

(2) **SCOPE.** This rule shall apply to the transaction of credit life insurance as defined in section 201.04 (3c) and 206.63, Wis. Stats., and the transaction of credit accident and sickness insurance as defined in section 201.04 (4a), Wis. Stats.

(3) **UNFAIR TRADE PRACTICES DEFINED.** The following acts, whether done directly or indirectly, in consideration of or in connection with a policy issued or proposed to be issued are defined to be prohibited unfair trade practices in the transaction of insurance described in subsection (2) above:

(a) The offer or grant by an insurer of any special favor or advantage, or any valuable consideration or inducement not set out in the insurance contract. The payment of agents' commissions, reported annually in Schedule 24S, shall not be a violation of this paragraph but the acts cited in paragraphs (b), (c), (d), (e) and (f) may not in any way be construed as agents' commissions.

(b) The offer to deposit or the deposit with a bank or other financial institution, money or securities of the insurer or of any affiliate of the insurer with the design or intent that the deposit offset or take the place of a deposit of money or securities which otherwise would be required of the creditor by such bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement.

(c) The deposit with a bank or other financial institution of money or securities without interest or at a lesser rate of interest than is currently being paid other depositors on similar deposits with such bank or other financial institution. This shall not be construed to prohibit the maintenance by an insurer of such demand deposits as are reasonably necessary for use in the ordinary course of business of the insurer.

(d) The offer to sell or the sale of any capital stock or other security or certificate of indebtedness of the insurer or affiliated person.

(e) The offer to pay or the payment of any part of the premium for any insurance on the life, health or property of any creditor or any employee or other person affiliated with the creditor.

(f) The extension to the creditor of credit for the remittance of premium beyond the grace period of a group policy or for more than 45 days from the effective date of an individual policy.

(4) **PENALTY.** Violations of this rule shall subject the insurer or agent to section 601.64, Wis. Stats.

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Ins 3.27 Advertisements of and deceptive practices in accident and sickness insurance. (1) **PURPOSE.** The interest of prospective purchasers of accident and sickness insurance must be safeguarded by providing such persons with clear and unambiguous statements, explanations, advertisements and written proposals concerning the policies offered to them. This purpose can best be achieved by the establishment of and adherence to certain minimum standards of and guidelines for conduct in the advertising and sale of such insurance which prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies of such insurance. This rule interprets and implements, including but not limited to, the following Wisconsin statutes: Sections 207.04 (1) (a), (b) and (g) 2, and 601.01 (3).

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(2) **SCOPE.** This rule shall apply to any solicitation, representation or advertisement in this state of any insurance specified in section 201.04 (4), Wis. Stats., made directly or indirectly by or on behalf of any insurer, fraternal benefit society, nonprofit service plan subject to section 200.26, Wis. Stats., voluntary nonprofit sickness care plan organized under section 185.981, Wis. Stats., interscholastic benefit plan organized under section 185.991, Wis. Stats., or agent as defined in section 209.047, Wis. Stats.

(3) **INTERPRETATION OF REQUIREMENTS APPLICABLE TO ADVERTISEMENTS.** (a) The proper promotion, sale and expansion of accident and sickness insurance are in the public interest. This rule is to be construed in a manner which does not unduly restrict, inhibit or retard such promotion, sale and expansion.

(b) In applying this rule, it shall be recognized that advertising is essential in promoting a broader distribution of accident and sickness insurance. Advertising necessarily seeks to serve this purpose in various ways. Some advertisements are the direct or principal sales inducement and are designed to invite offers to contract. In other advertisements the function is to describe coverage broadly for the purpose of inviting inquiry for further information. Other advertisements are for the purpose of summarizing or explaining coverage after the sale has been made. Still other advertisements are solely for the purpose of promoting the interest of the reader in the concept of accident and sickness insurance or of promoting the insurer sponsoring the advertisement. These differences shall be considered in interpreting this rule.

(c) When applying this rule to a specific advertisement, the type of policy to which the advertisement refers and the detail, character, purpose, use and entire content of the advertisement shall be taken into consideration.

(d) This rule applies to individual, franchise, group and blanket accident and sickness insurance. Because these types of coverage differ in some respects, one interpretation will not always suffice; a specific interpretation for individual, franchise, group or blanket coverage may be indicated.

(e) The extent to which policy provisions need be disclosed in an advertisement will depend on the content, detail, character, purpose and use of the advertisement and the nature of the exceptions, reductions, limitations and other qualifications involved. The principal criterion is whether the advertisement has the capacity and tendency to mislead or deceive if such a provision is not disclosed.

(f) Whether an advertisement has the capacity and tendency to mislead or deceive shall be determined by the commissioner 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.

(4) **COVERAGE TYPES.** (a) An advertisement which is an invitation to inquire or an invitation to apply shall clearly and prominently designate and at least briefly describe the type or types of coverage provided by the policy advertised. The level and extent of benefits provided by or available under the coverage shall also be clearly indicated.

(b) The following are the standard types of coverage designations

and the minimum adequate form of description that must be used. Any type of coverage authorized by Wisconsin Statutes which is not reasonably included within one or more of the standard coverage types listed shall be similarly and appropriately named and described so as to clearly disclose the benefits provided.

1. Basic hospital expense benefits. This coverage provides benefits for hospital room and board and miscellaneous hospital charges, based upon actual expenses incurred, up to stated maximum amounts.

2. Basic medical expense benefits. This coverage provides benefits for medical benefits based upon actual expenses incurred, up to stated maximum amounts.

3. Basic surgical expense benefits. This coverage provides benefits for surgical benefits based upon actual expenses incurred up to stated maximum amounts.

4. Major medical or comprehensive expense benefits. These coverages provide high maximum benefit amounts covering almost all types of medical care and contain deductible and co-insurance features.

5. Disability income benefits. This coverage provides periodic benefit payments to help replace income when the insured is unable to work as a result of illness or injury.

6. Hospital confinement indemnity benefits. This coverage provides benefits in a stated amount for confinement in a hospital, regardless of the hospital expenses actually incurred by the insured, due to such confinement.

7. Accident only benefits. This coverage provides benefits for losses for accidental bodily injury.

8. Specified disease or treatment benefits. This coverage provides benefits for treatment of a specific disease or diseases named in the policy or for specified treatment.

(5) GENERAL DEFINITIONS. (a) An *advertisement* relating to accident and sickness insurance for the purpose of this rule includes the following:

1. Printed and published material, audio visual material and descriptive literature of an insurer used in newspapers, magazines, other periodicals, radio and TV scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employees, agents or agencies,

2. Descriptive literature and sales aids of all kinds issued by an insurer or agent for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters,

a. Including material used in the solicitation of renewals and reinstatements except for communications or notices which mention the cost of the insurance but do not describe benefits,

b. Excluding 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,

c. Including group and blanket booklets, summaries of coverage and other explanatory material issued to insured persons, and

d. Excluding general announcements from group or blanket policyholders to eligible individuals that a contract has been written.

3. Prepared sales talks, presentations of material for use by agents

and representations made by agents in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employees or agents, and

4. Envelopes used in connection with the above.

(b) A *policy* for the purpose of this rule includes any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident or sickness benefits whether on a cash indemnity, reimbursement or service basis,

1. Except when issued in connection with another kind of insurance other than life, and

2. Except disability and double indemnity benefits included in life insurance, endowment or annuity contracts or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as

a. Provide additional benefits in case of death or dismemberment or loss of sight by accident or

b. Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

(c) An *insurer* for the purpose of this rule includes any person, individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, nonprofit service plan subject to section 200.26, Wis. Stats., voluntary nonprofit sickness care plan organized under section 185.981, Wis. Stats., interscholastic benefit plan organized under section 185.991, Wis. Stats., and any other legal entity engaged in advertising a policy as herein defined.

(d) An *exception* for the purpose of this rule means any provision in a policy whereby coverage for a specified hazard is entirely eliminated. It is a statement of a risk not assumed under the policy.

(e) A *reduction* for the purpose of this rule means any provision in a policy which reduces the amount of the benefits. A risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

(f) A *limitation* for the purpose of this rule means any provision in a policy which restricts coverage under the policy other than an exception or a reduction.

(g) An *invitation to apply* means an advertisement which is the direct or principal sales inducement and is designed to invite an offer to contract. Such an advertisement, which usually describes benefits in considerable detail, attempts to persuade the reader or listener to make application for the policy advertised. Such an advertisement would indicate what coverage the purchaser would receive and what such coverage would cost.

(h) An *invitation to inquire* means an advertisement which is designed to attract the reader's or listener's interest in the policy so that he will inquire for further information or details. Such an advertisement describes the policy broadly and withholds some information regarding the policy without which the reader or listener would not reasonably decide to apply for the policy.

(i) An *institutional advertisement* means one which is prepared solely to promote the reader's or listener's interest in the concept of

accident and sickness insurance or of promoting the insurer sponsoring the advertisement.

(j) A *testimonial* means any statement made by a policyholder, certificateholder or other person covered by the insurer which promotes the insurer and its policy by describing such person's benefits, favorable treatment or other experience under the policy.

(k) An *endorsement* for the purposes of subsection (13) of this rule means any statement promoting the insurer and its policy made by an individual, group of individuals, society, association or other organization which makes no reference to the endorser's experience under the policy.

(l) An *outline of coverage* means an appropriately and prominently captioned portion of a printed advertisement which is clearly set off from the rest of the advertisement by means such as placing it within a prominent border or box or printing it in contrasting color, or a separate appropriately captioned or titled printed statement, which advertisement portion or printed statement contains only a summary of the benefits provided, a designation of the applicable type or types of coverage as defined in subsection (4) and, under appropriate captions, the information required by subsections (10) and (11).

(m) An individual policy issued on a *group basis* means an individual policy or contract issued where:

1. Coverage is provided to employees or members or classes thereof 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 provided in sections 204.32 and 204.321, Wis. 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. Premiums or subscription charges are paid to the insurer by the employer, association or some designated person acting on behalf of the employer, association or covered persons, and

(4) The insurance plan is sponsored by the employer or association.

(6) ADVERTISEMENTS AND REPRESENTATIONS IN GENERAL. (a) Advertisements and representations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy to which they apply. Words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used.

(b) Oral representations shall conform to the requirements of this rule.

(7) SUITABILITY OF POLICIES. No agent or insurer shall recommend to a prospective buyer the purchase of any individual policy without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The agent or insurer shall make such inquiry as may be necessary under the circumstances to determine that the purchase of such insurance is not unsuitable for the prospective buyer. This requirement shall not apply to an individual policy issued on a group basis.

(8) **OUTLINE OF COVERAGE.** (a) Every advertisement of a specific individual policy or policies which constitutes an invitation to apply shall include an outline of coverage as defined in subsection (5) (1).

(b) Every agent at the time of taking an application for an individual policy shall furnish the applicant an outline of coverage as defined in subsection (5) (1).

(c) The requirement for an outline of coverage shall not apply to an advertisement or the taking of an application for an individual policy issued on a group basis or an individual conversion policy issued under a group or franchise insurance plan.

(9) **DECEPTIVE WORDS, PHRASES OR ILLUSTRATIONS.** (a) An advertisement shall not exaggerate a benefit or minimize cost by overstatement, understatement or incompleteness. Information shall not be omitted or words, phrases, statements, references or illustrations shall not be used if such omission or use has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. An advertisement referring to any policy benefit payable, loss covered or premium payable shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to mislead or deceive.

(b) The words and phrases "all", "full", "complete", "comprehensive", "unlimited", "up to", "as high as", "this policy will pay your hospital and surgical bills", "this policy will fill the gaps under Medicare and your present insurance" or "this policy will replace your income", or similar words and phrases shall not be used so as to exaggerate any benefit beyond the terms of the policy, but may be used only in such manner as fairly to describe such benefit.

(c) A policy covering only one disease or a list of specified diseases shall not be advertised so as to imply coverage beyond the terms of the policy. A particular disease shall not be referred to by more than one term so as to imply broader coverage than is the fact.

(d) The benefits of a policy which pays varying amounts for the same loss occurring under different conditions, or which pays benefits only when a loss occurs under certain conditions, shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

(e) The maximum benefit available under a policy shall not be emphasized in a manner which exaggerates its relationship to any internal limits or other conditions of the policy.

(f) The aggregate amounts or the monthly or weekly benefits payable under coverages such as hospital or similar facility confinement indemnity or private duty nursing shall not be emphasized unless the actual amounts payable per day are disclosed with substantially equal prominence and in close conjunction with such statement. Any limit in the policy on the number of days of coverage provided shall be disclosed.

(g) Phrases such as "this policy pays \$1800 for hospital room and board expenses" are incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

(h) An advertisement shall not state or imply that each member under a family policy is covered as to the maximum benefits advertised when such is not the fact.

(i) The importance of diseases rarely or never found in the class of persons to whom the policy is offered shall not be exaggerated in an advertisement.

(j) Examples of what benefits may be paid under a policy shall be shown only for losses from common illnesses or injuries rather than exceptional or rare illnesses or injuries.

(k) When a range of hospital room expense benefits is set forth in an advertisement, it shall be made clear that the insured will receive only the benefit indicated in the policy purchased. It shall not be implied that the insured may select his room expense benefit at the time of hospitalization.

(l) An advertisement shall not imply that the amount of benefits payable under a loss of time policy may be increased at time of disability according to the needs of the insured.

(m) The term "confining sickness" is an abbreviated expression and shall be explained if used in an advertisement.

(n) An advertisement shall not state that the insurer "pays hospital, surgical, medical bills", "pays dollars to offset the cost of medical care", "safeguards your standard of living", "pays full coverage", "pays complete coverage", "pays for financial needs", "provides for replacement of your lost paycheck", "guarantees your paycheck", "guarantees your income", "continues your income", "provides a guaranteed paycheck", "provides a guaranteed income" or "fills the gaps in Medicare" or use similar words or phrases unless the statement is literally true. Where appropriate, such or similar words or phrases may properly be used if preceded by the words "help", "aid", "assist" or similar words.

(o) An advertisement shall not state that the premiums will not be changed in the future unless such is the fact.

(p) An advertisement shall clearly indicate the provisions of any deductible under a policy.

(q) An advertisement shall not refer to a policy as a doctors policy or use words of similar import unless:

1. The advertisement includes a statement that the plan of benefits is not endorsed by or associated with any national, state or local medical society, or

2. The policy has been so endorsed by such a society and the advertisement meets the requirements of subsection (13) of this rule.

(r) If a policy contains any of the following or similar provisions, an advertisement referring to such policy shall not state that benefits are payable in addition to other insurance unless the statement contains an appropriate reference to the coverage excepted:

1. An other insurance exception, reduction, limitation or deductible

2. A coordination of benefits or non-duplication provision

3. An other insurance in this company provision.

4. An insurance in other insurers provision.

5. A relation of earnings to insurance provision

6. A workmen's compensation or employers' liability or occupational disease law exception, reduction, or limitation

7. A reduction based on social security benefits or other disability benefits, or

8. A Medicare exception, reduction, or limitation.

(s) An advertisement shall not state a policy's benefits are tax free unless an explanation of the rules applicable to the taxation of

such types of accident and sickness benefits is clearly shown with equal prominence and in close conjunction with such statement. An advertisement of a benefit for which payment is conditioned upon confinement in a hospital or similar facility shall not state that such benefit is tax free.

(t) An advertisement shall not use the expressions "extra cash", "cash income", "income", "cash" or similar words or phrases in such a way as to imply that the insured will receive benefits in excess of his expenses incurred while being sick, injured or hospitalized.

(u) The description in advertisements of government insurance programs, including Medicare, and of changes in such program shall be accurate and not give an incorrect impression as to the need for supplementary coverage. If gaps in such programs are referred to, they shall be described fairly so that the reader or listener can determine how the policy being advertised covers such gaps.

(v) An advertisement which refers to a policy as being a Medicare supplement shall:

1. Contain a prominent statement indicating which Medicare benefits the policy is intended to supplement (for example, hospital benefits) and which Medicare benefits the policy will not supplement (for example, medical-surgical benefits) and shall clearly disclose any gaps in Medicare coverage for which the policy does not provide benefits and

2. Clearly indicate the extent of the benefits if the policy bases benefits on expenses incurred beyond what Medicare covers and thus provides somewhat limited benefits for short term hospital confinements.

(w) 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.

(x) If an advertisement indicates an initial premium which differs from the renewal premium on the same mode, the renewal premium shall be disclosed with equal prominence and in close conjunction with any statement of the initial premium. Any increase in premium or reduction in coverage because of age shall be clearly disclosed.

(y) An advertisement shall not state that the policy contains no waiting period unless pre-existing conditions are covered immediately or unless the status of pre-existing conditions is disclosed with equal prominence and in close conjunction with such statement.

(z) An advertisement shall not state that no age limit applies to a policy unless applications from applicants of any age are considered in good faith and such statement clearly indicates the date or age to which the policy may be renewed or that the company may refuse renewal.

(za) An advertisement shall not state that no medical, doctor's or physical examination is required or that no health, medical or doctor's statements or questions are required or that such examination, statements or questions are waived or otherwise state or imply that the applicant's physical condition or medical history will not affect the policy unless:

1. The statement indicates with equal prominence that it applies only to the issuance of the policy or to both the issuance of the policy and the payment of claims, and

2. Pre-existing conditions are covered immediately under the policy or the period of time following the effective date of the policy during which pre-existing conditions are not covered is disclosed with equal prominence and in close conjunction with such statement.

(zb) An advertisement of a limited policy as defined in Wis. Adm. Code section Ins 3.13 (2) (h) shall prominently indicate that the policy provides limited coverage with an appropriate statement such as "THIS IS A CANCER ONLY POLICY" or "THIS IS AN AUTO-MOBILE ACCIDENT ONLY".

(zc) An advertisement of a policy which provides benefits for injuries only or for sickness only shall prominently indicate that the policy covers injuries only or sickness only.

(zd) An advertisement shall not refer to a policy or coverage as being "special" unless it can be shown that there is a reasonable basis for the use of such a term.

(ze) An advertisement shall not set out exceptions, reductions or limitations from a policy worded in a positive manner to imply that they are beneficial features such as describing a waiting period as a benefit builder. Words and phrases used to disclose exceptions, reductions or limitations shall fairly and accurately describe their negative features. The words "only" or "minimum" or similar words or phrases shall not be used to refer to exceptions, reductions or limitations.

(zf) An advertisement shall not state or imply, or use similar words or phrases to the effect, that because no insurance agent will call and no commissions will be paid to agents the policy is a low cost plan.

(zg) Devices such as a safe drivers' award and other such awards shall not be used in connection with an advertisement.

(10) EXCEPTIONS, REDUCTIONS AND LIMITATIONS. (a) When an advertisement refers to any dollar amount of benefits payable, period of time for which any benefit is payable, cost of policy, specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions and limitations (including waiting, elimination, probationary or similar periods and pre-existing condition exceptions) affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive subject to the following.

(b) An invitation to apply shall be subject to the disclosure requirements of this subsection.

(c) An invitation to inquire shall not be subject to the disclosure requirements of this subsection unless:

1. Such an advertisement mentions benefits, benefit periods or premiums for the purpose of doing more than identifying the policy or

2. Such an advertisement makes any reference to the policy's exceptions, reductions and limitations.

(d) A booklet, summary or explanation of coverage issued to insured persons shall be subject to the disclosure requirements of this subsection.

(e) An institutional advertisement shall not be subject to the disclosure requirements of this subsection.

(f) If the policy advertised does not provide immediate coverage for pre-existing conditions, an application or enrollment form contained in or included with an advertisement to be completed by the applicant and returned to the insurer shall contain a question or

statement immediately preceding the applicant's signature line which summarizes the pre-existing condition provisions of the policy. The following are a suggested question and statement; however, an insurer shall use wording which is appropriate to the actual pre-existing condition provisions of the policy advertised: "Do you understand that the policy applied for will not pay benefits during the first _____ year(s) after the issue date for a disease or physical condition which you now have or have had in the past? Yes _____" or "I understand that the policy applied for will not pay benefits during the first _____ year(s) after the issue date for a disease or physical condition which I now have or have had in the past."

(g) An advertisement which is subject to the disclosure requirements of this subsection shall in negative terms disclose the extent to which any loss is not covered if the cause of the loss is a condition which exists prior to the effective date of the policy. The expression "pre-existing conditions" shall not be used unless appropriately defined.

(h) If a medical examination is required for a policy, an advertisement of such policy shall disclose such requirement.

(i) The exceptions, reductions and limitations referred to in this subsection shall include:

1. Those which are set out in the policy under captions referring to exceptions, reductions, limitations or exclusions or are otherwise designated as such, and

2. Those which are not so captioned or designated contained in other portions of the policy such as a benefit provision, definition or uniform provision.

(j) The following are examples of exceptions, reductions and limitations which generally *do* affect the basic policy provisions to such an extent that their absence would cause the advertisement to have the capacity and tendency to mislead or deceive.

1. War or act of war.
2. While in armed services.
3. Territorial restriction or coverage within United States and Canada.
4. Complete aviation exclusion.
5. Self-inflicted injury.
6. Injury inflicted by another person.
7. Time limitation on death, dismemberment or commencement of disability or medical treatment following an accident.
8. Pre-existing sickness or disease or other bodily infirmity.
9. Exclusion or reduction for loss due to specific diseases, classes of diseases or types of injuries.
10. Confinement restrictions in disability policies such as house confinement, bed confinement and confinement to the premises.
11. Waiting, elimination, probationary or similar periods.
12. Reduction in benefits because of age.
13. Any reduction in benefit during a period of disability.
14. Workmen's compensation or employers' liability law exclusion.
15. Occupational exclusion.
16. Violation of law.
17. Automatic benefit in lieu of another benefit.
18. Confinement in government hospital.
19. Pregnancy.
20. Miscarriage in sickness or accident and sickness policy.

21. Restrictions relating to organs not common to both sexes.
22. Restrictions on number of hospital hours before benefit accrues.
23. Insanity, mental diseases or disorders or nervous disorder.
24. Dental treatment, surgery or procedures.
25. Cosmetic surgery.
26. While intoxicated or under the influence of narcotics, or other language not substantially the same as the uniform individual policy provision regarding the use of intoxicants and narcotics.
27. Unemployed persons.
28. Retired persons.
29. While handling explosives or chemical compounds.
30. While or as a result of participating in speed contests.
31. While or as a result of riding a motorcycle or motorcycle attachment.
32. While or as a result of participating in professional athletics.
33. While or as a result of participating in certain specified sports.
34. While or as a result of serving as a volunteer fireman or in other hazardous occupations.
35. Riot or while participating in a riot.
36. Ptomaine poisoning.
37. Gas or poisonous vapor.
38. Sunstroke or heat prostration.
39. Freezing.
40. Poison ivy or fungus infection.
41. Requirement of permanent disability.
42. Reduction because of other insurance.

(k) The following are examples of exceptions, reductions and limitations which generally *do not* affect the basic policy provisions to such an extent that their absence would cause the advertisement to have the capacity and tendency to mislead or deceive.

1. Suicide or attempted suicide, while sane or insane.
2. Intentional self-inflicted injury.
3. Territorial restriction with no limitation of coverage while in United States and Canada.
4. Aviation exclusion under which passage on commercial airlines is covered.
5. Felony or illegal occupation.
6. All uniform individual policy provisions, both required and optional, other than those relating to other insurance.
7. Requirement for regular care by a physician.
8. Definition of total disability.
9. Definition of partial disability.
10. Definition of hospital.
11. Definition of specific total loss.
12. Definition of injury.
13. Definition of physician or surgeon.
14. Definition of nurse.
15. Definition of recurrent disability.
16. Definition of commercial air travel.
17. Provision that hernia will be considered a sickness.
18. Rest cure.
19. Diagnosis.
20. Prosthetics.
21. Cosmetic surgery exclusion under which such surgery which results from injury is covered.

22. Dental treatment, surgery or procedures exclusion under which such treatment which results from injury to sound natural teeth is covered.

23. Bacterial infection exclusion under which pyogenic infection which results from injury is covered.

24. Eye examination for fitting of glasses.

25. Hearing aid.

26. Exclusion of sickness or disease in a policy providing only accident coverage.

27. Exclusion for miscarriage in policy providing only accident coverage.

(11) RENEWABILITY, CANCELLABILITY AND TERMINATION. An advertisement shall disclose, as required below, the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

(a) Any advertisement which refers to renewability, cancellability or termination of a policy shall be subject to the disclosure requirements of this subsection.

(b) An advertisement which refers to a policy benefit and which is an invitation to apply shall be subject to the disclosure requirements of this subsection.

(c) An advertisement which refers to a policy benefit and which is an invitation to inquire shall not be subject to the disclosure requirements of this subsection unless:

1. Paragraph (a) or (e) applies or

2. Such an advertisement mentions benefits, benefit periods or premiums for the purpose of doing more than identifying the policy.

(d) A booklet, summary or explanation of coverage issued to insured persons shall be subject to the disclosure requirements of this subsection.

(e) An advertisement which refers to a policy benefit and which is an institutional advertisement shall not be subject to the disclosure requirements of this subsection unless paragraph (a) or (e) apply.

(f) An advertisement which states or illustrates time or age in connection with eligibility of applicants or continuation of the policy and which implies permanency shall be subject to the disclosure requirements of this subsection.

(g) The actual policy language concerning renewability, cancellability or termination need not be used in an advertisement subject to the disclosure requirements of this subsection. However, all pertinent information shall be disclosed.

(h) The qualifying conditions applicable to a non-cancellable policy and to a guaranteed renewable policy shall include age limits, aggregate benefit limits and modifications of benefits because of age, other than such modifications occurring at or about the time the policy terminates. A qualifying condition applicable to a guaranteed renewable policy shall be the insurer's reservation of the right to change premiums.

(i) The qualifying conditions shall be set forth with the language describing renewability.

(j) An advertisement of a group or blanket policy which would

otherwise be subject to the disclosure requirements of this subsection need not disclose the policy's provisions relating to renewability, cancellability and termination. Such advertisement shall provide, however, as a minimum, that an insured person's coverage is contingent upon his continued membership in the group and the continuation of the plan.

(k) An advertisement of a non-cancellable policy or of a guaranteed renewable policy shall also be subject to subsection (25).

(l) An advertisement of a franchise, wholesale, collectively renewable, or non-renewable for stated reasons only policy, or any other policy under which the insurer has by policy provision limited its right to terminate to one or more reasons, shall accurately set forth the policy's renewal provisions if disclosure of such renewal provisions is required by paragraphs (a), (b), (c), (d) or (e) above. Such advertisement shall not state or imply renewal terms which are more favorable than those actually contained in the policy. Such advertisement shall not state or imply that the policy is guaranteed renewable or warranted renewable or that renewal is guaranteed or warranted or use other variations of such expressions.

(12) **IDENTITY OF INSURER.** (a) The identity of the insurer shall be made clear in all of its advertisements.

(b) An advertisement shall not use 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 and tendency to mislead or deceive as to the identity of the insurer.

(c) An advertisement shall not use 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) An advertisement shall not refer to an affiliate of the insurer without disclosing that the 2 organizations are separate legal entities.

(e) An advertisement shall not indicate an address for an insurer in such a way as to mislead or deceive as to its identity or licensing status. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify such address and clearly disclose the actual city and state of domicile of the insurer.

(13) **TESTIMONIALS, ENDORSEMENTS OR COMMENDATIONS BY THIRD PARTIES.** (a) An advertisement shall not 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 such testimonial, endorsement or statement. Any advertisement containing a testimonial, endorsement or statement not prohibited by the foregoing, shall include a full and prominent disclosure therein of the relationship, direct or indirect, including but not limited to financial interest and remuneration, between the insurer and the person making such testimonial, endorsement or statement. The pro-

visions of this paragraph do not apply to any person holding a Wisconsin insurance agent'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 or endorsement used in an advertisement shall be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced.

(c) An insurer shall not use a testimonial or endorsement:

1. Which is fictional,
2. Where the insurer has information indicating a substantial change of view on the part of the author,
3. Where it is reasonable to 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 one for which such statement was given, unless the statement clearly has some reasonable application to the second policy,
7. In which a change or omission has been effected which alters or distorts its meaning or intent as originally written, or
8. If it contains a description of benefit payments which does not disclose the true nature of the insurance coverage under which the benefits were paid.

(d) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by an individual, group of individuals, society, association or other organization, unless such is the fact. Any proprietary relationship between such society, association or other organization and the insurer shall be disclosed. If such society, association or other organization has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, the advertisement shall clearly disclose such fact.

(e) When a testimonial refers to benefits received under a policy, a summary of the pertinent claim information including claim number and date of loss shall be retained by the insurer with the advertisement in the advertising file required by subsection (28).

(f) An advertisement shall not state or imply that a government publication has commended or recommended the insurer or its policy.

(14) JURISDICTIONAL LICENSING; APPROVAL BY GOVERNMENTAL AGENCY. (a) An advertisement which may be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(b) An advertisement shall not state or imply, or otherwise create the impression directly or indirectly, 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.

(c) In any advertisement any reference to licensing shall contain an appropriate disclaimer that such reference is not to be construed

as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.

(d) An advertisement shall not contain a reproduction of a portion of a state insurance department report of examination.

(15) **INTRODUCTORY, INITIAL OR SPECIAL OFFERS AND LIMITED ENROLLMENT PERIODS.** (a) An advertisement shall not state or imply 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, unless such is the fact.

(b) An advertisement shall not state or imply that enrollment under a policy is limited to a specific period unless the period of time permitted to enroll, which shall be not less than 10 days and not more than 40 days from the date of the advertisement, is disclosed.

(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 so indicate.

(d) An insurer shall not establish for residents of this state a limited enrollment period within which an individual policy may be purchased less than 6 months after the close of an earlier limited enrollment period for the same or similar policy. Such 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. Such restriction shall 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.

(f) Similar policies for the purposes of this subsection include policies which provide similar benefits even though there may be differences in benefit amounts, elimination periods, renewal terms or ancillary benefits.

(16) **MAIL ORDER REFUSAL FORM.** An insurer shall not use a mail order advertisement which requires the recipient, in order to refuse a policy, to sign a refusal form and return it to the insurer.

(17) **GROUP, QUASI-GROUP OR SPECIAL CLASS IMPLICATIONS.** An advertisement shall not state or imply 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 as such 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, unless such is the fact.

(18) **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 such right.

(19) 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 which may be contained in 2 or more policies, other than group policies, it shall disclose that such benefits are provided only through a combination of such policies.

(20) 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 such statistical information and shall not be used unless it accurately reflects all of the relevant facts. Irrelevant statistical data shall not be used.

(b) An advertisement shall not imply that the statistical information given is derived from the insurer's experience under the policy advertised unless such is the fact. The advertisement shall specifically so state if such information applies to other policies or plans.

(c) If a loss ratio is to be shown in an advertisement, it shall be derived from either premiums received and benefits paid or premiums earned and losses incurred.

(d) If loss ratios are to be compared between insurers in an advertisement, comparison shall be limited to policies or plans of the same type issued to similar classes of risks.

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

(21) SERVICE FACILITIES. An advertisement shall not:

(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.

(22) STATEMENTS ABOUT AN INSURER. An advertisement shall not contain statements which are untrue in fact or are by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.

(23) DISPARAGING COMPARISONS AND STATEMENTS. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits and shall not falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.

(24) METHOD OF DISCLOSURE OF REQUIRED INFORMATION. (a) All information required to be disclosed by this rule shall be set out clearly, conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such 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) An advertisement or representation of a specific individual policy or policies which constitutes an invitation to apply shall include an outline of coverage as required by subsection (8).

(c) Information required by this rule shall not be set out under inappropriate captions or headings or under inappropriate questions where a question and answer format is used.

(d) An advertisement of a hospital confinement indemnity policy shall disclose in close conjunction with any description of the benefits the existence in the policy of a provision which eliminates benefits for sickness and/or injury conditions for a stated number of days at the beginning of a hospital confinement.

(e) An advertisement of a non-cancellable policy or of a guaranteed renewable policy shall also be subject to subsection (25).

(25) NON-CANCELLABLE AND GUARANTEED RENEWABLE POLICIES. (a) No person, in the presentation, solicitation, effectuation, or sale of a policy, and no advertisement, relating to or used in connection with a policy, shall use the terms "non-cancellable" or "non-cancellable and guaranteed renewable" or "guaranteed renewable", except in connection with policies conforming to Wis. Adm. Code section Ins 3.13 (2) (e).

(b) An advertisement describing a non-cancellable and guaranteed renewable or guaranteed renewable policy form shall be subject to subsection (11).

(c) A printed advertisement describing a non-cancellable or non-cancellable and guaranteed renewable policy form shall disclose, as prominently as and in close conjunction with any prominent use of the terms "non-cancellable" or "non-cancellable and guaranteed renewable":

1. The age to or term for which the form is non-cancellable or non-cancellable and guaranteed renewable, if other than lifetime,

2. The age or time at which the form's benefits are reduced, if applicable, (the age or time at which a form's benefits are reduced need not be so disclosed if such reduction is not effected prior to the age to or term for which the form is non-cancellable or non-cancellable and guaranteed renewable or if regular benefits are payable at least to the age to or term for which the form is non-cancellable or non-cancellable and guaranteed renewable), and

3. That benefit payments are subject to an aggregate limit, if applicable.

(d) A printed advertisement describing a guaranteed renewable policy form shall disclose, as prominently as and in close conjunction with any prominent use of the term "guaranteed renewable":

1. The age to or term for which the form is guaranteed renewable, if other than lifetime,

2. The age or time at which the form's benefits are reduced, if applicable, (the age or time at which a form's benefits are reduced need

not be so disclosed if such reduction is not effected prior to the age to or form for which the form is guaranteed renewable or if regular benefits are payable at least to the age to or term for which the form is guaranteed renewable),

3. That benefit payments are subject to an aggregate limit, if applicable, and

4. That the applicable premium rates may be changed.

(e) The foregoing limitations on the use of the term "non-cancelable" shall also apply to any synonymous term such as "not cancelable"; and the foregoing limitations on use of the term "guaranteed renewable" shall apply to any synonymous term such as "guaranteed continuable".

(26) FORM NUMBER. An advertisement which is an invitation to apply or an invitation to inquire and which is mass-produced shall be identified by a form number. 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.

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

(b) An insurer shall require its agents and any other person or agency acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

(28) 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 or any other state, whether or not licensed in such other 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 such proposals need 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. A copy of the policy advertised, together with any amendment, rider or endorsement applicable thereto, shall be included in the file with each such advertisement. Such file shall be subject to regular and periodic inspection by the office of the commissioner of insurance. All such advertisements shall be maintained in such file for a period of 4 years or until the filing of the next regular examination report on the insurer, whichever is the longer period.

(29) INSURER'S CERTIFICATE OF COMPLIANCE. Each insurer which is required to file an annual statement and which is subject to the provisions of this rule shall file with the office of the commissioner of insurance, together with its annual statement, a certificate executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief, the advertising file required by subsection (28) was properly maintained and the advertisements of the insurer's policies which were disseminated during the statement year complied or were made to comply in all respects with the provisions of the insurance laws of this state as implemented

(30) **PENALTY.** Violations of this rule shall subject the violator to section 601.64, Wis. Stats.

(31) **SEVERABILITY.** The provisions of this rule are severable. If any provision of this rule is invalid, or if the application of the rule to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

(32) **EFFECTIVE DATE.** This rule shall apply to all advertisements used in this state after June 1, 1973.

History: Cr. Register, April, 1973, No. 208, eff. 6-1-73.

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