent must conduct a reasonable investigation as to the suitability for the prospective purchaser of a life insurance or annuity product. No insurer or agent may recommend that a prospective buyer purchase or replace an individual life insurance policy or annuity contract if the insurer or agent does not have reasonable grounds to believe that the recommendation is not unsuitable to the applicant.

Deceptive words. The rule states that an advertisement may not contain deceptive words, symbols, or illustrations if these words, symbols, or illustrations exaggerate, overstate, understate,

or contain incomplete information regarding a life insurance or annuity product. The rule prohibits advertisements from equating life insurance products to savings accounts or deposits in a financial institution.

Identity of insurer. An advertisement must clearly identify the insurer and may not use words or symbols that imply government sponsorship of the insurer.

Testimonials, endorsements, appraisals, or analysis. An advertisement containing a testimonial, endorsement, appraisal, or analysis must disclose whether the person giving the testimonial, endorsement, appraisal, or analysis is being paid for doing so. This requirement does not apply to testimonials, endorsements, appraisals, or analyses provided by insurance agents or people paid under a union wage scale. A testimonial or endorsement must be current and genuine. An insurer must confirm that the testimonial or endorsement accurately reflects the author's current opinion if the testimonial or endorsement was originally given more than two years before the advertisement. If the testimonial or endorsement is provided by an association or group affiliated with the insurer, an advertisement must disclose this fact.

Licensing and government action. No advertisement may state or imply government endorsement or support of the insurer, any insurance policy or rates, a claims payments procedure, or the financial condition of the insurer. Any reference to government licensing must

include a disclaimer that this licensing does not constitute an endorsement of the insurer or its products.

Introductory or special offers and limited enrollment periods.

Unless true, an advertisement may not state or imply that a policy offer is an introductory or special offer and that an applicant will receive special advantages by applying for the special offer by a certain date. Any limited enrollment period must be not less than 10 or more than 40 days after the date of the advertisement. An insurer may not repeat a limited enrollment period for the same or similar life insurance policy or annuity contract within 6 months after a previous limited enrollment period for the same or similar policy.

Premiums. An advertisement must disclose if a product has nonlevel premiums or if the insurer may change during the policy term the amount of premium due. No advertisement may state or imply that an insured may withdraw premiums paid for a life insurance policy.

Nonguaranteed policy elements. No advertisement may state or imply that the payment or amount of nonguaranteed policy elements (essentially policy elements that may vary) are guaranteed. If nonguaranteed policy elements are illustrated in an advertisement, the illustrations may not be based on interest rates, dividend scales, mortality tables, or other variables that are more favorable to the policyholder than current interest rates, dividends scales, mortality tables, or other variables. An advertisement may not refer

to dividends as "tax free" unless the tax treatment of these dividends is accurately explained.

Rates of return. Advertisements, representations, or solicitations showing a specific rate of return or cash value must contain specific disclosures. These disclosures, if applicable, include charges to be deducted from premium before interest rates are applied and a guaranteed rate of interest paid on the cash value.

Graded or modified benefits. Advertisements, representations, or solicitations involving life insurance policies containing graded or modified benefits (essentially benefits that may vary should certain events occur) must contain required disclosures. These disclosures include, if applicable, a disclosure on whether coverage increases or decreases with the age or duration of the insurance policy.

Insurer's responsibility for advertisements. Under the rule, an insurer remains responsible for the content, form, and method of dissemination of any advertisement, representation, or solicitation involving one of the insurer's products. The insurer must approve all advertisements released on behalf of the insurer by insurance agents or other persons prior to the advertisement's use.

Record maintenance. The insurer must maintain a file of all advertisements involving an insurer's products for at least a three-year period after the advertisement is utilized.

Miscellaneous provisions. The rule contains several miscellaneous provisions. These provisions include requirements on the following: mail order refusal forms; products for which group or special class membership is needed for eligibility; references to the right to inspect an insurance policy; identification of policies or plans needed to obtain benefits advertised; use of statistics in an advertisement; claims information in an advertisement; statements about the insurer in an advertisement; disparaging comparisons and statements about competitors; policies sold to students; and advertisements involving individual deferred annuity products.

SECTION 1. Ins 2.14 (1) and (2) (b) 4 are amended to read:

Ins 2.14 (1) The purpose of this ~~rule~~ section is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for his or her needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This ~~rule~~ section does not prohibit the use of additional material which is not in violation of this ~~rule~~ section or any other Wisconsin statute or rule. This ~~rule~~ section interprets ss. 628.34 and 628.38, Stats. This section is in addition to and not a substitute for the requirements set forth in s. Ins 2.16.

(2) (b) 4. Life Insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal ~~Employee Retirement-Income-Security-Act~~ employee retirement income security act of 1974 (ERISA) ,29 U.S.C. ss. 1001 to 1461.

SECTION 2. Ins 2.14 (3) (d) 4 is repealed.

SECTION 3. Ins 2.14 (5) (title) and (a) are amended to read:

Ins 2.14 (5) (title) GENERAL REQUIREMENTS.

(5) (a) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this ~~rule~~ section. ~~Such~~ The file shall contain one copy of each authorized form for a period of 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30).

SECTION 4. Ins 2.14 (5) (e) and (f) are repealed and recreated to read:

Ins 2.14 (5) (e) Any sales presentation subject to this section shall comply with the requirements of s. Ins 2.16 (7) (b) and (c).

Ins 2.14 (5) (f) Recommendations made by a person subject to this section concerning the purchase or replacement of any life insurance policy are subject to the requirements of s. Ins 2.16 (6).

SECTION 5. Ins 2.14 (5) (h) is amended to read:

Ins 2.14 (5) (h)-A No presentation of benefits ~~shall not~~ may display guaranteed and nonguaranteed benefits as a single sum unless ~~they~~ the guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21).

SECTION 6. Ins 2.14 (6) is repealed.

SECTION 7. Ins 2.14 (7) is renumbered Ins 2.14 (6), and as renumbered, is amended to read:

Ins 2.14 (6) Insurers with unique difficulties in implementing ~~sections~~ provisions of this ~~rule~~ section may petition the commissioner for allowance to meet the requirements of the ~~rule~~ section through alternative approaches.

SECTION 8. Ins 2.14 (8) and (9) are repealed.

SECTION 9. Ins 2.15 (2) (a), (3) (b) 5 and 6, and (9) (a) are amended to read:

Ins 2.15 (2) (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or annuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute. This section is in addition to and not a substitute for the requirements set forth in s. Ins 2.16.

(3) (b) 5. Policies or contracts issued in connection with employee benefit plans as defined by ~~section 3-(3)~~ 29 U.S.C. s. 1002 (3) of the federal employee retirement income security act of 1974 (ERISA) ~~as amended from time to time~~, except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under ~~section 403-(b)~~ 26 U.S.C. s. 403 (b) of the ~~Internal Revenue Code~~ internal revenue code;

(3) (b) 6. Individual retirement accounts and individual retirement annuities as described in ~~section 408~~ 26 U.S.C. s. 408 of the ~~Internal Revenue Code~~ internal revenue code;

(9) (a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. ~~Such~~ The file shall contain one copy of each authorized form for a period of at least 3 years following the

date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30);

SECTION 10. Ins 2.15 (9) (f) is repealed and recreated to read:

Ins 2.15 (9) (f) Recommendations made by any person subject to this section concerning the purchase or replacement of any arrangement subject to this section are subject to the requirements of s. Ins 2.16 (6).

SECTION 11. Ins 2.15 (9) (g) is amended to read:

Ins 2.15 (9) (g)-~~A~~ No presentation of benefits ~~shall not~~ may display guaranteed and nonguaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21);

SECTION 12. Ins 2.15 (10) is repealed.

SECTION 13. Ins 2.16 is repealed and recreated to read:

Ins 2.16 ADVERTISEMENTS OF AND DECEPTIVE PRACTICES IN LIFE INSURANCE

AND ANNUITIES. (1) PURPOSE. This section safeguards the interests of prospective purchasers of life insurance and annuities by providing the prospective purchasers with clear and unambiguous statements, explanations, advertisements and written proposals concerning the life insurance policies and annuity contracts offered to them. The commissioner may best achieve this purpose by establishing certain minimum standards of and guidelines for conduct in the advertising and sale of life insurance and annuities. These minimum standards and guidelines prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies or contracts of life insurance and annuities. This section interprets and implements, including but not limited to, the following Wisconsin Statutes: ss. 601.01 (2) and (3) and 628.34. The requirements of

this section are in addition to and not a substitute for the requirements set forth in ss. Ins 2.14 and 2.15.

(2) SCOPE. (a) Unless otherwise provided under a particular provision of this section, the section applies to any person who makes, directly or indirectly on behalf of an insurer, fraternal benefit society, or intermediary, an advertisement, representation, or solicitation in this state of any insurance specified in s. Ins 6.75 (1) (a).

(b) This section does not apply to:

1. Credit life insurance.

2. Group life insurance purchased, established, or maintained by an employer including a corporation, partnership, or sole proprietorship, or by an employe organization, or both, except for group life insurance purchased, established or maintained by these persons in connection with a multiple employer welfare arrangement as defined under 29 U.S.C. s. 1002 (40).

3. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employe retirement income security act of 1974 (ERISA), 29 U.S.C. ss. 1001 to 1461.

4. Variable life insurance policies under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

5. Variable annuities.

6. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employe organization, or both.

7. Immediate annuity contracts, which are arrangements under which payments begin within 13 months of the issue date.

8. Annuity contracts issued in connection with employe benefit plans as defined by 29 U.S.C. s. 1002 (3) of the federal employe retirement income security act of 1974 (ERISA), except annuity contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 U.S.C. s. 403 (b) of the internal revenue code.

9. A policyholder's deposit account established solely to facilitate payment of regular premiums.

10. Settlement options under life insurance or annuity contracts.

(3) DEFINITIONS. In this section:

(a) 1. "Advertisement" means:

a. Printed and published material, audio visual material and descriptive literature of an insurer or intermediary used in direct mail, newspapers, magazines, other periodicals, radio and TV scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employes, intermediaries or agencies;

b. Descriptive literature and sales aids of all kinds authored, issued, distributed or used by an insurer, intermediary or third party for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters. Descriptive literature and sales aids do not include material in house organs of insurers, communications within an insurer's own organization not intended for dissemination to the public, individual communications of a personal nature, and correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket policy, and general announcements from group or blanket policyholders to eligible individuals that a contract has been written;

c. Prepared sales talks, presentations and material for use by intermediaries and representations made by intermediaries in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employes or intermediaries; and

d. Packaging, including but not limited to envelopes, used in connection with subpar. a, b, and c.

2. Advertisement does not include a policy summary as defined in s. Ins 2.14 (3) (e), the "Buyer's Guide to Life Insurance" as set forth in s. Ins 2.14, APPENDIX I, a contract summary as defined in s. Ins 2.15 (4) (a), a preliminary contract summary as defined in s. Ins 2.15 (4) (b), and the "Wisconsin Buyer's Guide to Annuities" as defined in s. Ins 2.15 (4) (c).

(b) "Analysis" means the separation of a life insurance policy or annuity contract into constituent parts for comparison, special emphasis, or other purposes.

(c) "Appraisal" means an evaluation or estimate of the quality or other features of a life insurance policy or annuity contract. Appraisal does not include a statement which is also an endorsement or testimonial.

(d) "Endorsement" means any statement promoting the insurer, its policy or both, made by an individual, group of individuals, society, association or other organization which makes no reference to the endorser's experience under the policy.

(e) "Guaranteed interest rate" means the lowest rate of interest which an insurer may pay under the terms of a policy during the duration of the policy.

(f) "Illustrated rate" means a rate shown in an advertisement, representation, or solicitation which an insurer may guarantee for a limited period of time, but not guarantee for the duration of the policy.

(g) "Individual policy issued on a group basis" means an individual policy issued for which:

1. Coverage is provided to employes or members or classes of employes or members defined in terms of conditions pertaining to employment or membership in an association or other group which is eligible for franchise or group insurance as defined in s. 600.03 (22) and (23), Stats.;

2. The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the group;

3. The employer, association or other group, or a designated person acting on behalf of one of these persons, pays premiums or subscription charges to the insurer; and

4. The employer, association or other group sponsors the insurance plan.

(h) "Institutional advertisement" means an advertisement which is prepared solely to promote the reader's or listener's interest in the concept of life insurance or annuities, or of promoting the insurer sponsoring the advertisement, or both.

(i) "Intermediary" has the meaning provided in s. 628.02 (1), Stats.

(j) "Policy" means any document, including a policy, plan, contract, agreement, rider or endorsement, used to set forth in writing life insurance or annuity benefits.

(k) "Representation" means any communication, other than an advertisement or solicitation, relating to an insurance policy, the insurance business, any insurer, or any intermediary.

(l) "Solicitation" means an attempt to persuade a person to make an application for an insurance policy.

(m) "Testimonial" means any statement made by a policyholder, certificate holder or other person covered by the insurer which promotes the insurer and its policy or contract by describing the person's benefits, favorable treatment or other experience under the policy or contract.

(4) APPLICATION OF THIS SECTION. (a) The commissioner shall construe this section in a manner which does not unduly restrict, inhibit or retard the promotion, sale and expansion of life insurance policies or annuity contracts. The commissioner shall consider differences in the purposes served by various advertisements and in the insurance product being advertised when interpreting this section. When applying this section to a specific advertisement, the commissioner shall consider the detail, character, purpose, use and entire content of the advertisement.

(b) The extent to which a person subject to this section shall disclose policy provisions in an advertisement will depend on the content, detail, character, purpose and use of the advertisement and the nature of any qualifications involved. The principle criterion is whether the advertisement has the capacity or tendency to mislead or deceive if such a provision is not disclosed.

(c) The commissioner shall determine whether an advertisement has the capacity or tendency to mislead or deceive 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.

(5) ADVERTISEMENTS, REPRESENTATIONS, AND SOLICITATIONS IN GENERAL.

(a) Advertisements, representations, and solicitations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy, the insurance business, any insurer, or any intermediary to which they

apply. No advertisement may contain words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology.

(b) Oral representations and solicitations shall conform to the requirements of this section.

(6) SUITABILITY OF POLICIES. No insurer or intermediary may recommend to a prospective buyer the purchase or replacement of any individual life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The insurer or intermediary shall make all necessary inquiries under the circumstances to determine that the purchase of the insurance is not unsuitable for the prospective buyer. This subsection does not apply to an individual policy issued on a group basis.

(7) DECEPTIVE WORDS, PHRASES OR ILLUSTRATIONS. (a) No person subject to this section may use an advertisement that exaggerates a benefit or minimizes cost by overstatement, understatement or incompleteness. No advertisement may omit information or contain words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable or state or federal tax consequences. An advertisement referring to any policy benefit payable, loss covered, premium payable, or state or federal tax consequences shall be sufficiently complete and clear as to avoid deception or the capacity or tendency to mislead or deceive.

(b) No advertisement may state or imply that life insurance arrangements are the same as savings accounts or deposits in banking or savings institutions. No person subject to this section may use policies which resemble savings bank passbooks. If savings accounts or deposits in

banking and savings institutions are utilized in connection with life insurance arrangements, this paragraph does not prohibit the use of an accurate description of the life insurance arrangement.

Note: Annuity contracts are subject to the same limitations under s. Ins 2.15 (9) (h).

(c) No advertisement may contain the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of the policy to believe that he or she will receive, or that it is possible that he or she will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(d) An advertisement may refer to immediate coverage or guaranteed issuance of a policy only if suitable administrative procedures exist so that the policy is issued within a reasonable time after the application is received.

(e) No advertisement may refer to a policy or coverage as "special" unless a person subject to this section can show that a reasonable basis exists for the use of this term.

(8) IDENTITY OF INSURER. (a) Each advertisement shall clearly identify the insurer. If an application is a part of the advertisement, the application shall show the name of the insurer.

(b) No advertisement may contain a trade name, an insurance group designation, the name of the parent company of the insurer, the name of a government agency or program, the name of a department or division of an

insurer, the name of an agency, the name of any other organization, a service mark, a slogan, a symbol or any other device which has the capacity or tendency to mislead or deceive as to the identity of the insurer or create the impression that an entity other than the insurer has any responsibility for the financial obligation under any policy.

(c) No advertisement may contain any combination of words, symbols or materials which, by its content, phraseology, shape, color, nature or other characteristics, is so similar to combinations of words, symbols or materials used by federal, state or local government agencies that it tends to confuse or mislead prospective buyers into believing that the solicitation is in some manner connected with such a government agency.

(d) No advertisement may refer to an affiliate of the insurer without disclosing that the 2 organizations are separate legal entities.

(e) No advertisement may indicate an address for an insurer in any manner that may mislead or deceive as to the insurer's identity or licensing status. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify the address other than that of its home office and clearly disclose the actual city and state of domicile of the insurer.

(9) TESTIMONIALS, ENDORSEMENTS, APPRAISALS, ANALYSIS OR COMMENDATIONS BY THIRD PARTIES. (a) No advertisement may contain a testimonial, endorsement or other commendatory statement concerning the insurer, its policies or activities by any person who receives any pay or remuneration, directly or indirectly, from the insurer in connection with the testimonial, endorsement or statement unless the advertisement, testimonial or endorsement includes a full and prominent disclosure therein of the relationship, direct or indirect, including but not limited to the existence of any financial interest,

remuneration, or both, between the insurer and the person making the testimonial, endorsement or statement. The provisions of this paragraph do not apply to any person holding a Wisconsin intermediary's license nor to any radio or television announcer or other person employed or compensated on a salaried or union wage scale basis.

(b) A testimonial, endorsement, appraisal, or analysis used in an advertisement shall be genuine, represent the current opinion of the author, apply to the policy advertised and be accurately reproduced.

(c) No person subject to this section may use a testimonial, endorsement, appraisal or analysis:

1. Which is fictional;
2. If the insurer has information indicating a substantial change of view on the part of the author;
3. If a reasonable person would conclude that the views expressed do not correctly reflect the current opinion of the author;
4. For more than 2 years after the date on which it was originally given or 2 years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion;
5. Which does not accurately reflect the present practices of the insurer;
6. To advertise a policy other than the policy for which the author gave the statement, unless the statement clearly has some reasonable application to the second policy;
7. Which effects a change or omission which alters or distorts its meaning or intent as originally written; or
8. Which does not disclose the true nature of the insurance coverage under which the benefits were paid if it contains a description of benefit payments.

(d) No advertisement may state or imply, unless true, that an individual, group of individuals, society, association or other organization approves or endorses an insurer or a policy. An advertisement shall disclose any affiliated relationship between the society, association or other organization and the insurer. If the insurer or the person or persons who own or control the insurer has formed or owns or controls the society, association or other organization, the advertisement shall clearly disclose this fact.

(e) If a testimonial refers to benefits received under a policy, the insurer shall retain a summary of the pertinent claim information including claim number and date of loss with the advertisement in the advertising file required by sub. (30).

(f) No advertisement may state or imply that a government publication commends or recommends the insurer or its policy.

(10) JURISDICTIONAL LICENSING; APPROVAL BY GOVERNMENTAL AGENCY.

(a) No advertisement which may be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed may state or imply licensing beyond those limits.

(b) In any advertisement any reference to licensing shall contain an appropriate disclaimer that the viewer, listener, or reader should not construe the reference as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.

(c) No advertisement may state or imply that the insurer, its financial condition or status, the payment of its claims, its policy forms or the merits or desirability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any agency of this state or the federal government.

(d) No advertisement may contain a reproduction of a portion of a state insurance department report of examination.

(11) INTRODUCTORY, INITIAL OR SPECIAL OFFERS AND LIMITED ENROLLMENT PERIODS. (a) No advertisement may state or imply, unless true, that a policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages not available at a later date by accepting the offer, that only a limited number of policies will be sold, that a time is fixed for the discontinuance of the sale of the policy advertised because of special advantages available in the policy, or that an individual will receive special advantages by enrolling within an open enrollment period or by a deadline date.

(b) No advertisement may state or imply that enrollment under a policy is limited to a specific period unless the advertisement discloses the period of time permitted to enroll. This period of time may not be less than 10 days and not more than 40 days from the date of the advertisement.

(c) If the insurer making an introductory, initial or special offer has previously offered the same or similar policy on the same basis or intends to repeat the current offer for the same or similar policy, the advertisement shall disclose this fact.

(d) No insurer may establish for residents of this state a limited enrollment period within which a person may purchase an individual policy less than 6 months after the close of an earlier limited enrollment period for the same or similar policy. The restriction shall apply to all advertisements in newspapers, magazines and other periodicals circulated in this state, all mail advertisements sent to residents of this state and all radio and TV advertisements broadcast in this state. This restriction does not apply to the solicitation of enrollments under individual policies issued on a group basis.

(e) Where an insurer is an affiliate of a group of insurers under common management and control, the word "insurer" for the purposes of this subsection means the insurance group. The requirements and restrictions applicable to an insurer shall apply to the insurance group.

(12) MAIL ORDER REFUSAL FORM. No person subject to this section may use a mail order advertisement which requires the recipient, in order to refuse a policy, to sign a refusal form and return it to a specified person or insurer.

(13) GROUP, QUASI-GROUP OR SPECIAL CLASS IMPLICATIONS. No advertisement may state or imply, unless true, that prospective policyholders or members of a particular class of individuals become group or quasi-group members or are uniquely eligible for a special policy or coverage and will be subject to special rates or underwriting privileges or that a particular coverage or policy is exclusively for preferred risks, a particular segment of people, or a particular age group or groups.

(14) INSPECTION OF POLICY. (a) An offer in an advertisement of free inspection of a policy or an offer of a premium refund shall not be a cure for misleading or deceptive statements contained in such advertisement.

(b) An advertisement which refers to the provision in the policy advertised regarding the right to return the policy shall disclose the time limitation applicable to this right.

(15) IDENTIFICATION OF PLAN OR NUMBER OF POLICIES. (a) When an advertisement refers to a choice regarding benefit amounts, it shall disclose that the benefit amounts provided will depend upon the plan selected and that the premium will vary with the amount of the benefits.

(b) When an advertisement refers to various benefits, all of which can be obtained only by purchasing 2 or more policies, it shall disclose that the benefits are provided only through a combination of such policies.

(16) USE OF STATISTICS. (a) An advertisement which sets out the dollar amounts of claims paid, the number of persons insured or other statistical information shall identify the source of the statistical information. No person subject to this section may use an advertisement unless it accurately reflects all of the relevant facts. No advertisement may contain irrelevant statistical data.

(b) No advertisement may imply that the statistical information given is derived from the insurer's experience under the policy advertised unless true. The advertisement shall specifically so state if the information applies to other policies or plans.

(c) An advertisement which sets out the dollar amounts of claims paid shall also indicate the period during which such claims have been paid.

(17) CLAIMS. No advertisement may:

(a) Contain untrue statements with respect to the time within which claims are paid;

(b) State or imply that claim settlements will be liberal or generous or use words of similar import;

(c) State or imply that claim settlements will be beyond the actual terms of the policy; or

(d) Contain a description of a claim which involves unique or highly unusual circumstances.

(18) STATEMENTS ABOUT AN INSURER. No advertisement may contain untrue statements or statements that by implication mislead with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.

(19) DISPARAGING COMPARISONS AND STATEMENTS. No advertisement may directly or indirectly contain unfair or incomplete comparisons of policies or

benefits or falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.

(20) PREMIUMS. (a) An advertisement for a policy with nonlevel premiums shall contain a prominent description of the premium changes.

(b) No person subject to this section may describe in an advertisement a life insurance policy under which the insurer reserves the right to change the amount of the premium during the policy term unless this feature is prominently described in the advertisement.

(c) Except as otherwise allowed under this paragraph, no advertisement may contain a statement or representation that an insured may withdraw under the terms of the policy any premiums paid for a life insurance policy. The advertisement may refer to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. The advertisement may also refer to withdrawal rights under any unconditional premium refund offer.

(d) No advertisement may state or imply that a pure endowment benefit is a "profit" or "return" on the premium paid rather than a policy benefit for which a specified premium is paid.

(21) NONGUARANTEED POLICY ELEMENTS. (a) No advertisement may contain a description of or otherwise refer to nonguaranteed policy elements in a manner which is misleading or has the capacity or tendency to mislead.

(b) No advertisement may state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If an insurance policy's or annuity contract's nonguaranteed policy elements are illustrated, they may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, mortality tables, and other variable components

currently used by the insurer for that insurance policy or annuity contract. The illustration shall contain a statement to the effect that the viewer, listener, or reader should not construe the nonguaranteed policy elements as guarantees or estimates of amounts to be paid in the future.

(c) No advertisement may state or imply that illustrated nonguaranteed policy elements will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at the future time and under what conditions this would occur.

(d) 1. No advertisement may refer to dividends as "tax free" or contain words of similar import, unless the tax treatment of dividends is accurately explained and the nature of the dividend as a return of premium is indicated clearly.

2. The requirements of this subsection are in addition to the requirements set forth in ss. Ins 2.14 (5) (h) and 2.15 (9) (g).

(22) POLICIES SOLD TO STUDENTS. (a) A person subject to this section may address an advertisement for policies sold to students to the parents of students. No address on the advertisement may include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless true.

(b) All advertisements, including but not limited to information flyers used in the solicitation of insurance, shall contain clear identification that the advertisement comes from an insurer or intermediary, if this is the case, and these entities shall be clearly identified as insurers or intermediaries.

(c) No return address on the advertisement may state or imply that the soliciting insurer or insurance intermediary is affiliated with a university, college, school, or other educational or training institution, unless true.

(23) INDIVIDUAL DEFERRED ANNUITY PRODUCTS OR DEPOSIT FUNDS. For individual deferred annuity products or deposit funds, the following shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates for the annuity product or deposit fund shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. No higher interest rate may be greater than those currently being credited by the insurer unless the higher rate has been publicly declared by the insurer with an effective date for new issues not more than two months subsequent to the date of declaration.

(b) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and net premiums.

(c) If any policy does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning the policy shall prominently state that cash surrender benefits are not provided.

(24) ADVERTISEMENTS SHOWING A SPECIFIC RATE OF RETURN ON PREMIUMS OR CASH VALUES. All life insurance or annuity solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence, the following:

(a) A general statement describing the existence of first-year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied.

(b) The guaranteed rate of interest paid on the cash value.

(c) The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, an advertisement, representation, or solicitation shall disclose if interest on the first \$1,000 of cash value is limited to the guaranteed rate.

(d) An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case.

(e) An indication of any other significant factors which affect the manner in which cash values are computed.

(25) GRADED OR MODIFIED BENEFITS AFTER A POLICY IS ISSUED. (a) An advertisement, representation, or solicitation for a policy containing graded or modified benefits shall prominently disclose this fact. If applicable, an advertisement, representation, or solicitation shall prominently disclose the fact that the premium is level and coverage decreases or increases with age or duration. Graded or modified benefits shall include, but are not limited to, life insurance policies that, within a specified period after the policy is issued, may pay no death benefits or death benefits that are less than premiums paid should the insurer pay the death benefits.

(b) The prominent disclosure required in par. (a) shall mean the following for the specified type of advertisement:

1. For television advertisements, an announcement describing the graded or modified benefits to be displayed during the advertisement for at least 10 seconds.

2. For radio advertisements, an announcement describing the graded or modified benefits.

3. For pre-printed advertisements intended for general distribution, a written description of the graded or modified benefits printed on the first page of the advertisement and in at least 12 point bold type.

(26) MISCELLANEOUS DISCLOSURE REQUIREMENTS. (a) In the event an advertisement uses "Nonmedical," "No Medical Examination Required," or similar terms where issue is not guaranteed, the terms shall be accompanied by a further disclosure in close proximity thereto and with equal prominence to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(b) No advertisement may contain as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.

(c) An advertisement shall prominently describe the type of policy advertised.

(d) No advertisement of an insurance policy marketed by direct response techniques may state or imply, unless the condition is true, that because there is no intermediary or commission involved there will be a cost saving to prospective purchasers.

(e) No advertisement may state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(f) If nonforfeiture values are shown in any advertisement, the advertisement shall show the values either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

(g) No advertisement may contain the words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import with respect to any benefit or service being made available with a policy, unless the insured is not charged for any benefit or service. If the insured is not charged, then the advertisement shall prominently disclose the identity of the payor.

(27) METHOD OF DISCLOSURE OF REQUIRED INFORMATION. (a) A person subject to this section shall set out all information required to be disclosed by this section clearly, conspicuously and in close proximity to the statements to which the information relates or under appropriate captions of sufficient prominence that it shall be readily noticed and not minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

(b) No person subject to this section may set out information required by this section under inappropriate captions or headings or under inappropriate questions where a question and answer format is used.

(28) FORM NUMBER. A person subject to this section shall identify by form number an advertisement other than an institutional advertisement defined in sub. (3) (h) which is mass-produced. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

(29) INSURER'S RESPONSIBILITY FOR ADVERTISEMENTS. (a) The insurer whose policy is advertised has responsibility for the content, form and method of dissemination of all advertisements, regardless of by whom designed, created, written, printed or used.

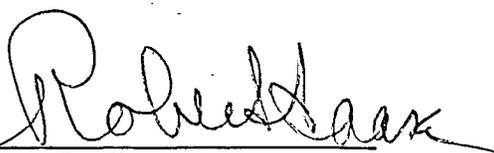
(b) An insurer shall require its intermediaries and all other persons or agencies acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

(30) INSURER'S ADVERTISING FILE. Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its policies hereafter disseminated in this state. With respect to group, blanket and franchise policies, all proposals prepared on the same printed form need not be included in the file; only typical examples of these proposals shall be included. A notation shall be attached to each such advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised. The file shall be subject to regular and periodic inspection by the office of the commissioner of insurance. A person subject to this section shall maintain all of these advertisements in the file while in use and for a period of 3 years after an advertisement's authorized use. If applicable, a person subject to this section shall also maintain files in accordance with ss. Ins 2.14 (5) (a) and 2.15 (9) (a).

SECTION 14. TERMINOLOGY CHANGES. Wherever the term "rule" appears in the following subsections of s. Ins 2.14, the term "section" is substituted: ss. 2.14 (2) (a); (2) (b) (intro.); (3) (intro.); (3) (e) 1; (4) (b) and (c); and (5) (k).

EFFECTIVE DATE. In accordance with s. 227.22 (2) (intro.), Stats., this section shall take effect on the first day of the month commencing after the date of publication.

Dated at Madison, Wisconsin, this 9th day of June, 1989.


Robert D. Haase
Commissioner of Insurance