

Chapter Ins 3

CASUALTY INSURANCE

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Ins 3.17, advertisements of and deceptive practices in accident and sickness insurance

Ins 3.01 Accumulation benefit riders attached to health and accident policies. Except where such rider is used only on a policy replacing the company's own policy, and so recites, no rider providing for accumulations of benefits will be approved for use upon any policy of health and accident insurance, whether it is proposed to issue such rider with or without an additional premium. Such rider operates as an aid to twisting the policies of another company in such manner as to make its use a direct encouragement of this practice.

Ins 3.02 Automobile fleets, vehicles not included in. Individually owned motor vehicles cannot be included or covered by fleet rates. The determining factor for inclusion under fleet coverage must be ownership and not management or use.

Ins 3.03 History: 1-2-56; r. Register, October, 1958, No. 34, eff. 11-1-58.

Ins 3.04 Dividends not deducted from premiums in computing loss reserves. Premiums returned to policyholders as dividends may not be deducted from the earned premiums in computing loss reserves under section 204.28, Wis. Stats.

Ins 3.05 History: 1-2-56; r. Register, October, 1958, No. 34, eff. 11-1-58.

Ins 3.06 History: 1-2-56; r. Register, October, 1958, No. 34, eff. 11-1-58.

Ins 3.07 Rules in chapter 4, fire and allied lines insurance, applicable to casualty insurance. The following captioned rules under chapter 4, FIRE AND ALLIED LINES INSURANCE, are applicable to casualty insurance:

Ins 4.01 Mutual insurance companies operating on a post mortem assessment plan cannot limit assessments to a specified amount.

Ins 4.02 Nonassessable policies of mutual companies.

Ins 4.03 Policy, inspection and similar fees.

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Ins 3.08 Advertisements of accident and sickness insurance. (1) PURPOSE (a) The purpose of these rules is to implement and interpret the statutory standards governing the advertisements of accident and sickness insurance. Section 204.31, Wis. Stats., provides that the commissioner of insurance may disapprove a form “. . . if it contains a provision which is unjust, unfair, inequitable, misleading, deceptive or encourages misrepresentation of such policy . . .” Section 207.04 (1) (b), Wis. Stats., defines false information and advertising which is untrue, deceptive or misleading as an unfair method of competition and as an unfair and deceptive act or practice in the business of insurance.

(b) It is the intent of these rules to create a set of standards which are to be adhered to by the several insurers within the jurisdiction of this department which engage in the advertising of their accident and sickness insurance policies.

(c) When interpreting these rules as related to a specific advertisement, this department will consider the type of policy to which the advertisement refers; the content of the advertisement; and the detail, character, and purpose of such advertisement.

(d) Advertising material should have a reasonable relation to the policy it represents in regard to the content, purpose, and use of said policy. The test is whether or not the advertisement has the capacity or tendency to mislead or deceive.

(2) **DEFINITIONS.** (a) An advertisement for the purpose of these rules shall include: 1. Printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, billboards and similar displays; and

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

3. Prepared sales talks, presentations of material for use by agents, and representations made by agents in accordance therewith.

(b) Policy for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident or sickness benefits or medical, surgical or hospital expense benefits, whether on a cash indemnity, reimbursement, or service basis, except when issued in connection with another kind of insurance other than life and except disability and double indemnity benefits included in life insurance and annuity contracts.

(c) Insurer for the purpose of these rules shall include any person, individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy as herein defined.

(d) These rules shall also apply to agents to the extent that they are responsible for the advertisement of any policy.

(3) **ADVERTISEMENTS IN GENERAL.** Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used.

(4) **ADVERTISEMENTS OF BENEFITS PAYABLE, LOSSES COVERED, OR PREMIUMS PAYABLE.** (a) *Deceptive words, phrases or illustrations.*

Words, phrases or illustrations shall not be used in a manner which misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered, or premium payable. An advertisement relating 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 deceive.

(b) *Examples of deceptive words and phrases prohibited by paragraph (a).* 1. The words and phrases "all", "full", "complete", "comprehensive", "unlimited", "up to", "as high as", "this policy will pay your hospital and surgical bills", 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.

2. 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. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

3. The benefits of a policy which pays varying amounts for the same loss occurring under different conditions or which pay 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.

4. Phrases such as "this policy pays \$1,800 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.

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

(d) *Definitions of terms used in paragraph (c).* 1. The term "exception" shall mean 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.

2. The term "reduction" shall mean any provision which reduces the amount of the benefit; 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.

3. The term "limitation" shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

(e) *Waiting, elimination, probationary, or similar periods.* When a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement covered by subsection (4) (c) shall disclose the existence of such periods.

(f) *Pre-existing conditions.* 1. An advertisement covered by subsection (4) (c) shall disclose the extent to which any loss is not

covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy.

2. When a policy does not cover losses traceable to pre-existing conditions no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This limits the use of the phrase "no medical examination required" and phrases of similar import.

(5) **NECESSITY FOR DISCLOSING POLICY PROVISIONS RELATING TO RENEWABILITY, CANCELLABILITY AND TERMINATION.** An advertisement which refers to renewability, cancellability or termination of a policy, or which refers to a policy benefit, or which states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose 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.

(6) **METHOD OF DISCLOSURE OF REQUIRED INFORMATION.** All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

(7) **TESTIMONIALS.** Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer, in using a testimonial makes as its own all of the statements contained therein, and the advertisement including such statements is subject to all of the provisions of these rules.

(8) **USE OF STATISTICS.** An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact.

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

(10) **IDENTIFICATION OF PLAN OR NUMBER OF POLICIES.** (a) When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

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

(11) **DISPARAGING COMPARISONS AND STATEMENTS.** An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services, or business methods.

(12) JURISDICTIONAL LICENSING. (a) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(b) Such advertisements by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of some language such as "This Company is licensed only in State A" or "This Company is not licensed in State B".

(13) IDENTITY OF INSURER. The identity of the insurer shall be made clear in all of its advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol or other device which has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

(14) GROUP OR QUASI-GROUP IMPLICATIONS. An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges, unless such is the fact.

(15) INTRODUCTORY, INITIAL, OR SPECIAL OFFERS. An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial, or special offer and that the applicant will receive advantages by accepting the offer, unless such is the fact.

(16) APPROVAL OR ENDORSEMENT BY THIRD PARTIES. (a) An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless such is the fact.

(b) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact.

(17) SERVICE FACILITIES. An advertisement shall not contain untrue statements with respect to the time within which claims are paid or statements which imply that claim settlements will be liberal or generous beyond the terms of the policy.

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

(19) 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 subsection Ins 3.13 (2) (e).

(b) An advertisement describing a non-cancellable or non-cancellable and guaranteed renewable or guaranteed renewable policy form shall be subject to subsection (5).

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

Note: The intent of paragraphs (b), (c), and (d) is, first to emphasize that any advertisement of a non-cancellable or non-cancellable and guaranteed renewable or guaranteed renewable policy form is subject to subsection (5) and, second, to specify how subsection (5) should be complied with in connection with the prominent use of the terms "non-cancellable", "non-cancellable and guaranteed renewable", or "guaranteed renewable" in a printed advertisement of such form.

Subsection (5) is interpreted, with respect to any advertisement of a non-cancellable, or non-cancellable and guaranteed renewable, or guaranteed renewable policy form which refers to renewability, non-cancellability, or non-termination of the form, as requiring the disclosure of all provisions relating to renewal and termination and modification of benefits, losses covered, or premiums because of age or for other reasons, such disclosure to be effected in a manner which shall not minimize or render obscure the qualifying conditions. This interpretation is consistent with the interpretive guide prepared in 1956 by the subcommittee on interpretation of the National Association of Insurance Commissioners' rules governing advertisement of accident and sickness insurance.

"Prominent use" as referred to in paragraphs (c) and (d) is considered to include, but is not necessarily limited to, use in titles, captions, bold-face type or type larger than that used in the text of the advertisement.

The provisions in the original form of the subsection permitting as an alternative the setting out of the required information under appropriate captions of such prominence that such information shall not be minimized or rendered obscure were deleted. The deleted provisions were not consistent with the amended requirements or with subsection (5). Paragraphs (c) and (d) apply only to the prominent use of the terms "non-cancellable", "non-cancellable and guaranteed renewable", and "guaranteed renewable" in

printed advertisements, not to all descriptions of the non-cancellable or guaranteed renewable feature of a policy. Printed advertisements in which the subject terms are prominently used could not reasonably be considered to properly disclose the qualifying conditions if all or a part of such conditions are less prominent than the terms themselves.

(20) **SPECIAL ENFORCEMENT PROCEDURES FOR RULES GOVERNING THE ADVERTISEMENT OF ACCIDENT AND SICKNESS INSURANCE.** (a) *Advertising file.* Each insurer shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement of individual policies and typical printed, published, or prepared advertisements of blanket, franchise, and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by this department. All such advertisements shall be maintained in said file for a period of not less than 3 years.

(b) *Certificate of compliance.* Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of this regulation must file with this department 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 advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws of this state as implemented by this regulation.

History: Cr. Register, October, 1956, No. 10, eff. 11-1-56; (19) is renum. to be (20); cr. (19), Register, June, 1960, No. 54, eff. 7-1-60; am. (19), Register, April, 1964, No. 100, eff. 5-1-64.

Ins 3.09 Mortgage guaranty insurance. (1) **PURPOSE.** This rule is intended to implement and interpret applicable statutes for the purpose of establishing minimum requirements for the transaction of mortgage guaranty insurance.

(2) **DEFINITION.** Mortgage guaranty insurance is that kind of insurance authorized by section 201.04 (19), Wis. Stats., and includes the guarantee of the payment of rentals under leases of real estate in which the lease extends for 3 years or longer.

(3) **ACCOUNTING AND REPORTING.** (a) The financial position of an insurer shall be reported annually on the Fire and Casualty annual statement form specified by Wis. Adm. Code section Ins 7.01 (5) (a).

(b) Expenses shall be recorded and reported in accordance with Wis. Adm. Code sections Ins 6.30 and Ins 6.31.

(c) The unearned premium reserve shall be computed in accordance with section 201.18 (1), Wis. Stats., except that in the case of premiums paid in advance for ten-year policies the annual pro rata factors specified below or comparable monthly pro rata factors shall apply.

Year	Unearned Factor to be Applied to Premiums in Force	Year	Unearned Factor to be Applied to Premiums in Force
1	90.0%	6	19.0%
2	70.0%	7	12.0%
3	52.5%	8	7.0%
4	39.0%	9	3.5%
5	28.0%	10	1.0%

(d) From the premium remaining after establishment of the premium reserve specified in paragraph (c) of this subsection, a portion equal to the contingency factor prescribed in paragraph (c) of subsection (4) shall be maintained as a special contingency reservation of premium and reported in the financial statement as a liability.

(e) The case basis method shall be used to determine the loss reserve, which shall include a reserve for claims reported and unpaid and a reserve for claims incurred but not reported.

(4) CONTINGENCY RESERVE. (a) The reserve established in paragraph (d) of subsection (3) shall be maintained for 120 months for the purpose of protecting against the effect of adverse economic cycles and to permit mortgage guaranty insurance companies to comply with section 832 (e) of the federal internal revenue code. That portion of the special premium reserve established more than 120 months prior shall be released and shall no longer constitute part of the special reserve and may be used for usual corporate purposes.

(b) Subject to the approval of the commissioner, the reserve shall be available only for loss payments when the incurred losses in any one year exceed 35% of the corresponding earned premiums.

(c) The contingency factor in the rate formula shall be 50% of the premium remaining after establishment of the premium reserve specified in subsection (3) (c).

(d) In event of release of the special reserve for payment of losses, the contributions required by paragraph (d) of subsection (3) shall be treated on a first-in-first-out basis.

(e) Whenever the laws of any other state require a greater unearned premium reserve than that set forth in subsection (3) (c), the contingency reserve of mortgage guaranty insurers organized under the laws of that state may be an amount which when added to such unearned premium reserve will result in a reserve equal to the sum of the unearned premium reserve and the contingency reserve required of insurers organized under the laws of Wisconsin.

(5) POLICY FORMS. All policy forms and endorsements shall be filed with and be subject to the approval of the commissioner of insurance. With respect to owner-occupied single-family dwellings, the mortgage insurance policy shall provide that the borrower shall not be liable to the insurance company for any deficiency arising from a foreclosure sale.

History: Cr. Register, March, 1957, No. 15, eff. 4-1-57; am. (2), (3), (4) and (5), Register, January, 1959, No. 37, eff. 2-1-59; am. (4) (c), Register, August, 1959, No. 44, eff. 9-1-59; cr. (4) (c), Register, January, 1961, No. 61, eff. 2-1-61; am. (2), Register, January, 1967, No. 133, eff. 2-1-67; am. (2), (3) (a) and (b), and (4) (a) and (b); r. and recr. (5), Register, December, 1970, No. 180, eff. 1-1-71.

Ins 3.11 Multiple peril insurance contracts. (1) PURPOSE AND SCOPE. (a) This rule implements and interprets sections 201.05, 203.32, and 204.37 to 204.54 inclusive, Wis. Stats., by enumerating the minimum requirements for the writing of multiple peril insurance contracts. Nothing herein contained is intended to prohibit insurers or groups of insurers from justifying rates or premiums in the manner provided for by the rating laws.

(b) This rule shall apply to multiple peril insurance contracts permitted by section 201.05, Wis. Stats., and which include a type or