

Readopt with amendment Ins 2601, 2602, and 2604, effective 12-5-08 (Document #9333) and Ins 2603, effective 3-1-09 (Document #9398) to read as follows:

PART Ins 2601 ADVERTISEMENTS OF INSURANCE

Statutory Authority: RSA 400-A:15, I.; RSA 417:4

PART Ins 2601 ADVERTISEMENTS OF ACCIDENT AND HEALTH INSURANCE

Ins 2601.01 Purpose. The purpose of the advertisements of accident and health insurance part is to establish minimum criteria to assure proper and accurate description and to protect prospective purchasers with respect to the advertisement of accident and health insurance in the same manner as the rule governing advertisements of Medicare supplement insurance. This part assures the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as accident and health insurance by the establishment of standards of conduct in the advertising of accident and health insurance in a manner that prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance agents and companies.

Ins 2601.02 Applicability.

(a) This part shall apply to individual and group accident and health insurance (except Medicare supplement insurance or any other insurance that is covered by a separate state statute) "advertisement," as that term is defined in Ins 2601.03 (b), (g), (h) and (i) unless otherwise specified in this part, which the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this state when the presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer or producer, as those terms are defined in Title XXXVII.

(b) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All of the insurer's advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are advertised.

(c) Advertising materials that are reproduced in quantity shall be identified by form numbers or other identifying means. The identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

Ins 2601.03 Definitions.

(a)(1) "Accident and health insurance policy" means a policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement that provides accident or health benefits or medical, surgical or hospital benefits, whether on an indemnity, reimbursements, service or prepaid basis, except when issued in connection with another kind of insurance other than life and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts. An accident and health insurance policy does not include a Medicare supplement policy, or any other type of accident and health insurance with advertising guidelines covered by a separate statute or rule.

(2) The language "except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts" means it does not include disability, waiver of premium or double indemnity benefits included in life insurance, endowment or annuity contracts or contracts supplemental to the above ~~[contacts]~~contracts that contain only provisions that:

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

b. Operate to safeguard the contracts against lapse or to give a special surrender value, special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled as defined by the contract or supplemental contract.

(b)(1) "Advertisement" means:

a. Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, websites and other Internet displays or communications, other forms of electronic communications, billboards and similar displays.

b. Descriptive literature and sales aids of all kinds issued by a[n insurer, agent, producer, broker or solicitor] **producer** for presentation to members of the insurance-buying public, such as circulars, leaflets, booklets, depictions, illustrations, form letters and lead-generating devices of all kinds; and

c. Prepared sales talks, presentations and material for use by producers whether prepared by the insurer or the producer.

(2) The definition of "advertisement" includes advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

(3) The definition of advertisement extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to the use of all media for communications by producers.

(4) The definition of advertisement does not include:

a. Material used solely for the training and education of an insurer's employees and producers;

b. Material used in-house by insurers;

c. Communications within an insurer's own organization not intended for dissemination to the public;

d. Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;

e. Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract.

f. Court-approved material ordered by a court to be disseminated to policyholders; or

g. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided that the announcement clearly indicates that it is preliminary to the issuance of a booklet and that the announcement does not describe the specific benefits under the contract or program nor describe advantages as to the purchase of the contract or program. This does not prohibit a general endorsement of the program by the sponsor.

(c) "Certificate" means a statement of the coverage and provisions of a policy of group accident and sickness insurance, which has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

(d) "Exception" 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) "Insurer" means an individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefits society, health maintenance organization, hospital service corporation, medical service corporation, prepaid health plan and any other legal entity that is defined as an insurer under Title XXXVII, and is engaged in the advertisement of itself or an accident and health insurance policy.

(f) "Institutional advertisement" means an advertisement having as its sole purpose the promotion of the reader's, viewer's or listener's interest in the concept of accident and health insurance, or the promotion of the insurer as a seller of accident and health insurance.

(g) "Invitation to contract" means an advertisement that is neither an invitation to inquire nor an institutional advertisement.

(h) "Invitation to inquire" means:

(1) An advertisement having as its objective the creation of a desire to inquire further about accident and health insurance and that is limited to a brief description of the loss for which benefits are payable but may contain:

- a. The dollar amount of benefits payable; and
- b. The period of time during which benefits are payable.

(2) An invitation to inquire may not refer to cost.

(3) An invitation to inquire shall contain a provision in the following or substantially similar form:

"This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance producer or the company [whichever is applicable]."

(i) "Lead-generating device" means any communication directed to the public that, regardless of the form, content or **[state]stated** purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this State for the purchase of accident and health insurance.

(j) "Limitation" means a provision that restricts coverage under the policy other than an exception or a reduction.

(k) "Limited benefit health coverage" **[shall have the same meaning as defined in Ins 1901.06 (l)]is health insurance that provides certain health related benefits, including income replacement coverage for certain health related events, that is not health coverage under RSA 420-G:2,IX.**

(l) "Person" means a natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

(m) "Prominently" or "conspicuously" means that the information to be disclosed prominently or conspicuously shall be presented in a manner that is noticeably set apart from other information or images in the advertisement.

(n) "Reduction" means a provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable and the reduction has not been used.

Ins 2601.04 Method of Disclosure of Required Information.

(a) All information, exceptions, limitations, reductions and other restrictions required to be disclosed by this part shall be set out conspicuously and in close conjunction to the statements to which the 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 advertisements so as to be confusing or misleading. This part permits, but is not limited to, the use of either the following methods of disclosure:

(1) Disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of the policy benefits; or

(2) Disclosure not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure or otherwise made to appear unimportant. The phrase "under appropriate captions" means that the title shall be accurately descriptive of the captioned material. Appropriate captions include the following: "Exceptions," "Exclusions," "Conditions Not Covered," and "Exceptions and Reductions." The use of captions such as the following are prohibited because they do not provide adequate notice of the significance of the material: "Extent of Coverage," "Only these Exclusions," or "Minimum Limitations."

Ins 2601.05 Form and Content of Advertisements.

(a) The format and content of an advertisement of an accident or health insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Format means the arrangement of the text and the captions.

(b) Distinctly different advertisements are required for publication in different media, such as newspapers or magazines of general circulation as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material shall, independent of all other pieces of material, conform to the disclosure requirements of this part.

(c) Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create within the segment of the public to which it is directed. Exceptions, reductions and limitations shall be in the same size and type as benefit features.

(d) 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.

(e) An insurer shall clearly identify its accident and health insurance policy as an insurance policy. A policy trade name shall be followed by the words "insurance policy" or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.

(f) An insurer, producer or other person shall not solicit a resident of this state for the purchase of accident and health insurance in connection with or as the result of the use of advertisement by the person or any others persons, where the advertisement:

- (1) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of the person or the true purpose of the advertisement; or
- (2) Otherwise violates the provisions of this part.

(g) An insurer, producer or other person shall not solicit residents of this State for the purchase of accident and health insurance through the use of a true or fictitious name that is deceptive or misleading with regard to the status, character or proprietary or representative capacity of the person or the true purpose of the advertisement.

Ins 2601.06 Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

(a) Covered benefits.

- (1) The use of deceptive words, phrases or illustrations in advertisements of accident and health insurance is prohibited.
- (2) An advertisement that fails to state clearly the type of insurance coverage being offered is prohibited.
- (3) An advertisement shall not omit information or use words, phrases, statements, references or illustrations if the omission of information or use of words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchases or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.
- (4) An advertisement shall not contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "the policy will help to replace your income," (when used to express loss of time benefits), or similar words and phrases, in a manner that exaggerates a benefit beyond the terms of the policy.
- (5) An advertisement of a hospital or other similar facility confinement benefit that makes reference to the benefit being paid directly to the policyholder is prohibited unless, in making the reference, the advertisement includes a statement that the benefits may be paid directly to the hospital or other health care facility if an assignment of benefits is made by the policyholder. An advertisement of medical and surgical expense benefits shall comply with this part in regard to the disclosure of assignments of benefits to providers of services. Phrases such as "you collect," "you get paid," "pays you," or other words or phrases of similar import may be used so long as the advertisement indicates that it is payable to the insured or someone **[designed]designated** by the insured.
- (6) a. An advertisement for basic hospital expense coverage, basic medical-surgical expense coverage, basic hospital/medical-surgical expense coverage, hospital confinement indemnity coverage, accident only coverage, specified disease coverage, specified accident coverage or

limited benefit health coverage or for coverage that covers only a certain type of loss is prohibited if:

1. The advertisement refers to a total benefit maximum limit payable under the policy in any headline, lead-in or caption without also in the same headline, lead-in or caption specifying the applicable daily limits and other internal limits;
2. The advertisement states a total benefit limit without stating the period benefit payment, if any, and the length of time the period benefit would be payable to reach the total benefit limit; or
3. The advertisement prominently displays a total benefit limit that would not, as a general rule, be payable under an average claim.

b. This paragraph does not apply to individual major medical expense coverage, individual basic medical expense coverage, or disability income insurance.

(7) Advertisements that emphasize total amounts payable under hospital, medical or surgical accident and health insurance coverage or other benefits in a policy, such as benefits for private duty nursing, are prohibited unless the actual amounts payable per day for the indemnity or benefits are stated.

(8) Advertisements that include examples of benefits payable under a policy shall not use examples in a way that implies that the maximum payable benefit payable under the policy will be paid, when less than maximum benefits are paid in an average claims.

(9) When a range of benefit levels is set forth in an advertisement, it shall be clear that the insured will receive only the benefit level written or printed in the policy selected and issued. Language that implies that the insured may select the benefit level at the time of filing claims is prohibited.

(10) Language in an advertisement that implies that the amount of benefits payable under a loss-of-time policy may be increased at the time of claim or disability according to the needs of the insured is prohibited.

(11) Advertisements for policies with premiums that are modest because of their limited coverage or limited amount of benefits shall not describe premiums as "low," "low cost," "budget" or use qualifying words of similar import. The use of words such as "only" and "just" in conjunction with statements of premium amounts when used to imply a bargain are prohibited.

(12) Advertisements that state or imply that premiums will not be changed in the future are prohibited unless the advertised policies expressly provide that the premiums will not be changed in the future.

(13) An advertisement for a policy that does not require the premium to accompany the application shall not overemphasize that fact and shall clearly indicate under what circumstances coverage will become effective.

(14) An advertisement that exaggerates the effects of statutorily mandated benefits or required policy provisions or that implies that the provisions are unique to the advertised policy is prohibited.

(15) An advertisement that implies that a common type of policy or a combination of common benefits is "new," "unique," "a bonus," "a breakthrough," or is otherwise unusual is prohibited. The addition of a novel method of premium payment to an otherwise common plan of insurance does not render it new.

(16) Language in an advertisement that states or implies that each member under a family contract is covered as to the maximum benefits advertised, where that is not the fact, is prohibited.

(17) An advertisement that contains statements such as "anyone can apply," or "anyone can join," other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is prohibited.

(18) An advertisement that states or implies immediate coverage of a policy is prohibited unless administrative procedures exist so that the policy is issued within 15 working days after the insurer receives the completed application.

(19) An advertisement that contains statements such as "here is all you do to apply," or "simply" or "merely" to refer to the act of applying for a policy that is not a guaranteed issue policy is prohibited unless it refers to the fact that the application is subject to acceptance or approval by the insurer.

(20) An advertisement of accident and health insurance sold by direct response shall not state or imply that because no insurance producer will call and no commissions will be paid to producers that it is a low cost plan, or use other similar words or phrases because the cost of advertising and servicing the policies is a substantial cost in the marketing by direct response.

(21) Applications, request forms for additional information and similar related materials are prohibited if they resemble paper currency, bonds, stock certificates, etc., or use any name, service mark, slogan, symbol or device in a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.

(22) An advertisement that implies in any manner that the prospective insured may realize a profit from obtaining hospital, medical or surgical insurance coverage is prohibited.

(23) An advertisement that uses words such as "extra," "special" or "added" to describe a benefit in the policy is prohibited. No advertisement of a benefit for which payment is conditioned upon confinement in a hospital or similar facility shall use words or phrases such as "tax-free," "extra cash," "extra income," "extra pay," or substantially similar words or phrases because these words and phrases have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized.

(24) An advertisement of a hospital or other similar facility confinement benefit shall not advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro rata basis relating to the number of days of confinement unless the statements of the monthly or weekly benefit amounts are in juxtaposition with equally prominent statements of the benefit payable on a daily basis. The term "juxtaposition" means side by side or immediately above or below. When the policy contains a limit on the number of days of coverage provided, the limit shall appear in the advertisement.

(25) An advertisement of a policy covering only one disease or a list of specified diseases shall not 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.

(26) An advertisement that is an invitation to contract for a specified disease policy that provides lesser benefit amounts for a particular subtype of disease, shall clearly disclose the subtype and its benefits. This provision shall not apply to institutional advertisements.

(27) An advertisement of a specified disease policy providing expense benefits shall not use the term "actual" when the policy only pays up to a limited amount for expenses. Instead, the term "charges" or substantially similar language should be used that does not create the misleading impression that there is full coverage for expenses.

(28) An advertisement that describes any benefits that vary by age shall disclose that fact.

(29) An advertisement that uses a phrase such as "no age limit," if benefits or premiums vary by age or if age is an underwriting factor, shall disclose that fact.

(30) A television, radio, mail or newspaper advertisement or lead-generating device that is designed to produce leads either by use of a coupon, a request to write or to call the company or a subsequent advertisement prior to contact shall include information disclosing that a **[n agent]producer** may contact the applicant.

(31) Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had his or her eligibility for the insurance individually determined in advance when the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.

(32) An advertisement, including invitations to inquire or invitations to contract, shall not employ devices that are designed to create undue fear or anxiety in the minds of those to whom they are directed. Examples of prohibited devices are:

- a. The use of phrases such as "cancer kills somebody every two minutes" and "total number of accidents" without reference to the total population from which the statistics are drawn;
- b. The exaggeration of the importance of diseases rarely or seldom found in the class of persons to whom the policy is offered;
- c. The use of phrases such as "the finest kind of treatment," implying that the treatment would be unavailable without insurance;
- d. The reproduction of newspaper articles, magazine articles, information from the Internet or other similar published material containing irrelevant facts and figures;
- e. The use of images that unduly emphasize automobile accidents, disabled persons or persons confined in beds who are in obvious distress, persons receiving hospital or medical bills or persons being evicted from their homes due to their medical bills;
- f. The use of phrases as "financial disaster," "financial distress," "financial shock," or another phrase implying that financial ruin is likely without insurance is only permissible in an advertisement for major medical expense coverage, individual basic

medical expense coverage or disability income coverage, and only if the phrase does not dominate the advertisement;

g. The use of phrases or devices that unduly excite fear of dependence upon relatives or charity; and

h. The use of phrases or devices that imply that long sicknesses or hospital stays are common among the elderly.

(b) Exceptions, Reductions and Limitations

(1) An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after two years." Words and phrases used in an advertisement to describe the policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of the limitations, exceptions and reductions of the policy offered.

(2) An advertisement that is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy in the same size and type as benefit features.

(3) When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or at a time period between the date a loss occurs and the date benefits begin to accrue for the loss, an advertisement that is subject to the requirements of the preceding paragraph shall prominently disclose the existence of the periods.

(4) An advertisement shall not use the words "only," "just," "merely," "minimum," "necessary" or similar words or phrases to describe the applicability of any exceptions, reductions, limitations or exclusions such as: "This policy is subject to the following minimum exceptions and reductions."

(5) An advertisement that is an invitation to contract that fails to disclose the amount of any deductible or the percentage of any coinsurance factor is prohibited.

(6) An advertisement for loss-of-time coverage that is an invitation to contract that sets forth a range of amounts of benefit levels is prohibited unless it also states that eligibility for the benefits is based upon condition of health, income or other economic conditions, or other underwriting standards of the insurer if that is the fact.

(7) An advertisement that refers to "hospitalization for injury or sickness" omitting the word "covered" when the policy excludes certain sicknesses or injuries, or that refers to "whenever you are hospitalized," "when you go to the hospital" or "while you are confined in the hospital" omitting the phrase "for covered injury or sickness," if the policy excludes certain injuries or sickness, is prohibited. Continued reference to "covered injury or sickness" is not necessary where this fact has been prominently disclosed in the advertisement and where the description of sicknesses or injuries not covered is prominently set forth.

(8) An advertisement that fails to disclose that the definition of "hospital" does not include certain facilities that provide institutional care such as a nursing home, convalescent home or extended care facility, when the facilities are excluded under the definition of hospital in the policy, is prohibited.

(9) An advertisement that fails to disclose any waiting or elimination periods for specific benefits is prohibited.

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

(c) Preexisting Conditions

(1) An advertisement that is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.

(2) When an accident and health insurance policy does not cover losses resulting from preexisting conditions, an advertisement of the policy shall not 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 under the policy. This part prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement if it is an invitation to contract shall disclose that a medical examination is required.

(3) When an advertisement contains an application form to be completed by the applicant and returned by mail, the application form shall contain a question or statement that reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, the application form shall contain a question or statement substantially as follows:

"Do you understand that this policy will not pay benefits during the first [insert number] [years, months] after the issue date for a disease or physical condition that you now have or have had in the past? YES"

Or substantially the following statement:

"I understand that the policy applied for will not pay benefits for any loss incurred during the first [insert number] [years, months] after the issue date on account of disease or physical condition that I now have or have had in the past."

Ins 2601.07 Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination.

(a) An advertisement that is an invitation to contract 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 that shall not minimize or render obscure the qualifying conditions.

(b) Advertisements of cancellable accident and health insurance policies shall state that the contract is cancellable or renewable at the option of the company, as the case may be, in language substantially similar to the following: A policy that is renewable at the option of the insurance company

shall be advertised in a manner similar to, "This policy is renewable at the option of the company," or "The company has the right to refuse renewal of this policy," or "Renewable at the option of the insurer," or "This policy can be cancelled by the company at any time."

(c) Advertisements of insurance policies that are guaranteed renewable, cancelable or renewable at the option of the company shall disclose that the insurer has the right to increase premium rates if the policy so provides.

(d) Qualifying conditions that constitute limitations on the permanent nature of the coverage shall be disclosed in advertisements of insurance policies that are guaranteed renewable, cancelable or renewable at the option of the company. Examples of qualifying conditions are:

- (1) Age limits;
- (2) Reservation of a right to increase premiums; and
- (3) The establishment of aggregate limits.
 - a. Provisions for reduction of benefits at stated ages shall be set forth. For example, a policy may contain a provision that reduces benefits 50 percent after age 60 although it is renewable to age 65. Such a reduction shall be set forth. Also, a provision for the elimination of certain hazards at any specific ages or after the policy has been in force for a specified time shall be set forth.
 - b. An advertisement for a policy that provides for step-rated premium rates based upon the policy year or the insured's attained age shall disclose the rate increases and the times or ages at which the premiums increase.

Ins 2601.08 Standards for Marketing.

- (a) An insurer, directly or through its producers, shall:
- (1) Establish marketing procedures to assure that any comparison of policies by its producers will be fair and accurate;
 - (2) Establish marketing procedures assuring excessive insurance is not sold or issued, except this requirement does not apply to group major medical expense coverage and disability income coverage; and
 - (3) Establish auditable procedures for verifying compliance with this subsection.
- (b) In addition to the practices prohibited in RSA 417, the following acts and practices are prohibited:
- (1) **Twisting.** Knowingly making any misleading representation or incomplete or fraudulent comparison of insurance policies or insurers for the purpose of inducing, or tending to induce, a person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy, or to take out a policy of insurance with another insurer;
 - (2) **High Pressure Tactics.** Employing a method of marketing that has the effect of inducing the purchase of insurance, or tends to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance; and

(3) Cold Lead Advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

Ins 2601.09 Testimonials or Endorsements by Third Parties.

(a) Testimonials and endorsements used in advertisements shall 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 or endorsement, makes as its own all of the statements contained in it, and the advertisement, including the statement, is subject to all the provisions of this part. When a testimonial or endorsement is used more than one year after it was originally given, a confirmation shall be obtained.

(b) A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:

- (1) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise;
- (2) Has been **[found]formed** by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer;
- (3) Has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or
- (4) Is in any way directly or indirectly compensated for making a testimonial or endorsement.

(c) The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. In the case of television or radio advertising, the required disclosure shall be accomplished in the introductory portion of the advertisement and shall be given prominence.

(d) The disclosure requirements of this regulation shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union scale wages required by union rules, and if the payment is actually the scale for TV or radio performances.

(e) An advertisement shall not state or imply that an insurer or an accident and health insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless that is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial 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 fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policymaking position in the association, that fact shall be disclosed.

(f) When a testimonial refers to benefits received under an accident and health insurance policy, the specific claim data, including claim number, date of loss and other pertinent information shall be

retained by the insurer for inspection for the period required under RSA 400-B or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials that do not correctly reflect the present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

Ins 2601.10 Use of Statistics.

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

(1) An advertisement shall specifically identify the accident and health insurance policy to which statistics relate and where statistics are given that are applicable to a different policy, it shall be stated clearly that the data do not relate to the policy being advertised.

(2) An advertisement using statistics that describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, shall be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for accident and health insurance that refers to the amount of life insurance which the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.

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

(c) The source of any statistics used in an advertisement shall be identified in the advertisement.

Ins 2601.11 Identification of Plan or Number of Policies.

(a) An advertisement that uses the word "plan" without prominently identifying it as an accident and sickness insurance policy is prohibited.

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

(c) When an advertisement that is an invitation to contract refers to various benefits that may be contained in 2 or more policies, other than group master policies, the advertisement shall disclose that the benefits are provided only through a combination of policies.

Ins 2601.12 Disparaging Comparisons and Statements. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons or non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

(a) An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

(b) Advertisements that state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are prohibited unless the exceptions, reductions or limitations are contained in a substantial majority of the competing coverages.

(c) Advertisements that state or imply that an insurer's premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are prohibited.

Ins 2601.13 Jurisdictional Licensing and Status of Insurer.

(a) An advertisement that 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) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any division or agency of this state or the federal government. Terms such as "official" or words of similar import, used to describe any policy or application form are prohibited because of the potential for deceiving or misleading the public.

(c) An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of the state or federal government. Approval of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial condition.

Ins 2601.14 Identity of Insurer.

(a) The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement that is an invitation to contract. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of the particular division of the insurer, service mark, slogan, symbol or other device that without disclosing the name of the actual insurer, would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

(b) An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

(c) Advertisements, envelopes or stationery that employ words, letters, initials, symbols or other devices that are similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:

(1) That the advertised coverages are somehow provided by or are endorsed by the governmental agencies or the other insurers;

(2) That the advertiser is the same as is connected with or is endorsed by the governmental agencies or the other insurers.

(d) An advertisement shall not use the name of a state or political subdivision of a state in a policy name or description.

(e) An advertisement in the form of envelopes or stationery of any kind may not use any name, service mark, slogan, symbol or any device in a manner that implies that the insurer or the policy advertised, or that any producer who may call upon the consumer in response to the advertisement, is connected with a governmental agency, such as the Social Security Administration.

(f) An advertisement may not incorporate the word "Medicare" in the title of the plan or policy being advertised unless, whenever it appears, the word is qualified by language differentiating it from Medicare. The advertisement, however, shall not use the phrase "[] Medicare Department of the [] Insurance Company," or language of similar import.

(g) An advertisement may not imply that the reader may lose a right or privilege or benefit under federal, state or local law if he or she fails to respond to the advertisement.

(h) The use of letters, initials or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letters, initials or symbols of the corporate name or trademark.

(i) The use of the name of an agency or "[] Underwriters" or "[] Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

(j) The use of an address so as to mislead or deceive as to true **[identify]identity** of the insurer, its location or licensing status is prohibited.

(k) An insurer shall not use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

(l) Advertisements used by producers of an insurer shall have prior written approval of the insurer before they may be used.

(m) A producer who makes contact with a consumer, as a result of acquiring that consumer's name from a lead-generating device, shall disclose that fact in the initial contact with the consumer. A producer or insurer may not use names produced from lead-generating devices that do not comply with the requirements of this part.

Ins 2601.15 Group or Quasi-Group Implications.

(a) An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as members, enjoy special rates or underwriting privileges, unless that is the fact.

(b) This part prohibits the solicitations of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

(c) Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.

(d) An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both

membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as "enroll" or "join" to imply group or blanket insurance coverage when that is not the fact.

(e) Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

Ins 2601.16 Introductory, Initial or Special Offers.

(a)(1) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not contain phrases describing an enrollment period as "special," "limited," or similar words or phrases when the insurer uses the enrollment periods as the usual method of marketing accident and health insurance.

(2) This part prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless that is the fact.

[(3) The phrase "a particular insurance product" in (2) above means an insurance policy that provides substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.]

(b) An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium shall be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears.

(c) Special awards, such as a "safe drivers' award," shall not be used in connection with advertisements of accident and health insurance.

Ins 2601.17 Statements About an Insurer. An advertisement shall not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendations.

Ins 2601.18 Enforcement Procedures.

(a) **Advertising File.** Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in another state, with a notation attached to each advertisement that indicates the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to regular and periodical inspection by the commissioner. All of these advertisements shall be maintained in a file for the period required pursuant to RSA 400-B or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

(b) **Certificate of Compliance.** Each insurer required to file an annual statement shall file with the commissioner, with its annual statement, a certificate of compliance executed by an authorized officer of the insurer that states that, to the best of the officer's knowledge, information and belief, the advertisements that were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this part and the insurance laws of this state as implemented and interpreted by this part.

Ins 2601.19 Filing for Prior Review. The commissioner may, at his or her discretion, require filing of any accident and health insurance advertising material for review prior to use. The advertising material shall be filed by the insurer with the commissioner not less than 30 days prior to the date the insurer desires to use the advertisement.

Ins 2601.20 Penalties. An insurer or its officers, directors, producers or employees that violate any of the provisions of this part, or knowingly participate in or abet such violation, shall be subject to the penalty provisions of RSA 400-A:15, III.

PART Ins 2602 ADVERTISEMENTS OF LIFE INSURANCE AND ANNUITIES

Ins 2602.01 Purpose. The purpose of this part is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

Ins 2602.02 Applicability.

(a) This part shall apply to any life insurance or annuity advertisement intended for dissemination in this state. In variable contracts where disclosure requirements are established pursuant to federal regulation, this part shall be interpreted so as to eliminate conflict with federal regulations.

(b) All advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement. Insurers shall establish and all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. A system of control shall include regular and routine notification, at least once a year, to producers and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval.

Ins 2602.03 Definitions. For the purposes of this part:

(a)(1) "Advertisement" means material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy including:

- a. Printed and published material, audiovisual material and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays, and the Internet or any other mass communication media.
- b. Descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by the insurer or insurance producer; including but not limited to circulars, leaflets, booklets, web pages, depictions, illustrations and form letters;
- c. Material used for the recruitment, training and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;
- d. Prepared sales talks, presentations and materials for use by insurance producers.

(2) "Advertisement" for the purposes of this part shall not include:

- a. Communications or materials used within an insurer's own organization and not intended for dissemination to the public;
- b. Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy; and
- c. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

(b) "Determinable policy elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable policy elements only, or from both determinable and guaranteed policy elements.

(c) "Guaranteed policy elements" means the premiums, benefits, values, credits or charges under a policy, or elements of formulas used to determine any of these that are guaranteed and determined at issue.

(d) "Insurance producer" means a person required to be licensed under RSA 402-J to sell, solicit or negotiate insurance, including annuities.

(e) "Insurer" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, fraternal benefit society, and any other legal entity which is defined as an "insurer" in Title XXXVII or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

(f) "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(g) "Policy" means any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

(h) "Preneed funeral contract or prearrangement" means an arrangement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

Ins 2602.04 Form and Content of Advertisements.

(a) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or 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.

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

Ins 2602.05 Disclosure Requirements.

(a) The information required to be disclosed by this part shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(b) An advertisement shall not omit material information or use 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. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied or that the policy or contract includes a "free look" period that satisfies or exceeds regulatory requirements, does not remedy misleading statements.

(c) In the event an advertisement uses "non-medical," "no medical examination required," or similar terms where issue is not guaranteed, terms shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(d) An advertisement shall not use as the name or title of a life insurance policy any phrase that does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance. An advertisement shall not use as the name or title of an annuity contract any phrase that does not include the word "annuity" unless accompanied by other language clearly indicating it is an annuity. An annuity advertisement shall not refer to an annuity as a CD annuity, or deceptively compare an annuity to a certificate of deposit.

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

(f) An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless that is the fact. No cost savings may be stated or implied without justification satisfactory to the commissioner prior to use.

(g) An advertisement for a life insurance policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, that fact shall be commonly disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

(h) An advertisement for the types of policies described in (f) and (g) above shall not use the words "inexpensive," "low cost," or other phrases or words of similar import when the policies being marketed are guaranteed issue.

(i) Premiums

(1) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

(2) An advertisement in which the insurer describes a policy where it reserves the right to change the amount of the premium during the policy term, but which does not prominently describe this feature, is deemed to be deceptive and misleading and is prohibited.

(3) An advertisement shall not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made 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. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

(4) An advertisement that represents that a pure endowment benefit has a "profit" or "return" on the premium paid, rather than a policy benefit for which a specified premium is paid is deemed to be deceptive and misleading and is prohibited.

(5) An advertisement shall not represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact.

(6) An advertisement shall not use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan using nonguaranteed elements to pay a portion of future premiums.

(j) Analogies between a life insurance policy or annuity contract's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments shall be complete and accurate. An advertisement shall not emphasize the investment or tax features of a life insurance policy to such a degree that the advertisement would mislead the purchaser to believe the policy is anything other than life insurance.

(k) An advertisement shall not 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.

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

(m) The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the **[payor]payer** shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

(n) No insurance producer may use terms such as "financial planner," "investment adviser," "financial consultant," or "financial counseling" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless that actually is the case. This provision is not intended to preclude persons who hold some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

(o) Nonguaranteed Elements

(1) An advertisement shall not utilize or describe nonguaranteed elements in a manner that is misleading or has the capacity or tendency to mislead.

(2) An advertisement shall not state or imply that the payment or amount of nonguaranteed elements is guaranteed. Unless otherwise specified in life illustrations, if nonguaranteed elements are illustrated, they shall be based on the insurer's current scale and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

(3) Unless otherwise specified in life illustrations, an advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth, with equal prominence comparable illustrations or statements containing or based upon the guaranteed policy elements.

(4) An advertisement shall not use or describe determinable policy elements in a manner that is misleading or has the capacity or tendency to mislead.

(5) Advertisement may describe determinable policy elements as guaranteed but not determinable at issue. This description should include an explanation of how these elements operate, and their limitations, if any.

(6) If an advertisement refers to any nonguaranteed policy element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

(7) An advertisement shall not refer to dividends as "tax-free" or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly.

(8) An advertisement may not state or imply that illustrated dividends under either or both a participating policy or pure endowment will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at that time and the conditions required for that to occur.

(p) An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

(q) Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

(1) Testimonials, appraisals or analysis used in advertisements shall be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis; the insurer or insurance producer makes as its own all the statements contained therein, and these statements are subject to all the provisions of this part.

(2) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the insurer or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(3) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(4) When an endorsement refers to benefits received under a policy for a specific claim, the claim date, including claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for the period required pursuant to RSA 400-B after the discontinuance of its use or publication.

(r) An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any statistics used in advertisement shall be identified.

(s) Policies Sold to Students.

(1) The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not 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 such is a correct and truthful statement.

(2) All advertisements including, but not limited to, informational flyers used in the solicitation of insurance shall be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities shall be clearly identified as such.

(3) The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with a university, college, school or other educational or training institution, unless true.

(t) Introductory, Initial or Special Offers and Enrollment Periods.

(1) An advertisement of an individual policy or combination of policies shall not state or imply that the policy or combination of policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(2) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(3) An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the reduced initial premium. A reduced initial or first year premium may not be described as constituting free insurance for a period of time. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol that refers the reader to that specific portion of the advertisement that contains the full rate schedule for the policy being advertised.

(u) An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless that is the fact.

(v) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not disparage other insurers, insurance producers, policies, services or methods of marketing.

(w) For individual deferred annuity products or deposit funds, the following shall apply:

(1) Any illustrations or statements containing or based upon nonguaranteed interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. The nonguaranteed interest rate shall not be greater than those currently being credited by the company unless the nonguaranteed rates have been publicly declared by the company with an effective date for new issues not more than 3 months subsequent to the date of declaration.

(2) 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 the net premiums.

(3) If the contract does not provide a cash surrender benefit prior to commencement of payment of annuity benefits, an illustration or statement concerning the contract shall prominently state that cash surrender benefits are not provided.

(4) Any illustrations, depictions or statements containing or based on determinable policy elements shall likewise set forth with equal prominence comparable illustrations, depictions or statements containing or based on guaranteed policy elements.

(x) An advertisement of a life insurance policy or annuity that illustrates nonguaranteed values shall only do so in accordance with current applicable state law relative to illustrating such values for life insurance policies and annuity contracts.

(y) An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in Ins 2602.02 (**[f]h**) that is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

(1) The fact that a life insurance policy or annuity contract is being used to fund a prearrangement as defined in Ins 2602.02 (**[f]h**); and

(2) The nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise services, the administrator and any other person.

Ins 2602.06 Identity of Insurer.

(a) The name of the insurer shall be clearly identified in all advertisements about the insurer or its products, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. However, if an advertisement contains a listing of rates or features that is a composite of several different policies or contracts of different insurers, the advertisement shall so state, shall indicate, if applicable, that not all policies or contracts on which the composite is based may be available in all states, and shall provide a rating of the lowest rated insurer and reference the rating agency, but need not identify each insurer. If an advertisement identifies the issue insurers, insurance issuer ratings need not be stated.

(b) An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, a reinsurer of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

(c) An advertisement shall not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with a governmental program or agency.

Ins 2602.07 Jurisdictional Licensing and Status of Insurer.

(a) An advertisement that 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) An advertisement may state that an insurer or insurance producer is licensed in a particular state or states, provided it does not exaggerate that fact or suggest or imply that competing insurers or insurance producers may not be so licensed.

(c) An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of

plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

Ins 2602.08 Statements About the Insurer. An advertisement shall not contain statements, pictures or illustrations that are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation including, but not limited to, the placement of insurer's rating in the hierarchy of the rating system cited.

Ins 2602.09 Enforcement Procedures.

(a) Each insurer shall maintain at its home or principal office a complete file containing a specimen of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to inspection by the department. All advertisements shall be maintained in the file for the period required pursuant to RSA 400-B after discontinuance of its use or publication.

(b) If the commissioner determines that an advertisement has the capacity or tendency to mislead or deceive the public, the commissioner may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use.

(c) Each insurer subject to the provisions of this part shall file with the commissioner with its annual statement a certificate of compliance executed by an authorized officer of the insurer stating that to the best of his or her knowledge, information and belief the advertisements that were disseminated by or on behalf of the insurer in this state during the preceding statement year, or during the portion of the year when these rules were in effect, complied or were made to comply in all respects with the provisions of these parts and the insurance laws of the state as implemented and interpreted by this part.

Ins 2602.10 Penalties. An insurer or its officers, directors, producers or employees that violate any of the provisions of this part, or knowingly participate in or abet such violation, shall be subject to the penalty provisions of RSA 400-A:15, III.

Ins 2602.11 Conflict With Other Laws or Rules. It is not intended that this part conflict with or **super[c]sede** any rules currently in force or subsequently adopted in this state governing specific aspects of the sale or replacement of life insurance including, but not limited to, laws or rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, replacement of life insurance policies, illustration of life insurance policies, and annuity disclosure. Consequently, no disclosure pursuant to or required under those rules shall be deemed to be an advertisement within the meaning of this part.

Part Ins 2603 **ADVERTISEMENTS OF MEDICARE SUPPLEMENT INSURANCE WITH INTERPRETIVE GUIDELINES**

Statutory Authority: RSA 400-A:15, I.; RSA 417:4; **RSA 415-F:3,III-IV; RSA 415-F:7**

Ins 2603.01 Purpose. The purpose of this part is to provide prospective buyers with clear and unambiguous statements in the advertisement of Medicare supplement insurance; to assure the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as Medicare supplement

insurance. This purpose is intended to be accomplished by the establishment of guidelines and permissible and impermissible standards of conduct in the advertising of Medicare supplement insurance in a manner which prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance **[agents]producers** and companies.

Ins 2603.02 Applicability.

(a) This part shall apply to any "advertisement" of Medicare supplement insurance as that term is defined herein, unless otherwise specified in this part, that the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this state when the presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, broker, producer or solicitor, as those terms are defined in Title XXXVII.

(b) Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all of its Medicare supplement insurance advertisements. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurers benefiting directly or indirectly from their dissemination.

(c) Advertising materials that are reproduced in quantity shall be identified by form numbers or other identifying means. The identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other material used by the insurer.

Ins 2603.03 Definitions.

(a)(1) "Advertisement" for the purpose of this part shall include:

- a. Printed and published material, audio visual material and descriptive literature used by or on behalf of an insurer in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards, **internet displays and websites**, and similar displays;
- b. Descriptive literature and sales aids of all kinds issued by an insurer, agent, producer, broker or solicitor for presentation to members of the insurance-buying public; including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and lead generating devices of all kinds as defined in this part; and
- c. Prepared sales talks, presentations and material for use by agents, brokers, producers and solicitors, whether prepared by the insurer or the agent, broker, producer or solicitor.

(2) The definition of "advertisement" includes advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

(3) The definition of "advertisement" does not include:

- a. Material to be used solely for the training and education of an insurer's employees, agents or brokers;
- b. Material used in-house by insurers;
- c. Communications within an insurer's own organization not intended for dissemination to the public;

- d. Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;
- e. Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;
- f. Court approved material ordered by a court to be disseminated to policyholders; or
- g. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided, the announcement shall clearly indicate that it is preliminary to the issuance of a booklet.

(b) "Medicare supplement insurance" means a group or individual policy of accident and health insurance or a subscriber contract of hospital and medical service associations or health maintenance organizations that is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age.

(c) "Certificate" means, for the purposes of this part, any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this state.

(d) "Insurer" means, for the purposes of this part, any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, hospital service corporation, medical service corporation, prepaid health plan and any other legal entity which is defined as an "insurer" in Title XXXVII and is engaged in the advertisement of itself, or Medicare supplement insurance.

(e) "Exception" means, for the purpose of this part, 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.

(f) "Reduction" means, for the purpose of this part, any provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable had the reduction not been used.

(g) "Limitation" means, for the purposes of this part, any provision that restricts coverage under a policy other than an exception or a reduction.

(h) "Institutional advertisement" means, for purposes of this part, an advertisement having as its sole purpose the promotion of the reader's, viewer's, or listener's interest in the concept of Medicare supplement insurance or the promotion of the insurer as a seller of Medicare supplement insurance.

(h)i "[Institutional advertisement]Invitation to inquire" means, for the purposes of this part, an advertisement having as its objective the creation of a desire to inquire further about Medicare supplement insurance that is limited to a brief description of coverage, and that shall contain a provision in the following or substantially similar form:

"This policy has [exclusions] [limitations] [reductions of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable]."

(j) "Invitation to contract" means, for the purposes of this part, an advertisement that is neither an institutional advertisement nor an invitation to inquire.

(k) "Person" means, for the purposes of this part, a natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

(l) "Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as Then Constituted or Later Amended," or Title I, art I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America, and popularly known as the "Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.

(m) "Lead-generating device" means, for the purposes of this part, any communication directed to the public that, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of Medicare supplement insurance.

Ins 2603.04 Method of Disclosure of Required Information. All information required to be disclosed by this part shall be set out conspicuously and in close conjunction with the statements to which the information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous manner or fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

Ins 2603.05 Form and Content of Advertisements.

(a) The format and content of a Medicare supplement insurance advertisement shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the commissioner of insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.

(b) Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases whose meanings are clear only by implication or by the consumer's familiarity with insurance terminology shall not be used.

(c) An insurer shall clearly identify its Medicare supplement insurance policy as an insurance policy. A policy trade name shall be followed by the words..."Insurance Policy" or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.

(d) No insurer, agent, broker, producer, solicitor or other person shall solicit a resident of this state for the purchase of Medicare supplement insurance in connection with or as the result of the use of any advertisement by such person or any other person, where the advertisement:

(1) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of such person or the true purpose of the advertisement; or

(2) Otherwise violates the provisions of this part.

(b) No insurer, agent, broker, solicitor or other person shall solicit residents of this state for the purchase of Medicare supplement insurance through the use of a true or fictitious name that is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of the person or the true purpose of the advertisement.

Ins 2603.06 Advertisements of Benefits, Losses Covered or Premiums Payable.

(a) Deceptive Words, Phrases or Illustrations Prohibited

(1) No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of the information or use of such words, phrases, statements, references or illustrations 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 or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(2) No advertisement shall contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "this policy pays all that Medicare doesn't" or similar words and phrases, in a manner which exaggerates any benefit beyond the terms of the policy.

(3) An advertisement that also is an invitation to join an association, trust or discretionary group shall solicit insurance coverage on a separate and distinct application that requires separate signature for each application. The separate and distinct application required for an advertisement which is also an invitation to join an association, trust or discretionary group need not be on a separate document or contained in a separate mailing. The insurance program shall be presented so as not to mislead or deceive the prospective members that they are purchasing insurance as well as applying for membership, if that is the case.

(4) An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after 6 months." Words and phrases used in an advertisement to describe the policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of the limitations, exceptions and reductions of the policy offered.

(5) An advertisement of Medicare supplement insurance sold by direct response shall not state or imply that "because no insurance agent will call and no commissions will be paid to 'agents' that is a low cost plan" or use other similar words or phrases because the cost of advertising and servicing the policies is a substantial cost in marketing by direct response.

(b) Exceptions, Reductions and Limitations

(1) An advertisement that is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy.

(2) When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for the loss, an advertisement that is subject to the requirements of the preceding paragraph shall disclose the existence of these periods.

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

(c) Preexisting Conditions

(1) An advertisement that is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.

(2) When a Medicare supplement insurance policy does not cover losses resulting from preexisting 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 under the policy. This part prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement shall disclose that a medical examination is required.

(3) When an advertisement contains an application form to be completed by the applicant and returned by mail, the application form shall contain a question or statement that reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, such an application form shall contain a question or statement substantially as follows:

Do you understand that this policy will not pay benefits during the first 6 months after the issue date for a disease or physical condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the policy issue date?

YES

Or substantially the following statement:

I understand that the policy applied for will not pay benefits for any loss incurred during the first 6 months after the issue date due to a disease or physical condition for which I received medical advice or for which treatment was recommended by or received from a physician within 6 months before the issue date.

Ins 2603.07 Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination. An advertisement that is an invitation to contract 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.

Ins 2603.08 Testimonials or Endorsements by Third Parties.

(a) Testimonials and endorsements used in advertisements shall 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 or endorsement, makes as its own all of the statements contained therein, and the advertisement, including the statement, is subject to all the provisions of this part. When a testimonial or endorsement is used more than one year after it was originally given, a confirmation shall be obtained.

(b) A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:

(1) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise;

- (2) Has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer;
- (3) Has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or
- (4) Is in any way directly or indirectly compensated for making a testimonial or endorsement.

(c) The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence thereto. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, that fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement; whichever is larger. In the case of television or radio advertising, the required disclosure shall be accomplished in the introductory portion of the advertisement and shall be given prominence.

(d) The disclosure requirements of this part shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union scale wages required by union rules, and if the payment is actually for the scale for TV or radio performances.

(e) An advertisement shall not state or imply that an insurer or a Medicare supplement insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial 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, that fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policymaking position in the association, that fact shall be disclosed.

(f) When a testimonial refers to benefits received under a Medicare supplement insurance policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of 4 years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials that do not correctly reflect the present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

Ins 2603.09 Use of Statistics.

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

- (1) An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, it shall be stated clearly that the data do not relate to the policy being advertised.

(2) An advertisement using statistics that describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, shall be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for Medicare supplement insurance that refers to the amount of life insurance that the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.

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

(c) The source of any statistics used in an advertisement shall be identified in the advertisement.

Ins 2603.10 Disparage Comparisons and Statements. An advertisement shall not directly or indirectly make unfair or incomplete comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

(a) An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

(b) Advertisements that state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are unacceptable unless the exceptions, reductions or limitations are contained in a substantial majority of the competing coverages.

(c) Advertisements that state or imply that an insurer's premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are unacceptable.

Ins 2603.11 Jurisdictional Licensing and Status of Insurer.

(a) An advertisement that 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) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status; or the payment of its claims; or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of this state or the United States government.

(c) An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of this state or the federal government. "Approval" of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial conditions.

Ins 2603.12 Identify of Insurer.

(a) The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement that is an invitation to contract. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device that

with or without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

(b) No advertisement shall use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.

(c) Advertisements, envelopes or stationery that employ words, letters, initials, symbols or other devices that are so similar to those used by governmental agencies or other insurers are not permitted if they may lead the public to believe:

(1) That the advertised coverages are somehow provided by or are endorsed by the governmental agencies or the other insurers;

(2) That the advertiser is the same as, is connected with or is endorsed by the governmental agencies or the other insurers.

(d) No advertisement shall use the name of a state or political subdivision thereof in a policy name or description.

(e) No advertisement in the form of envelopes or stationary of any kind may use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised, or that any agent who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

(f) No advertisement may incorporate the word "Medicare" in the title of the plan or policy being advertised unless, whenever it appears, the word is qualified by language differentiating it from Medicare. Such an advertisement, however shall not use the phrase "_____Medicare Department of the _____Insurance Company," or language of similar import.

(g) No advertisement shall be used that fails to include the disclaimer to the effect of "Not Connected with or endorsed by the U.S. government or the federal Medicare program."

(h) No advertisement may imply that the reader may lose a right or privilege or benefit under federal, state or local law if he fails to respond to the advertisement.

(i) The use of letters, initials or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letters, initials or symbols of the corporate name or trademark.

(j) The use of the name of any agency or "_____Underwriters" or "_____ Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

(k) The use of an address so as to mislead or deceive as to the true identity of the insurer, its location or licensing status is prohibited.

(l) No insurer may use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

(m) All advertisements used by agents, producers, brokers or solicitors of an insurer shall have prior written approval of the insurer before they may be used.

(n) An agent who makes contact with a consumer, as a result of acquiring that consumer's name from a lead generating device, shall disclose that fact in the initial contact with the consumer.

Ins 2603.13 Group or Quasi-Group Implications.

(a) An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless that is the fact.

(b) This part prohibits the solicitation of a particular class, such as governmental employees, by use of advertisements that state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.

Ins 2603.14 Introductory, Initial or Special Offers.

(a)(1) An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not contain phrases describing an enrollment period as "special," "limited," or similar words or phrases when the insurer uses such enrollment periods as the usual method of advertising Medicare supplement insurance.

(2) An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than 6 months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant shall mail the application, which shall be not less than 10 days and not more than 40 days from the date that the enrollment period is advertised for the first time. This part applies to all advertising media, i.e., mail, newspapers, radio, television, magazines, internet displays, and periodicals, by any one insurer. It is not applicable to solicitations of employees or members of a particular group or association that otherwise would be eligible under specific provisions of RSA 415. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

(3) This part prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of a particular policy advertised because of special advantages available in the policy, unless that is the fact.

(4) The phrase "a particular insurance product" in (2) of this subsection means an insurance policy that provides substantially different benefits than those contained in any other policy. Different terms of renewability, an increase or decrease in the dollar amounts of benefits, or an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

(b) An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium

payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium shall be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. The term "juxtaposition" means side by side or immediately above or below.

(c) Special awards, such as a "safe driver's award" shall not be used in connection with advertisements of Medicare supplement insurance.

Ins 2603.15 Statements About an Insurer. An advertisement shall not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation.

Ins 2603.16 Enforcement Procedures.

(a) Advertising File. Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its 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 advertisement that shall indicate the manner and extent of distribution and the form number of any policy advertised. The file shall be available for inspection by this department. All such advertisements shall be maintained in the file for a period of either 4 years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.

(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 part shall file with this department, with its annual statement, a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that, to the best of his knowledge, information and belief, the advertisements that were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this part and the insurance laws of this state as implemented and interpreted by this part.

Ins 2603.17 Filing for Prior Review. The commissioner may, at his or her discretion, require the filing with this department, for review prior to use, of any Medicare supplement insurance advertising material. The advertising material shall be filed by the insurer with this department not less than 30 days prior to the date the insurer desires to use the advertisement.

Appendix
INTERPRETIVE GUIDELINES
FOR RULES GOVERNING ADVERTISEMENTS OF
MEDICARE SUPPLEMENT INSURANCE

Guideline 1

Disclosure is one of the principal objectives of this part and this section states specifically that the rules shall assure truthful and adequate disclosure of all material and relevant information. This part specifically prohibits some previous advertising techniques.

Guideline 2

This part applies to any "advertisement" as that term is defined in Ins 2603.03 (a), (h), (i) and (j) unless otherwise specified in this part. This part applies to group, blanket and individual Medicare supplement insurance advertisements. Certain distinctions, however, are applicable to these categories. Among them is the level of conversance with insurance, a factor which is covered by Ins 2603.05 (a).

Guideline 3-A

The scope of the term "advertisement" extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to use of all media for communications by agents, brokers, producers and solicitors.

Guideline 3-I

A "brief description of coverage" in an invitation to inquire may consist of an explanation of Medicare benefits, minimum benefits, standards for Medicare supplement policies, and the manner in which the advertised Medicare supplement insurance policy supplements the benefits of Medicare and meets or exceeds the minimum benefit requirements. An invitation to inquire shall not refer to cost or the maximum dollar amount of benefits payable.

As with all Medicare supplement insurance advertisements, an invitation to inquire shall not:

- (1) Employ devices that are designed to create undue anxiety in the minds of the elderly or excite fear of dependence upon relatives or charity;
- (2) Exaggerate the gaps in Medicare coverage;
- (3) Exaggerate the value of the benefits available under the advertised policy;
- (4) Otherwise violate the provisions of this part.

Guideline 4

This part permits the use of either of the following alternative methods of disclosure:

- (1) The first alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions conspicuously and in close conjunction with the statements to which the information relates. This may be accomplished by disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of policy benefits.
- (2) The second alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized,

rendered obscure or otherwise made to appear unimportant. The phrase "under appropriate captions" means that the title shall be accurately descriptive of the captioned material. Appropriate captions include the following : "Exceptions," "Exclusions," "Conditions Not Covered," and "Exceptions and Reductions." The use of captions such as, or similar to, the following are not acceptable because they do not provide adequate notice of the significance of the material: "Extent of Coverage," "Only these Exclusions," or "Minimum Limitations."

In considering whether an advertisement complies with the disclosure requirements of this part, this rule must be applied in conjunction with the form and content standards contained in Ins 2603.05.

Guideline 5-A

This part shall be applied in conjunction with Ins 2603.01 and Ins 2603.04. These parts refer specifically to "format and content" of the advertisement and the "overall" impression created by the advertisement. This involves factors such as, but not limited to, the size, color and prominence of type used to describe benefits. The word "format" means the arrangement of the text and the captions.

This part requires distinctly different advertisements for publication in newspapers or magazines of general circulation, as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material shall, independent of all other pieces of material, conform to the disclosure requirements of this part.

Guideline 5-B

This part prohibits the use of incomplete statements and words or phrases that have the tendency or capacity to mislead or deceive because of the reader's unfamiliarity with insurance terminology. Therefore, words, phrases and illustrations used in an advertisement shall be clear and unambiguous, if the advertisement uses insurance terminology, sufficient description of a word, phrase or illustration shall be provided by definition or description in the context of the advertisement. As implied in Guideline 5-A, distinctly different levels of comprehension to the subscribers of various publications may be anticipated.

Guideline 6-A(1)

This part prohibits the use of incomplete statements and words or phrases that create deception by omission or commission. The following examples are illustrations of the prohibitions created by the rule:

- (1) An advertisement that describes any benefits that vary by age shall disclose the fact.
- (2) An advertisement that uses a phrase such as "no age limit" shall disclose that premiums may vary by age or that benefits may vary by age if such is the case.
- (3) Advertisements, applications, requests for additional information and similar materials are unacceptable if they state or imply that the recipient has been individually selected to be offered insurance, or has had his eligibility for insurance individually determined in advance, when in fact the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.
- (4) Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless such is the fact.
- (5) It is unacceptable to use terms such as "enroll" or "join" with reference to group or blanket insurance coverage when such is not the case.

- (6) An advertisement that states or implies immediate coverage is provided is unacceptable unless suitable administrative procedures exist so that the policy is issued within 15 working days after the application is received by the insurer.
- (7) Applications, request forms for additional information, and similar related materials are unacceptable if they resemble paper currency, bonds or stock certificates; or use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.
- (8) An advertisement that uses the word "plan" without identifying it as a Medicare supplement insurance policy is not permissible.
- (9) An advertisement that implies in any manner that the prospective insured may realize a profit from obtaining Medicare supplement insurance is not permissible.
- (10) An advertisement that fails to disclose any waiting or elimination periods is unacceptable.
- (11) Examples of benefits payable under a policy shall not disclose only maximum benefits unless the maximum benefits are paid for loss from common or probable illnesses or accidents, rather than exceptional or rare illnesses or accidents or periods of confinement for these exceptional or rare accidents or illnesses.
- (12) When a range of benefit levels is set forth in an advertisement, it shall be made clear that the insured will receive only the benefit level written or printed in the policy selected and issued.
- (13) Advertisements for policies whose premiums are modest because of their limited amount of benefits shall not describe premiums as "low," "low-cost," "budget" or use qualifying words of similar import. This part also prohibits the use of words such as "only" and "just" in conjunction with statements of premium amounts when used to imply a bargain.
- (14) An advertisement that exaggerates the effects of statutorily mandated benefits or required policy provisions or that implies that these provisions are unique to the advertised policy is unacceptable. For example, the phrase, "Money Back Guarantee," is an exaggerated description of the 30 day right to examine the policy and is not acceptable.
- (15) An advertisement that implies that a common type of policy or a combination of common benefits is "new," "unique," "a bonus," "a breakthrough," or is otherwise unusual is unacceptable. Also, the addition of a novel method of premium payment to an otherwise common plan of insurance does not render it "new."
- (16) An advertisement may not omit the word "covered" when referring to benefits payable under its policy. Continued reference to "covered" is not necessary where this fact has been prominently disclosed in the advertisement.
- (17) An advertisement shall state that benefits payable under the policy are based upon Medicare eligible expenses, if such is the case.
- (18) An advertisement that fails to disclose that the definition of "hospital" does not include a nursing home, convalescent home or extended care facility, as the case may be, is unacceptable.

(19) A television, radio, mail, internet, or newspaper advertisement, or lead generating device that is designed to produce leads either by use of a coupon, a request to write or to call the company, or a subsequent advertisement prior to contact shall include information disclosing that an insurance agency may contact the applicant if such is the fact.

(20) Advertisements for policies designed to supplement Medicare shall not employ devices that are designed to create undue anxiety in the minds of the elderly. Such phrases as "here is where most people over 65 learn about the gaps in Medicare," or "Medicare is great, but..." or which otherwise exaggerate the gaps in Medicare coverage are unacceptable. Phrases or devices that unduly excite fear of dependence upon relatives or charity are unacceptable. Phrases or devices that imply that long sicknesses or hospital stays are common among the elderly are unacceptable.

(21) An advertisement that is an invitation to contract implying that the coverage is supplemental to Medicare, if it does not explain the manner in which it is supplemental to Medicare coverage, is not acceptable.

(22) An advertisement that is an invitation to contract for Medicare supplement insurance is unacceptable if the advertisement:

(a) Fails to disclose in clear language which of the Medicare benefits the policy is not designed to supplement or if it otherwise implies that Medicare provides only those benefits that the policy is designed to supplement;

(b) Describes the in-patient hospital coverage of Medicare as "Medicare hospital," or "Medicare Part A" when the policy does not supplement the non-hospital or the psychiatric hospital benefits of Medicare Part A;

(c) Fails to describe clearly the operation of the part or parts of Medicare that the policy is designed to supplement; or

(d) Describes those Medicare benefits not supplemented by the policy in such a way as to minimize their importance relative to the Medicare benefits that are supplemented.

(23) Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population, or that particular segments of the population are acceptable risks, when such distinctions are not maintained in the issuance of policies, are not acceptable.

(24) An advertisement that contains statements such as "anyone can apply," or "anyone can join," other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is unacceptable.

(25) An advertisement that uses a phrase or term such as "here is all you do to apply," "simply," or "merely" to refer to the act of applying for a policy that is not a guaranteed issue policy is unacceptable unless it refers to the fact that the application is subject to acceptance or approval by the insurer.

(26) Advertisements that state or imply that premiums will not be changed in the future are not acceptable unless the advertised policies so provide.

(27) An advertisement that does not require the premium to accompany the application shall not overemphasize that fact and shall make the effective date of that coverage clear.

(28) An advertisement that is an invitation to contract that fails to disclose the amount of any deductible or the percentage of any co-insurance factor is not acceptable.

Guideline 6-A(2)

This part recognizes that certain words and phrases in advertising may have a tendency to mislead the public as to the extent of benefits under an advertised policy. Consequently, the terms (and those specified in this part do not represent a comprehensive list but only examples) shall be used with caution to avoid any tendency to exaggerate benefits and shall not be used unless the statement is literally true in every instance. The use of the following phrases based on such terms or having the same effect shall be similarly restricted: "pays hospital, surgical, etc., bills," "pays dollars to offset the cost of medical care," "safeguards your standard of living," "pays full coverage," "pays complete coverage," or "pays for financial needs." Other phrases may or may not be acceptable depending upon the nature of the coverage being advertised.

This part also prohibits words or phrases that exaggerate the effect of benefit payment on the insured's general well-being, such as "worry-free savings plan," "guaranteed savings," "financial peace of mind," and "you will never have to worry about hospital bills again."

Advertisements that are an invitation to contract for policies designed to supplement Medicare benefits are unacceptable if they fail to disclose that no hospital confinement benefits will be payable for that portion of a Medicare benefit period for which Medicare pays all hospital confinement expenses (currently 60 days) other than the initial deductible if the policy so provides. The length of the period shall be state in days.

Guideline 6-A(4)

Explanations shall not minimize nor describe restrictive provisions in a positive manner. [n]Negative features shall be accurately set forth. Any limitation on benefits precluding preexisting conditions shall also be restated under a caption concerning exclusions or limitations, notwithstanding that the preexisting condition exclusion has been disclosed elsewhere in the advertisement. (See Guideline 6-C for additional comments on preexisting conditions.)

Guideline 6-A(5)

This part should be applied in conjunction with Ins 2603.10. Phrases such as "we cut cost to the bone" or "we deal direct with you so our costs are lower" shall not be used.

Guideline 6-B(1)

An advertisement that is an invitation to contract as defined in Ins 2603.03 (j) shall recite the exceptions, reductions and limitations as required by this part and in a manner consistent with Ins 2603.04.

If an exception, reduction or limitation is important enough to use in a policy, it is of sufficient importance that its existence in the policy should be referred to in the advertisement regardless of whether it may also be the subject matter of a provision of the Uniform Individual Accident and Sickness Policy Provision Law.

Some advertisements disclose exceptions, reductions and limitations as required, but the advertisement is so lengthy that it obscures the disclosure. Where the length of an advertisement has this effect, special emphasis shall be given by changing the format to show the restrictions in a manner that does not minimize, render obscure or otherwise make them appear unimportant.

Guideline 6-C(1)

This part implements the objective of Ins 2603.06(a)(4)[a.] by requiring in negative terms a description of the effect of a preexisting condition exclusion because such an exclusion is a restriction on coverage. The subdivision also prohibits the use of the phrase "preexisting condition" without an appropriate definition or description of the term and prohibits stating a reduction in the statutory time limit as an affirmative benefit. The words "appropriate definition or description" mean that the term "preexisting condition" shall be defined as it is used by the company's claims department.

Guideline 6-C(2)

The phrase "no health questions" or words of similar import shall not be used if the policy excludes preexisting conditions.

Use of a phrase such as "guaranteed issue," or "automatic issues," if the policy excludes preexisting conditions for a certain period, shall be accompanied by a statement disclosing that fact in a manner which does not minimize, render obscure or otherwise make it appear unimportant and is otherwise consistent with Ins 2603.04.

Guideline 6-C(3)

Some states require approval of the application even when the application is not attached to the policy when issued. This part does not change such a requirement. The text of this guideline should be modified to reflect the rule applicable in the particular state.

Guideline 7

Advertisements of cancellable Medicare supplement policies shall state that the contract is cancellable or renewable at the option of the company as the case may be. With respect to noncancellable policies and guaranteed renewable policies, the policy provisions, with respect to renewability, shall be set forth and defined where appropriate.

This part also requires a statement of the qualifying conditions that constitute limitations on the permanent nature of the coverage. These customarily fall into 3 categories (1) age limits, (2) reservation of a right to increase premiums, and (3) the establishment of aggregate limits. For example, "noncancellable and guaranteed renewable" does not fulfill the requirements of this part if the policy contains a terminal age. In such a case, a proper statement would be "Noncancellable and guaranteed renewal to age ____." If a guaranteed renewable policy reserves the right to increase premiums, the statement shall be expanded into language similar to "guaranteed renewable to age," but the company reserves the right to increase premium rates on a class basis." If the contract contains an aggregate limit after which no further benefits are payable, the above statement shall be amplified with the phrase "subject to a maximum aggregate amount of \$50,000" or similar language. A Medicare supplement insurance policy may have one or more of the 3 basic limitations and an advertisement shall describe each of those which the policy contains. Over 50 percent of new individual policy issues are guaranteed renewable; therefore, the fact that a policy is guaranteed renewable shall not be exaggerated.

An advertisement for a Medicare supplement insurance policy that provides for age step-rated premium rates based upon the policy year or the insured's attained age shall disclose the rate increases and the times or ages at which the premium increases.

Guideline 8-A

This part shall be applied in conjunction with Ins 2603.09 and requires that all such statements shall be genuine and not fictitious. Under this part, the manufacturing, substantive editing or "doctoring up" of a testimonial is clearly prohibited as being false and misleading to the insurance-buying public. However, language that would be unacceptable under this part shall be edited out of a testimonial.

Guideline 8-C

This part requires that both approval or endorsement of a policy by an individual, group of individuals, society, association or other organization be factual and that any proprietary relationship between the sponsoring or endorsing organization and the insurer be disclosed. For example, if the dividend under an association group case is payable to the association, disclosure of that fact is required. Also, if the insurer or an officer of the insurer formed or controls the association, that fact shall be disclosed. This guideline also applies to Ins 2603.08(e).

Guideline 9-A

An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given that are applicable to a different policy, it shall be stated clearly that the data does not relate to the policy being advertised.

An advertisement that states the dollar amount of claims paid shall also indicate the period over which the claims have been paid.

If the term "loss ratio" is used, it shall be properly explained in the context of the advertisement and, unless the state has issued a rule otherwise defining the term, it shall be calculated on the basis of premiums earned to losses incurred and shall not be on a yearly run-off basis.

Guideline 9-C

This part does not require that statistics for this state be used since such statistics as hospital charges and average stays may vary from state to state. When nationwide statistics are used, that fact should be noted, unless the statistics on the particular point are substantially the same in a state to which the advertisement is directed. Statistics may only be used if they are current and credible.

Guideline 10

This part prohibits disparaging, unfair or incomplete comparisons of policies or benefits that would have a tendency to decline or mislead the public. This part does not preclude the use of comparisons by health maintenance organizations, prepaid health plans and other direct service organizations that describe the difference between their prepaid health benefits coverage and indemnity insurance coverage.

Guideline 11-A

This part prohibits advertisements that imply that an insurer is licensed beyond the limits of those jurisdictions where it is actually licensed. An advertisement that contains testimonials from persons who reside in a state in which the insurer is not licensed or that refers to claims of persons residing in states in which the insurer is not licensed implies licensing in those states; and, therefore, is in violation of this part unless the advertisement states that the insurer is not licensed in those states.

Guideline 11-B

Although this part permits a reference to an insurer being licensed in a state where the advertisement appears, it does not allow exaggeration of the fact of that licensing nor does it permit the suggestion that competing insurers may not be so licensed because, in most states, an insurer must be licensed in the state to which it directs its advertising.

Terms such as "official," or words of similar import, used to describe any policy or application form are not permissible because of the potential for deceiving or misleading the public. This guideline also applies to Ins 2603.11(c).

Guideline 14-A(1)

This part prohibits advertising representing that a product is offered on an introductory, initial or special offer basis or otherwise which (a) will not be available later; or (b) is available only to certain individuals, unless such is the fact. This part prohibits the repetitive use of such advertisements. Where an insurer uses enrollment periods as the usual method of advertising these policies, this part prohibits describing an enrollment period as a special opportunity or offer for the applicant.

Guideline 14-A(2)

This part restricts the repetitive use of enrollment periods. The requirement of reasonable closing dates and waiting periods between enrollment periods was adopted to eliminate the abuses that formerly existed. This part does not limit just the use of enrollment periods. It requires that a particular insurance product offered in an enrollment period through any advertising media, including the prepared presentations of agents, cannot be offered again in the state until 6 months from the close of the enrollment period. Thus, an insurer shall choose whether to use enrollment periods or open enrollment for a product. (See Ins 2603.14(a)(4) for the definition of "a particular insurance product.")

This part does not prohibit multiple advertising during an enrollment period through any and all media published or transmitted within this state as long as the enrollment periods for all such advertisements have the same expiration date.

This part does not prohibit the solicitation of members of a group or association for the same product even though there has not been a lapse of 6 months since the close of a preceding enrollment period that was open to the general public for the same product.

This part does not require separation by 6 months of enrollment periods for the same insurance product in this state if the advertising material is directed by an admitted insurer to persons by direct mail on the basis that a common relationship exists with an entity. Examples would be a bank and its depositors, a department store to its charge account customers, or an oil company to ~~its~~ credit card holders, and more than one of these organizations is sponsoring an insurance product at different times if providing the insurance under such ~~a~~ methods is not otherwise prohibited by law. However, the 6 month rule does apply to one specific sponsor to the same persons in this state on the basis of their status as customers of that one specific entity only.

Guideline 14-A(4)

This part defines the meaning of "a particular insurance product" in Ins 2603.14(a)(2) and prohibits advertising of products having minor variations such as different periods or different amounts of daily hospital indemnity benefits, in a succession of enrollment periods.

Guideline 15

This part is closely related to the requirement of Ins 2603.09 concerning the use of statistics. This part prohibits insurances that have been organized for only a brief period of time advertising that they are "old" and also prohibits emphasizing the size and magnitude of the insurer. Also, the occupations of the persons comprising the insurer's board of directors or the public's familiarity with their names or reputations is irrelevant and shall not be emphasized. The preponderance of a particular occupation or profession among the board of directors of an insurer does not justify the advertisement of a plan of insurance offered to the general public as insurance designed or recommended by members of that occupation or profession. For example, it is unacceptable for an insurance company to advertise a policy offered to the general public as "the physicians' policy" or the "the doctors' plan" simply because there is a preponderance of physicians or doctors of the insurer. This part prohibits the use of recommendation of a commercial rating system unless the purpose, meaning and limitations of the recommendation are clearly indicated.

Guideline 16

The text of Ins 2603.16(a) is identical to the text of the first paragraph of the enforcement section of previous drafts of this part except the last sentence of the subsection has been revised to require that the advertising file be maintained either for a period of 4 years (rather than 3 as previously) or until the next regular examination of the insurer, whichever is the longer period of time.

Guideline 18

Filing of all Medicare supplement advertisements is required by this part [**and by the Medicare Catastrophic Coverage Act of 198 (P.L. 100-360)**].

PART Ins 2604 ALL OTHER ADVERTISEMENTS OF **LIFE, ACCIDENT, AND HEALTH INSURANCE**

Ins 2604.01 **Purpose.** The purpose of this part is to ensure that all advertisements that relate to life, accident or health insurance policies sold in this state that are not regulated under Ins 2601, **[or] Ins 2602, or Ins 2603,** present clear and accurate information to the public and do not mislead consumers about the characteristics or operations of any insurance plan or product.

Ins 2604.02 **Applicability and Scope.** This part shall apply to life, accident or health insurance policies that are not regulated under Ins 2601, **[or] Ins 2602, or Ins 2603** and to any entity which holds a license to sell, issue or administer these policies in this state.

Ins 2604.03 **Definitions.** For the purpose of this part, the following definitions shall apply:

(a) “Advertisement” means:

- (1) Printed and published material and literature an insurer uses in newspapers, magazines, radio and TV scripts, billboards and similar displays to describe its plans and products;
- (2) Descriptive literature and sales aids issued by an insurer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters;
- (3) Prepared sales talks, presentations and material for use by producers; and
- (4) Product descriptions, illustrations, web pages and other materials available on the internet.

(b) “Exception” means any provision in a policy which eliminates coverage for a specified hazard through a statement of a risk the policy does not assume.

(c) “Insurer” means any individual, producer, corporation, association, partnership, health maintenance organization, reciprocal exchange, interinsurer, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy as herein defined.

(d) “Limitation” means any provision in a policy which restricts coverage under the policy that is not an exception or a reduction.

(e) “Policy” means any, plan, certificate, contract, agreement, statement of coverage, rider or endorsement that provides **life,** accident or health benefits or medical, surgical or hospital expense benefits whether on a cash indemnity, reimbursement, or service basis. “Policy” does not include the disability and double indemnity benefits included in insurance lines defined in RSA 401.01 III, **or any policy that is regulated by Ins 2601, Ins 2602, Ins 2603, or Ins 3600.**

(f) “Policy elimination period” means any period between the policy’s effective date and the effective date of coverage for specified illness if such illness is not covered as of the policy’s effective date, or any period between the time loss occurs and the time coverage begins.

(g) “Reduction” means any provision in a policy that reduces a benefit amount wherein the policy does assume some risk of loss, but the insurer limits payment to an amount or period of time that is less than the policy would cover if the contract did not include the reduction provision.

Ins 2604.04 **Reference to Policy Form Numbers.** All printed advertisements except general invitations to inquire about the details of policies shall carry a reference number for any contract form mentioned in the advertisement.

Ins 2604.05 Advertisements in General.

- (a) Advertisements shall be truthful and not misleading in fact or in implication.
- (b) Advertisements shall use words or phrases whose meaning is direct and unambiguous and not words or phrases whose meaning is clear only by implication.
- (c) Advertisements shall not use words or phrases that are clear only to people who understand insurance terminology.
- (d) Advertisements containing disclosures required pursuant to this part shall present:
 - (1) Required disclosures in close proximity to the information to which they relate so that the information to which a disclosure relates is clear to consumers;
 - (2) Disclosures shall be set out under appropriate captions of sufficient prominence so that the disclosures appear clear and conspicuous and do not become intermingled with other text; and
 - (3) Disclosures shall be set out in full and complete, in a manner that does not render the information unclear, confusing, ambiguous, or obscure.
- (e) An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits. Advertisements shall not falsely or maliciously disparage competitors, their policies, services or business methods.
- (f) A policy advertisement 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.
- (g) An advertisement shall not contain untrue statements about the time within which claims are paid, or the number of claims paid. An advertisement shall not contain statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.
- (h) An advertisement shall not contain statements about the insurer's assets, corporate structure, financial standing, age or relative position in the insurance industry that are untrue or misleading.
- (i) Insurers shall maintain complete control over the content, form and method of dissemination of its advertisements at all times. The sponsoring insurer shall be responsible for all advertisements, regardless of whether another party has written, created, or designed the advertisement.
- (j) Disclosed information shall be set out in type size at least as large as the statements to which the information relates, and in a font style the same as or comparable with the font style used for the statements to which the information relates.

Ins 2604.06 Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

- (a) An insurer shall not use misleading words, phrases, statements, references or illustrations, or omit information that might mislead or deceive the consumer as to:
 - (1) Any policy benefit payable;
 - (2) Any loss covered; or
 - (3) Any premium payable.

(b) When an advertisement describes any policy benefit payable, loss covered or premium payable, the insurer shall use only words and phrases in the advertisement that give complete and clear information and do not mislead or deceive, as follows:

- (1) An advertisement shall not use the following words and phrases: "all," "full," "complete," "comprehensive," "unlimited," "this policy will pay your hospital and surgical bills," or "this policy will replace your income," or similar words and phrases to refer to any coverage that is, in fact, subject to any exception, reduction or limitation, unless the advertisement includes appropriate disclosure;
- (2) An advertisement shall not use words or phrases such as "up to," "as high as," or similar words or phrases to describe the dollar amount payable for any losses or expenses except:
 - a. When the contract provides benefit payments for such losses or expenses actually sustained by a policyholder in all cases; or
 - b. When the advertisement includes appropriate disclosure of either:
 1. The complete schedule of payments provided by the contract; or
 2. The specific loss or expense for which the contract pays the represented dollar amount, as well as a statement indicating that the actual benefit will vary in amount depending on the particular kind of loss or expense incurred; and
- (3) When an insurer advertises a policy that provides surgical benefits, and the advertisement refers to specific dollar amounts for coverage of surgical procedures, the insurer shall:
 - a. Derive a list of 6 commonly performed surgical procedures for which the advertised policy provides coverage, and the insurer shall periodically review and update this list, to ensure its continuing validity; and
 - b. Disclose this list of procedures, along with the relevant maximum and minimum benefit limits from the insurer's surgical schedule for each of the listed procedures.
- (c) An advertisement shall list the surgical procedures in terms that the average reader understands easily. An advertisement for a policy that covers only one disease or a list of specified diseases shall not imply coverage beyond the terms of the policy. The advertisement shall not use a synonymous term for any disease to imply broader coverage than is the fact.
- (d) Advertisements shall not refer to policy benefits when the benefits paid vary for the same loss occurring under different conditions, or when the benefits are paid only when a loss occurs under certain conditions, unless the advertisement discloses these conditions.
- (e) An advertisement shall not use phrases that indicate that the policy pays a specific amount for hospital room and board expenses without disclosing the maximum daily benefit and the maximum time limit for hospital room and board expenses.
- (f) An advertisement shall not represent the weekly, monthly, or other periodic benefits payable under a contract without disclosing:
 - (1) Any limits on the time period over which such benefits will be paid; or
 - (2) The number of payments that will be made if the contract limits such benefits in time or number.

(g) No advertisement shall use the following words or phrases "extra cash," "extra income," "extra pay," or substantially similar words or phrases that could lead the public to believe that the contract advertised will enable them to financially profit from being hospitalized.

(h) No advertisement shall represent or imply that a contract may continue indefinitely or for any period of time, when:

(1) The contract permits the insurer to non-renew or cancel the policy; or

(2) The contract permits the insurer to terminate the policy under any circumstances over which the insured has no control, during the period of time represented.

(i) An advertisement that refers to any coverage as **[bring]being** limited to a certain age group shall disclose such limitation. When applicable, such advertisement shall state clearly that the insured will receive reduced benefits upon attaining a certain age.

(j) An advertisement that refers to a contract that may be renewed, cancelled, or terminated shall disclose any and all related provisions, including possible modification of policy terms relating to benefits, coverages or premiums, and any qualifying conditions.

(k) No insurer shall state or imply that a consumer shall obtain coverage, or guaranteed issuance of a policy, unless the insurer has maintained administrative procedures and sufficient staff to ensure that it will issue the policy within a maximum of 15 days after receiving the application.

(l) An advertisement of a hospital indemnity policy that includes words or phrases describing the policy's benefits shall disclose:

(1) The actual amounts payable per day; and

(2) The fact that the insurer will pay such benefits during hospital confinement only.

(m) No advertisement shall depict scenes that could scare a reader into purchasing a policy. Such scenes include but shall not be limited to scenes of hospital operating rooms, disabled persons, bed patients in or out of the hospital, doctors' offices, accident scenes, or scenes of other tragedies.

(n) All printed advertisements for policies that include certain exceptions, reductions or limitations shall display and use a separate box clearly distinguishable from the remainder of the advertisement to set forth the required disclosures.

(o) The box required in (n) above shall be as follows:

(1) For black and white advertisements, the box shall carry a border that stands out due to its size from the remainder of the advertisement;

(2) For color advertisements, the box shall carry a border that stands out due to its color from the remainder of the advertisement; and

(p) An advertisement may omit a schedule, chart or a detailed explanation, otherwise required by this part, from the box if the box includes a reference to the exact location where the schedule, chart or explanation appears elsewhere in the advertisement.

(q) The box required in (n) above shall include a statement that indicates the policy might contain exceptions, reductions or limitations in addition to those set forth in the box.

(r) The box required in (n) above shall only use negative language to describe policy limitations and exclusions, so that the language indicates what the policy does not cover, rather than what the policy does cover.

(s) Exceptions, reductions, or limitations of benefits described in the box required in (n) above shall include:

- (1) Treatment of preexisting conditions;
- (2) Policy elimination periods;
- (3) The fact that indemnity is payable only when the insured is confined to a hospital;
- (4) The fact that confinement in rest homes, nursing homes, V.A. hospitals, or other types of extended care in a facility are not covered;
- (5) The fact that the policy does not cover certain deductibles;
- (6) The fact that the policy does not duplicate benefits provided by federal or state legislation, such as workers compensation; and
- (7) The fact that the policy covers hospital bills and not doctors' bills or vice versa.

(t) When an advertisement refers to terms or conditions of the policy, including but not limited to specific dollar amounts, or policy benefits, and times or ages in connection with coverage eligibility, it shall also disclose any related exception, reduction or limitation.

(u) Advertisements for policies that include any exception, reduction or limitation related to a preexisting condition, shall:

- (1) 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) Not state or imply that the insurer will issue a policy or pay claims under the policy regardless of the applicant's physical condition or medical history, when the policy does not cover losses traceable to preexisting conditions;
- (3) **Not [U]se** the phrase "no medical examination required" or phrases of similar meaning when the policy does not cover losses traceable to preexisting conditions; and
- (4) For policies that do not require a medical examination, disclose any conditions pertaining to or involving the insured's health that would limit benefits paid under the contract.

Ins 2604.07 Testimonials.

(a) When an advertisement uses a testimonial, the testimonial shall:

- (1) Be genuine;
- (2) Apply to the policy advertised;
- (3) Be accurately reproduced; and
- (4) Disclose:

- a. When the author of a testimonial has received compensation for the testimonial; and

b. When the author of a testimonial has a financial interest in the company or a related entity as a stockholder, director, compensated employee, or any other interest.

(b) The insurer shall be responsible for all of the statements contained in any testimonial as if such testimonials were stated directly by the insurer.

Ins 2604.08 Use of Statistics.

(a) An advertisement shall not use statistics unless the advertisement accurately reflects all the relevant facts related to the stated statistic.

(b) Statistics shall include, but not be limited to:

- (1) The dollar amounts of claims paid;
- (2) The time within which claims are paid;
- (3) The number of claims paid; or
- (4) The number of persons insured.

(c) An advertisement that uses statistics shall not imply that the statistics are derived from the policy advertised unless such is the fact.

Ins 2604.09 Inspection of Policy. An advertisement shall not attempt to cure misleading or deceptive statements by offering the consumer a free policy inspection or premium refund.

Ins 2604.10 Identification of Plan or Number of Policies.

(a) When an advertisement refers to a choice in the amount of benefits, it shall disclose that the amount of benefits and the premium depend upon the selected plan.

(b) When an advertisement refers to various benefits, that might be contained in 2 or more policies, the advertisement shall disclose that the insured can obtain such benefits only by combining these policies. This requirement shall not apply to group master policies.

Ins 2604.11 Jurisdictional Licensing.

(a) An advertisement that appears or airs beyond the limits of the jurisdiction in which the insurer is licensed shall not imply in the advertisement that the insurer is licensed beyond those limits.

(b) Direct mail advertisements that appear beyond the limits of the licensure jurisdiction shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states. Direct mail advertisements shall use language such as "This Company is licensed only in State "A" or "This Company is not licensed in State B", or "This policy is not available to residents of".

(c) Any advertisement that originates outside the state of New Hampshire, but that can reasonably be expected to be seen or heard in this state, shall comply with this part, except when the advertisement prominently sets forth an appropriate disclaimer such as: "This policy is not available to residents of New Hampshire."

Ins 2604.12 Identity of Insurer.

(a) All advertisements shall make the insurer's identity clear. An advertisement shall not use a trade name, service mark, slogan, symbol or other device that could mislead or deceive as to the true identity of the insurer.

(b) An advertisement that uses an address other than the insurer's home office shall properly identify such address as a district office, branch office, or other office. An advertisement that uses a designation such as "Disability Division" shall not give such designation greater prominence than the name of the insurer. An advertisement shall not use such a designation except in connection with any address other than the insurer's actual office address.

(c) No advertisement or sales solicitation material shall use any combination of words and/or physical materials that resemble combinations or words and/or physical materials used by agencies of the federal government or the state of New Hampshire, in any manner that might confuse and/or mislead prospective insureds to believe that the solicitation relates to an agency of the state or federal government.

Ins 2604.13 Introductory, Initial or Special Offers.

(a) An advertisement shall not falsely state or imply that a particular policy or combination of policies is an introductory, initial, special or limited enrollment policy.

(b) An advertisement shall not contain phrases such as "special enrollment," "special limited enrollment," "enrollment deadline," "acceptance period," or similar words or phrases that falsely imply:

(1) That an interested party shall apply by a specific deadline to obtain the particular contract advertised, or to obtain any contract of the same insurer which offers substantially similar coverage;

(2) That the insurer shall receive an interested party's application by a prescribed date and that it will not accept the application thereafter;

(3) That the policy shall not be available at a future date; and

(4) That an applicant shall receive advantages not available at a later date if he or she applies immediately.

(c) An advertisement shall not state that the insurer requires an enrollment period, when less than 90 days separates the ending date of one enrollment period and the beginning date of the next enrollment period for the same contract, or any substantially similar contract the insurer offers in the state.

(d) An insurer shall not advertise or use [of] a first month premium rate of less than 1/12 of the annual premium for any contract, except when the insurer substantiates that it reduces benefits paid during the first month of the contract in proportion to the premium it charges during that period.

Ins 2604.14 Third Party Approval and Endorsement.

(a) An advertisement shall not state or imply that a governmental agency has approved an insurer or a policy, or has examined an insurer's financial condition and found it satisfactory, unless such is the fact.

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

Ins 2604.15 Advertising File.

- (a) Each insurer shall maintain at its home or principal office a complete file that contains:
 - (1) Every printed, published or prepared advertisement of individual policies; and
 - (2) Typical printed, published or prepared advertisements for blanket, franchise and group policies that the insurer has published.
- (b) The required file shall include such advertisements appearing in this state or any other state, whether or not the insurer carries a license in such other state.
- (c) The insurer shall attach a notation to each advertisement, that indicates the manner and extent of distribution, and the form number of any policy advertised.
- (d) The insurer shall maintain all advertisements in the file for a period of not less than 3 years.
- (e) The insurer shall make the advertising file available to the commissioner or his or her designee for inspection.

Ins 2604.16 Soliciting Names of Prospective Insureds. Any advertisement which the insurer uses to solicit leads for prospective applicants shall disclose that an agent for the insurer will contact the applicant if such is the fact.

Ins 2604.17 Penalty Provisions. Any insurer who knowingly violates any requirement of this part shall be subject to the penalty provisions of RSA 400-A:15.

APPENDIX

Rule	Statute
Ins 2601.01	RSA 400-A:15, I; 406-A:1, I; 406-A:3; 417:3; 417:4, I, III
Ins 2601.02	RSA 400-A:15, I; 406-A:1, I; 406-A:3; 417:3; 417:4, I, III; 402-H:5
Ins 2601.03	RSA 400-A:15, I; 406-A:1, I; 406-A:3; 417:3; 417:4, I, III
Ins 2601.04	RSA 400-A:15, I; 417:4, I, III
Ins 2601.05	RSA 417:4, I
Ins 2601.06	RSA 406-A:1; 406-A:3; 417:1; 417:3; 417:4, I, III, XIII
Ins 2601.07	RSA 417:4, I, III
Ins 2601.08	RSA 417:4, I, III
Ins 2601.09	RSA 417:4, I, II, III, IV, VI
Ins 2601.10	RSA 417:4, I, II, III, IV, VI
Ins 2601.11	RSA 417:4, I, III, XIII
Ins 2601.12	RSA 417:4, I, III, IV
Ins 2601.13	RSA 406-A:1; 406-A:3; 417:1; 417:3; 417:4, I, III
Ins 2601.14	RSA 406-A:1; 406-A:3; 417:1; 417:3; 417:4, I, III
Ins 2601.15	RSA 417:4, I, III
Ins 2601.16	RSA 417:4, I, III, IX
Ins 2601.17	RSA 417:4, IV, VI
Ins 2601.18	RSA 400-B
Ins 2601.19	RSA 400-A:15, I; 406-A:1, I; 406-A:3
Ins 2601.20	RSA 400-A:15, III; 417:10; 417:13
Ins 2602.01	RSA 400-A:15, I; 406-C:8; 417:3; 417:4, III
Ins 2602.02	RSA 400-A:15, I; 406-C:8; 417:3; 417:4, III
Ins 2602.03	RSA 400-A:15, I; 406-C:8; 417:3; 417:4, III
Ins 2602.04	RSA 400-A:15, I; 406-C:8; 417:4, I, III, VIII
Ins 2602.05	RSA 400-A:15, I; 406-C:8; 417:4, I, III, VIII
Ins 2602.06	RSA 406-C:8; 417:3; 417:4, I, III
Ins 2602.07	RSA 406-C:8; 417:3; 417:4, I, III
Ins 2602.08	RSA 417:4, IV, VI
Ins 2602.09	RSA 400-A:15, I; 400-B; 406-C:8; 417:1; 417:3; 417:4, I, II, III
Ins 2602.10	RSA 400-A:15, III; 417:10; 417:13
Ins 2602.11	RSA 400-A:15, III
Ins 2603.01	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.02	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.03	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.04	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.05	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.06	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.07	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.08	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.09	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.10	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.11	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.12	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.13	RSA 415-F:3, III, IV; 415-F:7

Ins 2603.14	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.15	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.16	RSA 415-F:3, III, IV; 415-F:7
Ins 2603.17	RSA 415-F:3, III, IV; 415-F:7
Ins 2604.01	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, III
Ins 2604.02	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, III
Ins 2604.03	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, III
Ins 2604.04	RSA 417:4, I, III
Ins 2604.05	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, III, XIII, XIV
Ins 2604.06	RSA 417:4, I, III, VIII, IX, XII, XIII, XIV
Ins 2604.07	RSA 417:4, I, II, III, IV, VI
Ins 2604.08	RSA 417:4, I, II, III, IV, VI
Ins 2604.09	RSA 406-A:1, 406-A:3, 406-C:8; 417:4, I, II, III, IX, XII, XV
Ins 2604.10	RSA 417:1; 417:3; 417:4
Ins 2604.11	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, III
Ins 2604.12	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, III
Ins 2604.13	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4 I, II, III, XII
Ins 2604.14	RSA 417:4, I, II, III, IV, VI
Ins 2604.15	RSA 400-B:3
Ins 2604.16	RSA 406-A:1; 406-A:3; 406-C:8; 417:1; 417:3; 417:4, I, II, III
Ins 2604.17	RSA 400-A:15, III; 417:10; 417:13