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**Rules of  
Department of Insurance  
Division 400—Life, Annuities and Health  
Chapter 5—Advertising**

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## Title 20—DEPARTMENT OF INSURANCE

### Division 400—Life, Annuities and Health Chapter 5—Advertising

#### 20 CSR 400-5.100 Life Insurance Advertising

*PURPOSE: These rules set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of material and relevant information in the advertising of life insurance policies and annuity contracts and to specify the criteria by which the Missouri Department of Insurance will evaluate life insurance advertising. This rule was adopted pursuant to the provisions of section 374.045, RSMo and to implement sections 375.934 and 375.936, RSMo.*

##### (1) Definitions for the Purpose of These Rules.

(A) Advertisement shall be material designed to create public interest in life insurance or annuities or in an insurer or to induce the public to purchase, increase, modify, reinstate or retain a policy including:

1. Printed and published material, audio-visual material and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

2. Descriptive literature and sales aids of all kinds issued by an insurer or insurance producer, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations and form letters;

3. Material used for the recruitment, training and education of an insurer's sales personnel, and insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate or retain a policy; and

4. Prepared sales talks, presentations and material for use by sales personnel and insurance producers.

(B) Advertisement for the purpose of these rules shall not include:

1. Communications or materials used within an insurer's own organization and not intended for dissemination to the public;

2. Communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy; and

3. 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

or a booklet explaining the proposed coverage.

(C) Insurer shall include any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's, fraternal benefit society and any other legal entity which is defined as an insurer in the insurance code of this state or issue life insurance or annuities in this state and is engaged in the advertisement of a policy.

(D) Policy shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

##### (2) Applicability.

(A) These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this state.

(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 these advertisements, regardless of by whom written, created, designed or presented shall be the responsibility of the insurer.

##### (3) 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 as used in this rule shall be determined by the director of insurance from the overall impression that the advertisement reasonably may be 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, expansion plan, profit, profits, profit sharing, interest plan, savings plan or other similar terms in connection with a policy in a context or under circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of the policy to believe that s/he will receive or that it is possible that s/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.

##### (4) Disclosure Requirements.

(A) The information required to be disclosed by these rules shall not be minimized, obscured or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(B) No advertisement shall omit material information or use words, phrases, statements, references or illustrations if this omission or the 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 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 correct or remedy misleading statements.

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

(D) An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words life insurance unless accompanied by other language clearly indicating it is life insurance.

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

(F) An advertisement of an insurance policy marketed by the direct response technique 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 director of insurance prior to use.

(G) An advertisement for a 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 prominently disclosed.

(H) An advertisement for a policy with nonlevel premiums shall prominently describe the premium changes.

##### (I) Dividends.

1. An advertisement shall not utilize or describe dividends in a manner which is misleading or has the capacity or tendency to mislead.

2. An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends are illustrated, they must be based on the insurer's current dividend scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of dividends to be paid in the future.

3. An advertisement shall not state or imply that illustrated dividends under a participating policy, pure endowment, or both, will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at that time and under what conditions this would occur.

(J) 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.

(K) Testimonials or Endorsements by Third Parties.

1. Testimonials used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced. In using a testimonial, the insurer makes as its own all of the statements contained in it and these statements are subject to all the provisions of these rules.

2. If the individual making a testimonial or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise or receives any benefit directly or indirectly other than required union scale wages, this fact shall be 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 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 is owned, controlled or managed by the insurer or receives any payment or other consideration from the insurer for making the endorsement or testimonial, this fact shall be disclosed in the advertisement.

(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.

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

1. An advertisement of an individual policy or combination of these 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 which utilizes a reduced premium rate in a manner which over-emphasizes 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 on the same mode, 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.

4. An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than three (3) months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days following the date on which the enrollment period is advertised for the first time. This rule applies to all advertising media—that is, mail, newspaper, radio, television, magazines and periodicals—by any one (1) insurer. The phrase any one (1) insurer includes all the affiliated companies of a group of insurance companies under common management or control. This rule 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 acceptable by an insurer in those instances where the application has been sent to the applicant in response to his/her request. It 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 insurance code for group, blanket or franchise insurance. In cases where an insurance product is marketed on a direct mail 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 that 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) For individual deferred annuity products or deposit funds, the following shall apply:

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

2. If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it also shall disclose in close proximity and with equal prominence, the actual relationship between the gross and net premiums; and

3. If any contract does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning the contract shall prominently state that cash surrender benefits are not provided.

(5) Identity of Insurer.

(A) The name of the insurer shall be clearly identified in each advertisement 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 the 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 a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with that governmental program or agency.

(6) 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 may state that an insurer is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that competing insurers 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 currently or have been recommended or endorsed by any governmental entity unless that is the fact. However, when a governmental entity has recommended or endorsed a policy form or plan, that fact may be stated if the entity authorized its recommendation or endorsement to be used in an advertisement.

(7) Statements About the Insurer. 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, basis and extent of the recommendation.

(8) Enforcement Procedures.

(A) Each insurer shall maintain at its home or principal office a complete file containing a specimen copy 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 disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. This file shall be subject to inspection by the director or his/her lawfully appointed agents. All these advertisements shall be maintained in the file for a period of either three (3) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

(B) Each insurer subject to the provisions of these rules shall file with the director with its annual statement a certificate executed by an authorized officer of the insurer where it is stated that to the best of his/her knowledge, information and belief, the advertisements which were disseminated by or on behalf of the insurer in this state during the preceding statement year or during the portion of that year when these rules were in effect, 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.

(9) Conflict With Other Rules. It is not intended that these rules conflict with or supersede 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, rules dealing with life insurance cost comparison indices, deceptive practices in the sales of life insurance and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of these rules.

*AUTHORITY: sections 374.045, 375.934 and 375.936, RSMo 2000. \* This rule was previously filed as 4 CSR 190-13.020. Original rule filed Dec. 23, 1975, effective Jan. 2, 1976. Amended: Filed July 9, 1976, effective Feb. 20, 1977. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

*\*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.934, RSMo 1959, amended 1978, 1991; and 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991.*

**20 CSR 400-5.200 Deceptive Practices or Misrepresentations in the Solicitation of Life Insurance**

*PURPOSE: This rule describes those statements which will be considered to be deceptive practices or misrepresentations in the solicitation of life insurance. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements and defines sections 375.930-375.948, 376.500, 376.590 and 376.673, RSMo.*

(1) No insurance company shall deliver or issue in this state or permit its insurance producers or officers to deliver or promise to issue or deliver in this state its own stock or other stock or securities as an inducement to the purchase of insurance. No corporation or any of its insurance producers, officers or employees shall agree to sell, offer to sell, or

give or offer, directly or indirectly, in any manner whatsoever any share of stock, securities or bonds as an inducement to the purchase of insurance.

(2) The practices and representations enumerated and listed in this rule are deemed to violate those sections of the Missouri Insurance Code set out in this rule and violations of same by companies or their insurance producers shall subject the violators to the penalties now contained in section 375.930, RSMo. Violations of same will consist of any of the following statements:

(A) Statements of policy titles indicating or implying that the policyholder will participate in the distribution of earnings or surplus other than earnings or surplus attributable, by reasonable and nondiscriminatory standards, to the participating policies of the company and allocated to the policyholder on reasonable and nondiscriminatory standards;

(B) Statements or illustrations implying that a proposed policyholder will be entitled to share in any part of surplus earnings attributable to nonparticipating business or to other classes of participating business;

(C) Statements or illustrations setting forth the dividend scale of other companies (or a dividend scale of the company for a plan of insurance no longer being offered or for a plan of insurance other than the plan being offered to the proposed policyholder) with the implication that these statements or illustrations serve as some sort of a guideline as to what the proposed policyholder might expect to receive under the proposed policy;

(D) Statements or representations or the use of any documents (either in the form of a copy of a board resolution, certificate of participation or in any other manner whatsoever) in conjunction with the solicitation or issuance of a life insurance policy which purport that the policyholder will or might reasonably expect to receive any valuable consideration or inducement whatever, not specified in the policy contract of insurance;

(E) Statements which do not clearly inform one that dividends are not, and cannot be, guaranteed;

(F) Statements which purport or imply that accumulated dividends will be sufficient, after an unreasonably short period of time, to require no further cash outlay for the payment of premiums;

(G) Statements which purport or imply that the anticipated annual dividend will equal or exceed the annual premium due under the policy, except in those cases where the company's current rate manual so reflects;



(H) Statements indicating or implying that the policyholder will receive some preferential or discriminatory advantage or benefit not available to persons who purchase insurance from the company at future dates or under other circumstances;

(I) Statements or representations purporting that only a limited number of policies will be issued on a particular form (however true the statements might be) since those statements imply preferential treatment;

(J) References to the investment nature of a policy which state or imply that a life insurance policy possesses investment features other than those arising from the cash, loan or maturity value or the settlement options available thereunder;

(K) Statements which tend to lead the prospect to believe that the insurance producer is dealing in other than a life insurance contract or that life insurance is incidental to the purchase of the contract;

(L) Statements which tend to lead the prospect to believe that s/he is purchasing stock of the insurance company or that s/he is acquiring any right or benefit which corresponds to a right or benefit enjoyed by a stockholder of the company;

(M) References to premiums as deposits in a manner as to lead the proposed policyholder to believe that they create a fund which is withdrawable without reference to the cash surrender or loan provisions of the policy or the use of any passbook savings record or any other device which leads or would tend to lead the policyholder to believe or gain the impression that the contract represents a savings plan;

(N) Statements or representations that any part of premium payment, advance premium payment or of dividends will be placed in a segregated fund for the benefit of the insureds (except for those variable contracts which might be issued pursuant to section 376.309, RSMo);

(O) Statements which tend to lead a prospect to believe or infer that each policyholder is given the right to purchase or allocate a specific number of policies;

(P) The use of comparative selling in a manner which might lead a prospect to believe that the company's experience under a particular plan will be as successful as the experience achieved under a similar plan by reference to a particular company; and

(Q) Any comparison of the policies or contracts of any such insurer(s), shall be deemed to be an incomplete comparison, if it does not compare in detail the gross premiums and gross premiums less any dividend or other reduction allowed by the insurer(s), at the date of the comparison and the increase in

any cash values and all the benefits provided by each of those policies or contracts for a period of twenty (20) years. The omission from any comparison of any benefit or value provided in any such policies or contracts or of any differences as to amount or period of payment of premiums shall constitute the comparison an incomplete comparison.

(3) With respect to life insurance policies providing for the payment of a series of pure endowments maturing periodically during the premium paying period of the policy companies are prohibited from—

(A) Using any detachable coupons, certificates or passbooks or any other device which tends to emphasize the periodic pure endowment benefits or which tend to create the impression that the pure endowments represent interest earnings or anything other than benefits which have been purchased by part of the policyholder's premium payments;

(B) Offering pure endowment benefits which do not have fixed maturity dates or the payment of which is made contingent upon the payment of any premium becoming due on or after their maturity dates; or

(C) Expressing pure endowment benefits in any manner other than in dollar amounts such as by expressing them as percentages of other quantities or in other ways.

(4) Each insurer shall notify each of its insurance producers of the contents of this rule.

*AUTHORITY: sections 374.045, 375.930, 375.948, 376.500, 376.590 and 376.673, RSMo 2000.\* This rule was previously filed as 4 CSR 190-13.030. This version of rule filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

*\*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.930, RSMo 1959, amended 1978, 1991; 375.948, RSMo 1959, amended 1978, 1991; 376.500, RSMo 1939, amended 1965; 376.590, RSMo 1939; and 376.673, RSMo 1967.*

**20 CSR 400-5.300 Solicitation of Insurance on Military Installations in Missouri**

*PURPOSE: This rule clarifies by whom insurance on military installations may be solicited. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements sections 375.012-375.158, RSMo.*

(1) Army regulation No. 210-8, effective February 15, 1973 and Air Force regulation No. 211-16, dated March 31, 1972, relate to

solicitation on military installations; local rules implement the rules referred to here.

(2) Solicitation of insurance on military installations or bases in Missouri shall only be done by authorized insurance producers duly licensed by the Missouri Department of Insurance and the policy and application forms used by these insurance producers must be approved by the Missouri Department of Insurance.

*AUTHORITY: sections 374.045, RSMo 2000, and 375.012-375.158, RSMo 2000, Supp 2001 and Supp. 2002.\* This rule was previously filed as 4 CSR 190-13.050. Original rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

*\*Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.012-375.158, see Missouri Revised Statutes.*

**20 CSR 400-5.400 Replacement of Life Insurance and Annuities**

*PURPOSE: This rule regulates the activities of insurers, agents and brokers with respect to the replacement of existing life insurance and annuities and protects the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transaction.*

(1) Purpose. The purpose of this rule is to—  
(A) Regulate the activities of insurers, agents and brokers with respect to the replacement of existing life insurance and annuities; and

(B) Protect the interests of life insurance and annuity purchasers by establishing minimum standards of conduct to be observed in replacement transactions by—

1. Assuring that purchasers receive information with which a decision can be made in his/her own best interest;
2. Reducing the opportunity for misrepresentation and incomplete disclosures; and
3. Establishing penalties for failure to comply with requirements of this rule.

(2) Definition of Replacement. Replacement means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent or broker or to the proposing insurer if there is no agent, that by reason of that transaction, existing life insurance or annuity has been or is to be—

(A) Lapsed, forfeited, surrendered or otherwise terminated;

(B) Converted to reduced paid-up insurance, continued as extended term insurance or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(C) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(D) Reissued with any reduction in cash value; or

(E) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent (25%) of the loan value set forth in the policy.

### (3) Other Definitions.

(A) Conservation means any attempt by the existing insurer or its agent or broker to dissuade a policyowner from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers.

(B) Direct-response sales means any sale of life insurance or annuity where the insurer does not utilize an agent in the sale or delivery of the policy.

(C) Existing insurer means the insurance company whose policy is or will be changed or terminated in a manner as described within the definition of replacement.

(D) Existing life insurance or annuity means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is within an unconditional refund period.

(E) Policy summary or ledger statement as defined by section 376.704, RSMo.

(F) Registered contract means variable annuities, investment annuities, variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in separate account or any other contracts issued by life insurance companies which are registered with the Federal Securities and Exchange Commission.

(G) Replacing insurer means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.

(4) Exemptions. Unless otherwise specifically included, this rule shall not apply to transactions involving—

(A) Credit life insurance;

(B) Group life insurance or group annuities;

(C) An application to the existing insurer that issued the existing life insurance where a contractual change or conversion privilege is being exercised;

(D) Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

(E) Transactions where the replacing insurer and the existing insurer are the same or are subsidiaries or affiliates under common ownership or control; provided, however, agents or brokers proposing replacement shall comply with the requirements of subsection (5)(A);

(F) Registered contracts shall be exempt from the requirements of paragraphs (7)(B)2. and 3. requiring provision of policy summary or ledger statement information; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required in lieu of it; and

(G) Policies issued in connection with a pension, profit sharing and individual retirement account or other benefit plan qualifying for tax deductibility of premium.

### (5) Duties of Agents and Brokers.

(A) Each agent or broker who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application—

1. A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

2. A signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

(B) Where a replacement is involved, the agent or broker shall—

1. Present to the applicant, not later than at the time of taking the application, a “Notice Regarding Replacement” in the form as described in Exhibit A or other substantially similar form approved by the director. The notice shall be signed by both the applicant and the agent or broker and left with the applicant;

2. Obtain with or as part of each application a list of all existing life insurance or annuity to be replaced, or both, and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;

3. Leave with the applicant the original or a copy of written or printed communica-

tions used for presentation to the applicant; and

4. Submit to the replacing insurer with the application a copy of the replacement notice provided pursuant to paragraph (5)(B)1.

(C) Each agent or broker who uses written or printed communications in a conversation shall leave with the applicant the original or a copy of the materials used.

### (6) Duties of All Insurers. Each shall—

(A) Inform its field representatives or other personnel responsible for compliance with this rule of the requirements of this rule; and

(B) Require with or as a part of each completed application for life insurance or annuity, a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

### (7) Duties of Insurers That Use Agents or Brokers. Each insurer that uses an agent or broker in a life insurance or annuity sale shall—

(A) With or as part of each completed application for life insurance or annuity, require a statement signed by the agent of broker as to whether s/he knows replacement is or may be involved in the transaction;

(B) Where a replacement is involved—

1. Require from the agent or broker with the application for life insurance or annuity— 1) a list of all of the applicant’s existing life insurance or annuity to be replaced and 2) a copy of the replacement notice provided the applicant pursuant to paragraph (5)(B)1. The existing life insurance or annuity shall be identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;

2. Send to each existing insurer a written communication advising of the replacement of proposed replacement and the identification information obtained pursuant to paragraph (7)(B)1. and a policy summary or ledger statement containing policy data on the proposed life insurance or annuity. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication shall be made within five (5) working days of the date the application is received in the replacing insurer’s home or regional office or the date the proposed policy or contract is issued, whichever is sooner; and

3. Each existing insurer or the insurer’s agent or broker, that undertakes a conversation, within twenty (20) days from the date



the written communication plus the materials required in paragraphs (7)(B)1. and 2. is received by the existing insurer, shall furnish the policyowner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing policy annuity, or both. All information in the policy summary or ledger statement relating to premiums, cash values, death benefits and dividends shall be computed from the current policy year of the existing life insurance. The policy summary shall include the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions and may include any other information that is not in violation of any rule or statute. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries;

(C) As the replacing insurer, maintain evidence of the “Notice Regarding Replacement,” the policy summary, the contract summary and any ledger statements used and a replacement register, cross-indexed, by replacing agent and existing insurer to be replaced. The existing insurer shall maintain evidence of policy summaries, contract summaries or ledger statements used in any conversation. Evidence that all requirements were met shall be maintained for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is earlier; and

(D) As the replacing insurer shall provide in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of twenty (20) days commencing from the date of delivery of the policy.

(8) Duties of Insurers With Respect to Direct Response Sales.

(A) If in the solicitation of a direct response sale, the insurer did not propose the replacement and a replacement is involved, the insurer shall send to the applicant with the policy a replacement notice as described in Exhibit B or other substantially similar form approved by the director.

(B) If the insurer proposed the replacement, it shall—

1. Provide to applicants or prospective applicants with or as a part of the application a replacement notice as described in Exhibit B or other substantially similar form approved by the director;

2. Request from the applicant with or as part of the application, a list of all existing life insurance or annuity to be replaced and properly identified by name of insurer and insured; and

3. Comply with the requirements of paragraph (7)(B)2., if the applicant furnishes the names of the existing insurers and the requirements of subsection (7)(C), except that it need not maintain a replacement register.

(9) Penalties.

(A) Any insurer, agent, representative, officer or employee of that insurer failing to comply with the requirements of this rule shall be subject to those penalties as may be appropriate under the insurance laws.

(B) Patterns of action by policyowners who purchase replacing policies from the same agent or broker, after indicating on the application that replacement is not included, shall be deemed *prima facie* evidence of the agent’s or broker’s knowledge that replacement was intended in connection with the sale of those policies and the patterns of action shall be deemed *prima facie* evidence of the agent’s or broker’s intent to violate this rule.

(C) This regulation does not prohibit the use of additional material other than that which is required that is not in violation of the rule or any other statute or rule.

(10) Severability. If any section or portion of a section of this rule or the applicability of it to any person or circumstance, is held invalid by a court, the remainder of this rule or the applicability of that provision to other persons, shall not be affected.

*AUTHORITY: sections 374.045 and 375.936, RSMo 1986. \* This rule was previously filed as 4 CSR 190-13.060. Original rule filed on 5, 1970, effective Jan. 15, 1970. Amended: Filed June 21, 1970, effective July 1, 1970. Amended: Filed Feb. 18, 1972, effective Feb. 28, 1972. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Dec. 23, 1975, effective Jan. 2, 1976. Rescinded and readopted: Filed March 15, 1979, effective Sept. 14, 1979. Rescinded: Filed July 3, 1985, effective Oct. 25, 1985. Rescinded and readopted: Filed Aug. 12, 1983, effective Dec. 12, 1983.*

*\*Original authority: 374.045, RSMo 1967; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991.*

*Op. Atty. Gen. No. 23, Fink (5-5-71). Subsection 3 of the Division of Insurance’s regulation 3.11 (now 4 CSR 190-13.060(1)), which defines “replacement of life insurance”*

*is in compliance with section 374.045(1), (3), RSMo (1969) because such regulation is reasonably related to section 375.936(5), RSMo (1969).*



Exhibit A
Replacement Notice
Replacing Your Life Insurance Policy or Annuity?

Are you thinking about buying a new policy and discontinuing or changing an existing policy? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing policy and the proposed policy.

Make sure you understand the facts. Ask the company or agent that sold you your existing policy to provide you with a policy summary statement.

The reverse side contains a check list of some of the items you should consider in making your decision. TAKE TIME TO READ IT.

Do not let one agent or insurer prevent you from obtaining information from another agent or insurer which may be to your advantage.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

We are required to notify your existing company that you may be replacing their policy.

Signature and Date lines for Applicant and Agent, and printed name/address lines.

ORIGINAL TO APPLICANT
COPY TO REPLACING INSURER—COPY TO REPLACED INSURER

ITEMS TO CONSIDER

- 1. If the policy coverages are basically similar, premiums for a new policy may be higher because rates increase as your age increases.
2. Cash values and dividends, if any, may grow slower under a new policy initially because of the initial costs of issuing a policy.
3. Your present insurance company may be able to make a change on terms which may be more favorable than if you replace existing insurance with new insurance.
4. If you borrow against an existing policy to pay premiums on a new policy, death benefits payable under your existing policy will be reduced by the amount of any unpaid loan, including unpaid interest.
5. Current interest rates are not guaranteed. Guaranteed interest rates are usually considerably lower than current rates. What rates are guaranteed?
6. Are premiums guaranteed or subject to change—up or down?
7. Participating policies pay dividends that may materially reduce the cost of insurance over the life of the contract. Dividends, however, are not guaranteed.
8. CAUTION, you are urged not to take action to terminate, assign or alter your existing life insurance coverage until after you have been issued the new policy, examined it and have found it to be acceptable to you; and
REMEMBER, you have twenty (20) days following receipt to examine the contents of any individual life insurance policy or annuity. If you are not satisfied with it for any reason, you have the right to return it to the insurer at its home or branch office, or to the agent through whom it was purchased, for a full refund of premium.





**EXHIBIT B**

*(Name, address and telephone number of the insurance company)*

**Important Notice Regarding Replacement  
of Life Insurance**

You have indicated that you intend to replace an existing life insurance policy or policies in connection with the purchase of our life insurance policy. As a result, we are required to send you this notice. Please read it carefully.

Whether it is to your advantage to replace your existing insurance coverage, only you can decide. It is in your best interest, however, to have adequate information before a decision to replace your present coverage becomes final so that you may understand the essential features of the proposed policy and your existing insurance coverage.

You may want to contact your existing life insurance company or its agent for additional information and advice or discuss your purchase with other advisors. The information you receive should be of value to you in reaching a final decision.

If either the proposed policy or the existing insurance you intend to replace is a participating policy, you should be aware that dividends may materially reduce the cost of insurance and are an important factor to consider. Dividends, however, are not guaranteed.

You should recognize that a policy which has been in existence for a period of time may have certain advantages to you over a new policy. If the policy coverages are basically similar, the premiums for a new policy may be higher because rates increase as your age increases. Under your existing policy, the period of time during which the issuing company could [contest the policy because of a material misrepresentation or omission concerning the medical information requested in your application, or]\* deny coverage for death caused by suicide, may have expired or may expire earlier than it will under the proposed policy. Your existing policy may have options which are not available under the policy being proposed to you or may not come into effect under the proposed policy until a later time during your life. Also, your proposed policy's cash values and dividends, if any, may grow slower initially because the company will incur the cost of issuing your new policy. On the other hand, the proposed policy may offer advantages which are more important to you.

If you are considering borrowing against your existing policy to pay the premiums on the proposed policy, you should understand that in the event of your death, the amount of unpaid loan, including unpaid interest, will be deducted from the benefits of your existing policy thereby reducing your total insurance coverage.

\* \* \* \* \*

(Additional paragraph if a twenty-day money-back guarantee is provided by the insurer.)

After we have issued your policy, you will have twenty (20) days from the date the new policy is received by you to notify us you are cancelling the policy issued on your application and you will receive back all payments you made to us.

\* \* \* \* \*

You are urged not to take action to terminate or alter your existing life insurance coverage until you have been issued the new policy, examined it and found it acceptable to you.

\* \* \* \* \*

\*Use bracketed language only when the application asks health questions.

**20 CSR 400-5.500 Life Insurance Sold to College Students**

*PURPOSE:* This rule explains the practice which must be followed by insurance producers who sell or present plans of life insurance to college students. This rule was adopted pursuant to the provisions of section 374.045, RSMo and implements section 375.936, RSMo.

(1) The rule and procedures following will apply to all insurers, and insurance producers, who sell or present plans of college life insurance to undergraduates and graduate students throughout Missouri:

(A) If the applicant is a minor and executes a promissory note for the payment of any part of the premiums, the note must be cosigned by the applicant's parent, legal guardian or adult spouse;

(B) The application form for the coverages must recite the terms of any promissory note executed in connection with the coverages, showing the amount of the note, the balance due, the payment provisions and any credit to reflect the down payment, the down payment being required by this rule;

(C) If a note is taken to finance less than the full first year premium, the balance must be paid by the applicant at the time the application is taken;

(D) Down payments shall be made in cash or by check and may not be paid or advanced by the producing insurance producer;

(E) A copy of the note must be attached to the policy at the time of delivery. Delivery must be in person by a company representative. In the event that personal delivery is for good reason impractical, delivery may be made by use of United States certified mail, return receipt requested and delivery to addressee only;

(F) Upon delivery, a policy receipt or acceptance form must be executed which recites that—

1. The policy has been issued as represented; and

2. The insured acknowledges and understands the provisions and obligations of the financial indebtedness that s/he has incurred;

(G) The receipt or acceptance form mentioned in subsection (1)(F) shall be registered by a number corresponding to the policy number in the home office; the forms shall not be distributed to field representatives or insurance producers but are to be furnished from and by the home office when sending the policy to the producing insurance producer;

(H) If the promissory note of the insured is sold or discounted to a third party by either

the company or the insurance producer, the transferor must inform the insured of the sale or transfer within thirty (30) days of same. The notice may invite questions as to whether the terms and conditions for payment are modified, but if applicable, must explain that the policy is security for payment for the note;

(I) Whenever insurance of this type replaces existing life insurance, either wholly or partially, 20 CSR 400-5.400 must be strictly observed;

(J) Insurance producers or field representatives of the company who are licensed by this state to represent the company as licensed life insurance producers may not represent, refer to or hold themselves out to the public under any special title or as representatives of any special policy or company unless they identify themselves as licensed insurance producers. No person other than a licensed insurance producer shall participate in the transaction, solicitation or effectuation of life insurance with respect to college students in this state;

(K) Any insured may cancel his/her obligations under the policy of insurance or the promissory note connected with the policy of insurance within fourteen (14) days from the delivery of the policy; a provision advising the insured of same shall be placed in the notices now required by subsection (1)(F) of this rule. Upon the cancellation, the insured shall be entitled to a full refund of premium paid; and

(L) Notwithstanding the provisions of subsection (1)(K) of this rule, if the Department of Insurance determines, after a prompt and fair investigation, that the company or its insurance producers have violated this rule or materially misrepresented the contract, the policy issued will be cancelled, the applicant released from all obligations and a total refund made of partial or down payments.

(2) The following practices are deemed deceptive and misleading and, if proven after the hearing required by section 375.940, RSMo, shall subject the insurer to the penalties provided by law: Violations by insurance producers listed in this rule shall subject them to the penalties now contained in section 375.141, RSMo.

(A) Telling or informing an applicant, either directly or indirectly, that s/he will receive the first or other year of insurance free of charge;

(B) Representing that the cash or surrender value of the policy actually sold is greater than it is; or

(C) Making any other untrue or misleading representation about the coverage or the

terms and condition for payment for the coverage.

*AUTHORITY:* sections 374.045 and 375.936, RSMo 2000.\* This rule was previously filed as 4 CSR 190-13.070. Original rule filed Jan. 2, 1970, effective Jan. 15, 1970. Amended: Filed June 12, 1970, effective July 1, 1970. Amended: Filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed July 12, 2002, effective Jan. 30, 2003.

\*Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991.

**20 CSR 400-5.600 Missouri Life and Health Insurance Guaranty Association**

*PURPOSE:* This rule sets forth the forms required by section 376.756, RSMo for use in connection with the sale of policies or contracts which either are or are not covered by the Missouri Life and Health Insurance Guaranty Fund.

(1) Effective May 31, 1989 no insurer may deliver a policy or contract described in section 376.717.2, RSMo to a policy or contract holder unless a copy of the notice set out in Appendix One is given to the policy or contract holder before or at the time of delivery. If the policy or contract is excluded under section 376.717.3, RSMo, the notice set out in Appendix One, which is included herein, does not need to be delivered to the policy or contract holder.

(2) No insurer or insurance producer may deliver a contract or policy described in section 376.717.2, RSMo and excluded under section 376.717.3, RSMo from coverage under the provisions of sections 376.715—376.758, RSMo unless the insurer or insurance producer, prior to or at the time of delivery, gives the policy or contract holder a copy of the notice set out in Appendix Two, included herein.



**APPENDIX ONE  
NOTICE CONCERNING COVERAGE  
LIMITATIONS AND EXCLUSIONS UNDER THE LIFE AND  
HEALTH INSURANCE GUARANTY ASSOCIATION ACT**

Residents of this state who purchase life insurance, annuities or health insurance should know that the insurance companies licensed in this state to write these types of insurance are members of the Missouri Life and Health Insurance Guaranty Association. The purpose of this association is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this should happen, the guaranty association will assess its other member insurance companies for the money to pay the claims of insured persons who live in this state and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the guaranty association is not unlimited, however. And, as noted in the box below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

The Missouri Life and Health Insurance Guaranty Association may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions, and require continued residency in Missouri. You should not rely on coverage by the Missouri Life and Health Insurance Guaranty Association in selecting an insurance company or in selecting an insurance policy. Coverage is NOT provided for your policy or any portion of it that is not guaranteed by the insurer or for which you have assumed the risk, such as a variable contract sold by prospectus. Insurance companies or their insurance producers are required by law to give or send you this notice. However, insurance companies and their insurance producers are prohibited by law from using the existence of the guaranty association to induce you to purchase any kind of insurance policy. **YOU MAY CONTACT EITHER THE ASSOCIATION OR THE MISSOURI DEPARTMENT OF INSURANCE AT THE FOLLOWING ADDRESSES SHOULD YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE.**

The Missouri Life and Health Insurance Guaranty Association  
520 Dix Road, Suite D  
Jefferson City, MO 65109

Missouri Department of Insurance  
PO Box 690  
Jefferson City, MO 65102-0690

The state law that provides for this safety-net coverage is called the Missouri Life and Health Insurance Guaranty Association Act. On the back of this page is a brief summary of this law's coverages, exclusions and limits. This summary does not cover all provisions of the law; nor does it in any way change anyone's rights or obligations under the Act or the rights or obligations of the guaranty association.

(please turn to back of page)

Generally, persons will be covered if they live in this state, and hold a life or health insurance contract or annuity, or a certificate under a group policy or contract. However, not all individuals with a right to recover under life or health insurance policies or annuities are protected by the Act. A person is not protected when—

1. The person is eligible for protection under the laws of another state;
2. The person purchased the insurance from a company that was not authorized to do business in this state;
3. The policy is issued by an organization which is not a member insurer of the association; or
4. The person does not live in this state, except under limited circumstances.

Additionally, the Association may not provide coverage for the entire amount a person expects to receive from the policy. The Association does not provide coverage for any portion of the policy where the person has assumed the risk, for any policy of reinsurance (unless an assumption certificate was issued), for interest rates that exceed a specified average rate, for employers' plans that are self-funded, for parts of plans that provide dividends or credits in connection with the administration of policy, or for unallocated annuity contracts (which are generally issued to pension plan trustees). The Act also limits the amount the Association is obligated to pay persons on various policies. The Association does not pay more than the amount of the contractual obligation of the insurance company. The Association does not have to pay more than three hundred thousand dollars (\$300,000) in death benefits for any one life regardless of the number of policies that insure that life. The Association does not have to pay amounts over one hundred thousand dollars (\$100,000) in cash surrender or withdrawal benefits on one life regardless of the number of policies insuring that individual. For health insurance benefits, the Association is not obligated to pay over one hundred thousand dollars (\$100,000) including net cash surrender and withdrawal benefits. On an annuity contract, the Association is not liable for over one hundred thousand dollars (\$100,000) in present value. Finally, the Association is never obligated to pay more than a total of three hundred thousand dollars (\$300,000) for any one insured for any combination of insurance benefits.

#### **APPENDIX TWO NOTICE**

This policy or contract is not covered by the Missouri Life and Health Insurance Guaranty Association. If the company providing this policy or contract is unable to meet its obligation by reason of insolvency or financial impairment, the fund(s) of the Missouri Life and Health Insurance Guaranty Association will not be available to protect the policy or contract holder or his/her beneficiaries, payees or assignees.



*AUTHORITY: sections 374.045.1(2), and 376.756, RSMo 2000.\* This rule was previously filed as 4 CSR 190-13.290. Original rule filed Sept. 6, 1988, effective April 1, 1989. Amended: Filed Dec. 1, 1989, effective May 1, 1990. Emergency amendment filed April 30, 1990, effective May 10, 1990, expired Aug. 7, 1990. Amended: Filed April 30, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 4, 1992, effective May 6, 1993. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

*\*Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 376.756, RSMo 1988.*

**20 CSR 400-5.700 Accident and Sickness Insurance Advertising**

*PURPOSE: This rule effectuates or aids in the interpretation of and carries out the provisions of sections 354.460, 375.936, 376.405, 376.777, 376.850—376.890 and 379.922, RSMo.*

*PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency’s headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.*

(1) Responsibility of Insurer.

(A) These rules shall apply to any accident and sickness insurance advertisement, as that term is defined in this rule, intended for presentation, distribution, dissemination or other advertising use in this state, when this use is made either directly or indirectly by or on behalf of that insurer.

(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. The insurer whose policies are so advertised shall be deemed responsible for all these advertisements, regardless of by whom written, created, presented or distributed.

(C) Each health service corporation licensed under Chapter 354, RSMo shall be considered within the full scope of this rule and consider itself an insurer issuing policies

when doing any advertising as defined in this rule.

(2) Definitions.

(A) An advertisement for the purpose of these rules shall include:

1. Printed or published material, audio-visual material and descriptive literature used by or on behalf of an insurer in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays;

2. Descriptive literature and sales aids of all kinds issued by an insurer, insurance producer 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 rule; and

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

(B) Exception for the purpose of these rules shall mean any provision in a policy where coverage for a specified hazard is entirely eliminated; it is a statement of risk not assumed under the policy.

(C) Institutional advertisement for the purpose of these rules shall mean an advertisement having as its sole purpose and presentation the promotion of the reader’s interest in the concept of accident and sickness insurance or the promotion of the insurer as a name in the field of accident and sickness insurance.

(D) Insurer for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s, fraternal benefit society, health maintenance organization, health service corporation, prepaid dental plan and any other legal entity which is regulated as an insurer in this state and is engaged in the advertisement of itself or a policy as policy is defined in this rule.

(E) Invitation to contract for the purpose of these rules shall mean any advertisement which is neither clearly an invitation to inquire nor clearly an institutional advertisement.

(F) 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 the product and which is limited to a brief description of the loss for which the benefit is payable and which may contain the dollar amount of benefit payable or the period of time during which the benefit is payable, or both. The advertisement shall not refer to cost. An advertisement which specifies either the dollar amount of

benefit payable or the period of time during which the benefit is payable shall conspicuously contain a provision substantially as follows: “For costs and further details of the coverage, including exclusions, any reductions or limitations and the terms under which the policy may be continued in force, see your insurance producer or write the company.”

(G) 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, 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 a policy.

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

(J) 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 the loss is limited to some amount or period less than would be otherwise payable had the reductions not been used.

(3) 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 this information relates or under appropriate captions of such prominence that it shall not be minimized, obscured or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

(4) Form and Content of Advertisements.

(A) The format and content of an advertisement of an accident or sickness insurance policy 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 of insurance from the basic overall impressions that the advertisement may create reasonably upon those persons of average education and intelligence for that segment of the public to which it appears on its face to be directed.

(B) 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.

(5) Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

(A) Deceptive words, phrases or illustrations are prohibited.

1. No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of this information or use of these 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 or does not remedy misleading statements or omissions of pertinent fact. No advertisements may employ devices which create undue fear or anxiety in the minds of its readers judged by the standards in section (4).

2. Policies advertised as Medicare supplements or as providing additional benefits not provided by Medicare or similar government programs must not create any illusion of greater coverage or undue anxiety in the minds of those purchasing the coverage than is actually provided. Any advertisement is unacceptable which—

A. Exaggerates the gaps in Medicare coverage;

B. Promotes fear of dependence upon relatives or charity;

C. Implies that long periods of sickness or hospital stays are common among the elderly;

D. Does not explain the manner in which any advertised policy is supplemental to Medicare coverage or fails to disclose the exact benefits it is designed to supplement;

E. Describes the inpatient hospital coverage of Medicare as “hospital Medicare” or “Medicare Part A” when the policy does not supplement the nonhospital or the psychiatric hospital benefits of Medicare Part A (phrases to the effect of the “inpatient portion of Medicare Part A” are acceptable);

F. Fails to clearly describe the operation of the part(s) of Medicare which the policy is designed to supplement; and

G. Describes those Medicare benefits not supplemented by the policy in a way as to minimize their importance relative to the Medicare benefits which are supplemented.

3. 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 pay your hospital and surgical bills”, “this policy will help fill some of the gaps that Medicare and your present insurance leave out”, “this policy will help to replace your income” (when used to express loss of time benefits) or similar words and phrases, in a manner which exaggerates any benefits beyond the terms of the policy.

4. An advertisement shall not contain descriptions of a policy limitation, exception or reduction 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 fairly and accurately shall describe the negative features of these limitations, exceptions and reductions of the policy offered.

5. No advertisement of a benefit for which payment is conditional 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 in a manner which has the capacity, tendency or effect of misleading the public into believing that the policy advertised, in some way, will enable them to make a profit from being hospitalized.

6. No advertisement of a hospital or other similar facility confinement benefit shall 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 these monthly or weekly benefit amounts are followed immediately by equally prominent statements of the benefit payable on a daily basis. For example, either of the following statements is acceptable: “\$1000 a month at (\$33.33 per day)” or “\$33.33 per day (\$1000 per month).” When the policy contains a limit on the number of days of coverage provided, this limit must appear in the advertisement.

7. No advertisement of a policy covering only one (1) disease or a list of specified diseases shall 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.

8. An advertisement for a policy providing benefits for specified illnesses only, such as cancer or for specified accidents only, such as automobile accidents, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be substantially as follows: “THIS IS A LIMITED POLICY,” “THIS IS A CANCER POLICY ONLY,” “THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY.”

9. An advertisement which is also an invitation to join an association, trust or discretionary group must solicit insurance coverage on a separate and distinct application which requires separate signatures for each application; provided, however, that a separate and distinct application which requires signatures for each application need not be made where the advertisement is an invitation to join a discretionary group approved under section 376.421.2., RSMo, which has as its sole purpose the provision of group health insurance benefits. The 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.

(B) Exceptions, Reductions and Limitations.

1. When an advertisement which is an invitation to contract refers to either a dollar amount or a period of time for which any benefit is payable or the cost of the policy or specified policy benefit or the loss for which the benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity or tendency to mislead or deceive.

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 this loss, an advertisement as stated 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 imply a minimal applicability of any exceptions and reductions such as “This policy is subject only to the following minimum exceptions and reductions.”

(C) Preexisting Conditions.

1. An advertisement which is subject to the requirements of subsection (5)(B), in negative terms, shall disclose the extent to which any loss is not covered if the cause of the loss manifested itself prior to the effective date of the policy. The term “preexisting condition” or any similar phrase without an appropriate definition or description shall not be used.

2. When a 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 a policy or payment of a claim. If an insurer requires a medical examination for a specified policy, the advertisement if it is an invitation to contract must 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 for a direct response insurance product, the application form shall contain a question or statement which reflects the preexisting condition provisions of the policy which immediately precedes the blank space for the applicant’s signature. For example, this application form shall contain substantially the following question or statement: “Do you understand that this policy will not pay benefits during the first year(s) after the issue date for a disease or physical condition which you now have or have had in the past? YES” or substantially the following statement: “I understand the policy applied for will not pay benefits for any loss incurred during the first \_\_\_\_\_ year(s) after the issue date on account of disease or physical condition which I now have or have had in the past.”

(6) Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination. When an advertisement which is an invitation to contract refers to either a dollar amount or a period of time for which any benefit is payable or the cost of the policy or a specific policy benefit or the loss for which the benefit is payable, it shall disclose the provisions relating to renewability, cancellability, termination and any modification of benefits, losses covered or premiums in a manner which shall not minimize or render obscure the qualifying conditions.

(7) 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 in the testimonial and the advertisement, including this statement, is subject to all the provisions of these rules.

(B) If the person making a testimonial, an endorsement or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, this fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, this fact shall be disclosed in the advertisement by language substantially as follows: “Paid Endorsement.” The payment of substantial amounts, directly or indirectly, for “travel and entertainment” for filming or recording of television or radio advertisements requires disclosure of such compensation. This rule does not apply when payment is union scale.

(C) 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 this 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(s) who owns or controls the insurer, this fact shall be disclosed in the advertisement.

(D) 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 and made available by the insurer for inspection for a period of four (4) years or until the next regular report of examination of the insurer, whichever is the longer period of time.

(8) Use of Statistics.

(A) An advertisement relating to any insurer or policy shall not use irrelevant facts or statistics and shall accurately reflect all of the relevant facts. This advertisement shall not imply that the statistics are derived from the policy advertised unless this is the fact and when applicable to other policies or plans shall specifically so state.

(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 specific source of any statistics used in an advertisement shall be clearly identified in the advertisement.

(9) Identification of Plan or Number of Policies.

(A) When a choice of the amount of benefits is referred to, an advertisement which is an invitation to contract shall disclose that the—

1. Amount of benefits provided depends upon the plan selected; and

2. Premium will vary with the plan and benefits selected.

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

(10) Disparaging Comparisons and Statements. An advertisement shall not, directly or indirectly, make unfair or incomplete comparisons of policies or benefits or comparisons of noncomparable policies of other insurers and shall not disparage competitors, their policies, services or business methods. It shall not disparage or unfairly minimize competing methods of marketing insurance.

(11) Jurisdictional Licensing and Status of Insurer.

(A) An advertisement which is 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 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.

(12) Identity of Insurer.

(A) The name of the actual insurer shall be stated in all of its advertisements. The form number(s) of the policy advertised shall be stated in an advertisement which is an invitation to contract. 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 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 a 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) No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan or symbol or any device in a manner that implies that the insurer or the policy advertised, or that any insurance producer who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

(D) An insurance producer who makes contact with a consumer, as result of acquiring that consumer's name from a lead-generating device must disclose this fact in the initial contact with the consumer.

(13) Group or Quasi-Group Implications. An advertisement of 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 and underwriting privileges, unless that is the fact.

(14) Introductory, Initial or Special Offers.

(A) Advertising.

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 these enrollment periods as the usual method of advertising accident and sickness 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 three (3) months between the close of the immediately preceding enrollment period for substantially 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 not be less than ten (10) days and not more than forty (40) days from the date that the enrollment period is advertised for the first time. This rule applies to all advertising media—that is, mail, newspapers, radio, television, maga-

zines and periodicals—by any one (1) insurer. It is inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. 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 of 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 this is the fact.

4. The phrase "a particular insurance product" in paragraph (14)(A)2. 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.

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

(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 recommendations and the limitations of the scope and extent of the recommendation.

(16) Enforcement Procedures.

(A) Advertising File. Each insurer shall maintain at its home or principal office and at its main office in this state, if any, 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 or into this state, with a notation attached to each advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. This file shall be subject to regular inspection by this department. All these advertisements shall be maintained in this file for a period of four (4) years.

(B) Preapproval of Advertising Required on Noncompliance. Any person violating any provision of this rule shall be subject to the penalties prescribed by law. The director may also require the insurer to file all its advertising intended for use in the state no later than twenty (20) days before the use, the filings to be examined and approved by the accident and health section of the Missouri Department of Insurance before use in this state. On these disapproved filings, the insurer may request a hearing, as under section 376.777.7., RSMo, Approval of Policies.

(17) Guidelines Adopted. The National Association of Insurance Commissioners' Interpretive Guidelines predating this rule are declared to be the official interpretation of this rule except where inconsistent with this rule.

(18) Severability Provision. If any section or portion of a section of these rules or the applicability of them to any person or circumstance is held invalid by a court, the remainder of the rules or the applicability of that provision to other persons or circumstances, shall not be affected by it.

*AUTHORITY: sections 354.120, 374.045, 375.936, 376.405 and 376.777, RSMo 2000\*. This rule was previously filed as 4 CSR 190-14.040. This version of rule filed July 27, 1964, effective Aug. 6, 1964. Amended: Filed Dec. 5, 1969, effective Dec. 15, 1969. Amended: Filed Dec. 20, 1974, effective Dec. 30, 1974. Amended: Filed March 16, 1988, effective July 1, 1988. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

*\*Original authority: 354.120, RSMo 1973, amended 1983, 1993; 374.045, RSMo 1967, 1995; 375.936, RSMo 1959, amended 1967, 1969, 1971, 1976, 1978, 1983, 1991; and 376.405, RSMo 1959, amended 1984; and 376.777, RSMo 1959, amended 1984.*