

**State of Rhode Island and Providence Plantations**  
**DEPARTMENT OF BUSINESS REGULATION**  
*Division of Insurance*  
**1511 Pontiac Avenue, Bldg. 69-2**  
**Cranston, Rhode Island 02920**

**Public Notice of Proposed Rule-Making**

Pursuant to the provisions of R.I. Gen. Laws § 42-14-5, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to repeal Insurance Regulation 47 - Advertisement of Medicare Supplement Insurance

The purpose of this repeal is because regulatory authority over the subject matter covered by the regulation has been transferred from the Department of Business Regulation to the Office of the Health Insurance Commissioner. The Office of Health Insurance Commissioner adopted a substitute regulation on this subject (OHIC regulation 9) effective May 1, 2010.

The regulation and proposed repeal are available for public inspection at [www.dbr.ri.gov](http://www.dbr.ri.gov), in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or requested by email [edwyer@dbr.state.ri.us](mailto:edwyer@dbr.state.ri.us) or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed repeal consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed repeal by October 20, 2009 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1151 Pontiac Avenue, Cranston, Rhode Island 02920, [edwyer@dbr.state.ri.us](mailto:edwyer@dbr.state.ri.us). A public hearing to consider the proposed repeal shall be held on October 20, 2009 at 10:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling (401) 462 9520 or TDD 711.

A. Michael Marques  
Director, Department of Business Regulation

**State of Rhode Island and Providence Plantations**  
**DEPARTMENT OF BUSINESS REGULATION**  
*Division of Insurance*  
**233 Richmond Street**  
**Providence, RI 02903**

**INSURANCE REGULATION 47**

**ADVERTISEMENT OF MEDICARE SUPPLEMENT INSURANCE**

**Table of Contents**

Section 1	Purpose and Authority
Section 2	Applicability
Section 3	Definitions
Section 4	Method of Disclosure of Required Information
Section 5	Form and Content of Advertisements
Section 6	Advertisements of Benefits, Losses Covered or Premiums Payable
Section 7	Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination
Section 8	Testimonials or Endorsements by Third Parties
Section 9	Use of Statistics
Section 10	Disparaging Comparisons and Statements
Section 11	Jurisdictional Licensing and Status of Insurer
Section 12	Identity of Insurer
Section 13	Group or Quasi-Group Implications
Section 14	Introductory, Initial or Special Offers
Section 15	Statements About an Insurer
Section 16	Enforcement Procedures
Section 17	Severability Provision
Section 18	Filing Requirements for Advertising

**Section 1** — **Purpose and Authority**

~~The purpose of these rules is to provide prospective purchasers 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 are conducive to accurate presentation and description to the segment of the insurance-buying public through the advertising media and material used by insurance agents and companies. This~~

regulation is issued pursuant to the authority vested in the Director under R.I. Gen. Laws §§ 27-18.2-1 *et seq.*, 27-29-1 *et seq.* and 42-62-12.

## **Section 2** — *Applicability*

- A. — ~~These rules apply to any Medicare supplement insurance "advertisement" as that term is defined herein unless otherwise specified in these rules, disseminated in this state, which the insurer knows or reasonably should know is intended for presentation, distribution or dissemination in this State when such 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 27 and in these rules.~~
- 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 which are reproduced in quantity shall be identified by form numbers or other identifying means. Such identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.~~

## **Section 3** — *Definitions*

- A. — ~~An advertisement for the purpose of these rules shall include:~~
  - (1) — ~~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, and similar displays;~~
  - (2) — ~~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, and form letters and lead-generating devices of all kinds as herein defined; and~~
  - (3) — ~~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.~~

~~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.~~

~~The definition of "advertisement" does not include:~~

- ~~(1) material to be used solely for the training and education of an insurer's employees, agents or brokers;~~
- ~~(2) material used in-house by insurers;~~
- ~~(3) communications within an insurer's own organization not intended for dissemination to the public;~~
- ~~(4) individual communications of a personal nature with current policyholders other than material urging such policyholders to increase or expand coverages;~~
- ~~(5) correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;~~
- ~~(6) court approved material ordered by a court to be disseminated to policyholders; or~~
- ~~(7) a general announcement from a group or blank policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided, the announcement must clearly indicate that it is preliminary to the issuance of a booklet.~~

~~B. "Director" means the Director of Business Regulation.~~

~~C. "Medicare Supplement Insurance" means a group or individual policy of accident and sickness insurance or a subscriber contract of a hospital or medical service corporation or health maintenance organization which 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.~~

~~D. "Certificate" means, for the purpose of this Rule, any certificate issued under a group Medicare supplement policy, which certificate has been delivered or issued for delivery in this State.~~

~~E. "Insurer" for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer,~~

~~Lloyd's, 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 27 and is engaged in the advertisement of itself, or a Medicare Supplement Policy.~~

~~F. "Exception" for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.~~

~~G. "Reduction" for the purpose of these rules shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.~~

~~H. "Limitation" for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.~~

~~I. "Institutional Advertisement" for the purpose of these rules shall mean 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.~~

~~J. "Invitation to Inquire" for the purpose of these rules shall mean an advertisement having as its objective the creation of a desire to inquire further about a Medicare supplement insurance Policy which is limited to a brief description of coverage, and which 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, including exclusions, reductions, limitations and terms for policy continuance call (or write) your insurance agent or the company (whichever is applicable).~~

~~K. "Invitation to Contract" for the purpose of these rules shall mean an advertisement which is neither an institutional advertisement nor an invitation to inquire.~~

~~L. "Person" for the purpose of these rules shall mean any natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.~~

M. ~~"Medicare" shall be defined as "The Health Insurance for the Aged Act, Title XVIII of The Social Security Amendment of 1965 as Then Constituted or Later Amended," or "Title I, Part 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.~~

N. ~~"Lead-Generating Device," for the purpose of these rules, shall mean any communication directed to the public which, regardless of form, content or stated purpose; results, or 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.~~

#### **Section 4 — Method of Disclosure of Required Information**

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

#### **Section 5 — 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 Director 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 must clearly identify its Medicare supplement insurance as an insurance policy [or subscriber contract, certificate or other term appropriate to the insurer]. A policy trade name must be followed by the words, . . . "Insurance Policy" [or other appropriate term] or similar words clearly identifying the fact that the Medicare supplement insurance 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, 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 these rules.~~

~~E. — No insurer, agent, broker, producer, 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 which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of such person or the true purpose of the advertisement.~~

~~**Section 6 — 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 such 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 which also is an invitation to join an association, trust, or discretionary group must solicit insurance coverage on a separate and distinct 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. This insurance program must 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 it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even pre-existing conditions are covered after six (6) months." Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such 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" it is a "low cost plan" or use other similar words or phrases, because the cost of advertising and servicing such policies is a substantial cost in marketing by direct response.~~

~~B. — Exceptions, Reductions and Limitations:~~

- ~~(1) — An advertisement which 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 at a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of the preceding paragraph shall disclose the existence of such 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. — Pre-existing Conditions:~~

- ~~(1) — An advertisement which describes Medicare supplement benefits shall, in negative terms, 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. The term "pre-existing condition" shall not be used without an appropriate definition or description.~~
- ~~(2) — When a policy does not cover losses resulting from pre-existing conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This rule 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, such application form shall contain a question or statement which reflects the pre-existing 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 six (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 six (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 six (6) months after the issue date or for which treatment was recommended by or received from a physician within six (6) months before the issue date.~~

~~**Section 7 — Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination**~~

~~An advertisement which 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.

**Section 8** — *Testimonials or Endorsements by Third Parties*

- A. — ~~Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules. When a testimonial is used more than one year after it was originally given, a confirmation must 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; or~~
  - ~~(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; or~~
  - ~~(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, such 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 a 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 must be accomplished in the introductory portion of the advertisement and must be given prominence.~~
- D. — ~~The disclosure requirements of this rule 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 such "scale" for TV or radio performances.~~

- ~~E. — An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, 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, 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 policy making position in the association, that fact must be disclosed.~~
- ~~F. — When a testimonial refers to benefits received under a 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 four 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 which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefit being advertised is not permissible.~~

~~**Section 9 — 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 such 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 policy to which statistics relate and, where statistics are given which are applicable to a different policy, it must be stated clearly that the data do not relate to the policy being advertised.~~
- ~~(2) — Any advertisement using statistics which 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, must be used with extreme caution because of potential for misleading the public. As a specific example, an advertisement for a Medicare supplement policy which 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 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 such advertisement.~~

### **Section 10 — Disparaging Comparisons and Statements**

~~An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or 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 which state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are unacceptable unless such exceptions, reductions or limitations are contained in a substantial majority of such competing coverages.~~
- ~~C. Advertisements which 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.~~

### **Section 11 — Jurisdictional Licensing and Status of 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 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 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.~~

**Section 12** — *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 any advertisement describing Medicare supplement benefits. An advertisement shall not use a trade name, any 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 which 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 which 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 which employ words, letters, initials, symbols or other devices which are similar to those 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 such governmental agencies or such other insurers;~~
- ~~(2) — that the advertiser is the same as, is connected with or is endorsed by such governmental agencies or such 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 stationery 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, wherever it appears, said word is qualified by language differentiating it from Medicare. Such phrases as "Medicare supplement" are acceptable. Such an advertisement, however shall not use the "\_\_\_\_\_ 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 letter, 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 letter, initials, or symbols of the corporate name or trademark.~~
- ~~J. — 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.~~
- ~~K. — The use of an address so as to mislead or deceive as to true identity of the insurer, location or licensing status is prohibited.~~
- ~~L. — An agent who makes contact with a consumer, as a result of acquiring that consumer's name from a lead generating device must disclose such fact in the initial contact with the consumer.~~

**Section 13 — Group or Quasi-Group Implications**

~~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 such is the fact.~~

~~This rule prohibits the solicitation 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.~~

**Section 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 must mail the application, which shall be not less than 10 days and not more than 40 days from the date that such enrollment period is advertised for the first time. This rule applies to all advertising media, i.e., 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.~~
- (3) — ~~This rule 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 such is the fact.~~
- (4) — ~~The phrase "a particular insurance product" in Paragraph (2) of this Section means an insurance policy which 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 which utilizes a reduced initial premium rate in a manner which 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 must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. The term "juxtaposition" means beside or immediately above or below.~~

- ~~C. Special awards, such as a "safe drivers award" shall not be used in connection with advertisements of Medicare supplement insurance.~~

### ~~Section 15 — Statements About an Insurer~~

~~An advertisement shall not contain statements which 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.~~

### ~~Section 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 such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be available for inspection by this Department. All such advertisements shall be maintained in said file for a period of either four 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 these rules must 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 which were disseminated by the insurer (beginning in 1989 with the effective date of this regulation and for each calendar year thereafter) during the preceding statement year complied or were made to comply in all respects with the provisions of these rules and the Insurance Laws of this State as implemented and interpreted by these rules.~~

**~~Section 17~~ — Severability Provision**

~~If any section or portion of a Section of these rules, or the applicability thereof to any person or circumstances is held invalid by a court, the remainder of the rules, or the applicability of such provision to other persons or circumstances, shall not be affected thereby.~~

**~~Section 18~~ — Filing Requirements for Advertising**

~~Every insurer, health care service plan or other entity providing Medicare supplement insurance or benefits in this State shall provide a copy of any Medicare supplement advertisement intended for use in this State whether through written, radio or television medium to the Director for review or approval by the Director to the extent it may be required under state law.~~

EFFECTIVE DATE: September 11, 1989  
AMENDED: None  
REFILED: December 19, 2001  
REPEALED: November , 2009