

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 organiza-

tion, 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.

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.

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.

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.

(e) An advertisement shall not contain statements, pictures, or illustrations which 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.

11:2-23.8 Insurers' responsibility and control; advertising file; certificate of compliance

(a) All advertisements, regardless of by whom written, created or designed, shall be the responsibility of the insurer sponsoring the same.

(b) Every insurer shall at all times maintain complete control over the content, form and method of distribution of all advertisements of its contracts.

(c) Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of blanket, franchise, and group policies hereafter distributed in this state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised.

(d) Such file shall be subject to regular and periodic inspection by the Department of Insurance.

(e) All such advertisements shall be maintained in said file for a period of five years from their last use.

(f) Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of this subchapter must file with the Department of Insurance, together with its annual statement, a certificate executed by an authorized officer of the insurer where-in it is stated that to the best of his knowledge, information and belief the advertisements were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws of this State as implemented and interpreted by this subchapter.

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. 2290(a).

Deleted requirement that files be maintained for not less than four years.

11:2-23.9 Failure to comply

Failure to comply with the provisions of this subchapter shall subject the offender to the penalties set forth under N.J.S.A. 17B:30-17 and any other penalty authorized by law.

11:2-23.10 Severability

If any provision or clause of this subchapter or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are declared to be severable.

SUBCHAPTERS 24 THROUGH 25. (RESERVED)

SUBCHAPTER 26. ANNUAL AUDITED FINANCIAL REPORTS

11:2-26.1 Purpose

(a) The purpose of this subchapter is to improve the Department's surveillance of the financial position of insurers by requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

(b) This subchapter shall not be construed to prohibit, preclude or in any way limit the Commissioner from ordering, conducting or performing examinations of insurers pursuant to law.

Amended by R.1993 d.68, effective February 1, 1993.
See: 24 N.J.R. 1940(a), 24 N.J.R. 2708(a), 25 N.J.R. 588(a).