

4. Where, pursuant to (k)3 above, a spokesperson required to be licensed as an insurance producer is not licensed as an insurance producer, the advertisement shall include, in the manner prescribed by (k)5 below, the following statement: "This offer is not available in New Jersey." The requirements of this paragraph shall apply to cases where the advertisement originates in or emanates from another state but is received or appears in New Jersey and to advertisements which originate in or emanate from New Jersey.

5. The fact of a financial interest, or the proprietary or representative capacity of a spokesperson, shall be disclosed in an advertisement. In both television and radio advertising, the disclosure shall be spoken by the spokesperson and, in the case of television, visually presented consistent with the requirements for print advertising in this subsection. In print advertising, the disclosure shall be presented in a type style and size that is at least equal to the largest type otherwise used in the advertisement. The disclosure required by this paragraph shall be accomplished in the introductory portion of the endorsement and shall be given prominence.

6. If a spokesperson is directly or indirectly compensated for making an endorsement, such fact shall be disclosed by use of the phrase "This is a Paid Endorsement" or by words of similar meaning in the manner provided by (k)5 above. The requirements of this paragraph do not apply where the spokesperson is a company officer, a company director or an employee who is paid generally, but not specifically, for making the advertisement.

7. The disclosure requirements of this subchapter shall not apply where the sole financial interest or compensation of a spokesperson, for all 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 such "scale" for television or radio performances.

8. An advertisement shall not state or imply that an insurer, policy or contract, or any type or line of insurance has been approved or endorsed by any individual, group of individuals, society, association, organization, governmental agency or other entity, unless such is the fact and any proprietary relationship between such individual(s) or entity and the insurer is disclosed and the prior written approval of the individual, group of individuals, society, association, organization, governmental agency or other person has been secured. Prior written approval shall not be required in cases where the endorsing individual is a company officer, company director or employee.

9. If the person making the endorsement in (k)8 above 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, such 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 also be disclosed.

10. 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 until the completion by the Department of the next market conduct examination of the insurer.

11. Endorsements which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefits being advertised shall not be used.

12. An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency unless such is the fact and without prior written approval.

(l) 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 such statistics used in an advertisement shall be identified therein.

(m) Advertisements referring to introductory, initial, or special offers and enrollment periods must comply with the following requirements:

1. An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such 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 such 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 which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised; and

4. An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered in New Jersey unless there has been a lapse of not less than three months between the close of the immediately preceding enrollment period. The advertisement shall specify the date by which the applicant must

mail the application, which shall be not less than 10 days and not more than 40 days from the date on which such enrollment period is advertised for the first time.

i. Paragraph (m)4 above applies to all advertising media, that is, mail, newspapers, radio, television, magazines, and periodicals, by any one insurer. The phrase “any one insurer” includes all the affiliated companies of a group of insurance companies under common management or control.

ii. Paragraph (m)4 above does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his or her request.

iii. Paragraph (m)4 above is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the New Jersey insurance laws for group or blanket insurance.

iv. In cases where an insurance product is marketed on a direct basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

(n) 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 such is the fact.

(o) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. An advertisement shall not falsely or unfairly describe other insurers, their policies, services, or methods of marketing.

(p) On transactions involving the sale of annuities that are subject to the provisions of N.J.S.A. 17B:25-34 et seq., insurers and producers shall comply with all such provisions and with N.J.A.C. 11:4-59 regarding disclosure and suitability requirements for such annuities.

Amended by R.1989 d.391, effective July 17, 1989.

See: 21 N.J.R. 970(a), 21 N.J.R. 2039(a), 21 N.J.R. 2289(c).

At (k), requirements regarding third party endorsements greatly expanded.

Amended by R.2001 d.6, effective January 2, 2001.

See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

Amended by R.2005 d.350, effective October 17, 2005.

See: 37 N.J.R. 2285(a), 37 N.J.R. 4026(a).

In (k)3, added “-28” following “defined at N.J.S.A. 17:22A”, substituted “N.J.S.A. 17:22A-29” for “N.J.S.A. 17:22A-3”, and substituted “N.J.S.A. 17:22A-26 et seq.” for “N.J.S.A. 17:22A-1 et seq.”.

Amended by R.2011 d.153, effective June 6, 2011.

See: 42 N.J.R. 1303(a), 43 N.J.R. 1344(b).

Added (p).

### 11:2-23.6 Identification of insurer, plan and number of policies

(a) The name of the insurer shall be clearly identified, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, an insurance group designation, name of a parent company of the insurer, name of a particular division 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.

(b) No advertisement shall use any combination of words, symbols, or physical materials which 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 such governmental program or agency.

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

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

#### Case Notes

Fine was appropriate penalty for insurance broker’s misleading advertisement. *Karpinski v. Automated Insurance Concepts Agency, Inc.*, 96 N.J.A.R.2d (INS) 13.

### 11:2-23.7 Jurisdictional licensing and status of insurer; statements about the insurer

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

(b) An advertisement may state that an insurer is licensed in the state where the advertisement appears, provided that it does not exaggerate such fact or suggest or imply that competing insurers may not be so licensed.

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

(d) 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. If a governmental

entity has recommended or endorsed a policy form or plan, however, such fact may be stated if the entity authorized its recommendation or endorsement to be used in an advertisement and if the advertisement clearly defines the scope and extent of the recommendation.