
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 agent, 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, agents, solicitors and brokers 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, agents, solicitors and brokers.

(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 of 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 nonmedical, 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 agent 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 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.

*Auth: section 374.045, RSMo (1986) and 9375.934 and 375.936, RSMo (Cum. Supp. 1991). * 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.*

**Original authority: 374.045, RSMo (1967); 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.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) No insurance company shall deliver or issue in this state or permit its agents 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 agents,

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 agents or insurance brokers 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 agent 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 life agents of the contents of this rule.

*Auth: sections 374.045, 376.500, 376.590 and 376.673, RSMo (1986) and 375.930, 375.948 RSMo (Cum. Supp. 1991). * 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.*

**Original authority: 374.045, RSMo (1967); 375.930 and 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 agents duly licensed by the Missouri Department of Insurance and the policy and application forms used by these agents must be approved by the Missouri Department of Insurance.

*Auth: sections 374.045 and 375.012—375.158, RSMo (1986). * 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.*

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 communications 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