

1 Department of Commerce

2

3 Adopted Rules Relating to Insurance Marketing Standards

4

5 Rules as Adopted

6 4 MCAR S 1.9420 Scope and authority.

7 4 MCAR SS 1.9420-~~1-9442~~ 1.9441 are adopted pursuant to  
8 Minnesota Statutes, chapters 60A and 72A.

9 4 MCAR S 1.9421 Applicability.

10 4 MCAR SS 1.9420-~~1-9442~~ 1.9441 apply to any insurance  
11 advertisement or representation, written or oral, as defined in  
12 these rules, which is intended for presentation, distribution,  
13 or dissemination in the state of Minnesota, directly or  
14 indirectly, by or on behalf of any insurer or agent.

15 Rules 4 MCAR SS 1.9420-~~1-9442~~ 1.9441 are not all inclusive.  
16 The fact that a practice is not specifically prohibited in these  
17 rules does not imply acceptance of the practice. These rules  
18 are to be construed in a manner so as to carry out the stated  
19 and implied purpose of Minnesota Statutes, chapters 60A and 72A.

20 4 MCAR S 1.9422 Construction.

21 A. Advertising or representations. Whether an advertisement  
22 or representation, written or oral, has a capacity or tendency  
23 to mislead or deceive is determined by the commissioner of  
24 commerce from the overall impression that the advertisement may  
25 be reasonably expected to create upon a person of average  
26 education or intelligence, unique to the particular type of  
27 audience to which the advertisement is directed, and whether it  
28 may be reasonably comprehended by the segment of the public to  
29 which it is directed.

30 B. Department policy. The policy of the department of  
31 commerce, in interpreting the meaning of 4 MCAR SS 1.9420-~~1-9442~~  
32 1.9441 when applied to a specific advertisement, will be to take  
33 into consideration the content, detail, character, purpose, and  
34 use of the advertisement, and specifically, whether the  
35 advertisement is the direct or principal sales inducement, or

6-15-84

1 whether its function is to invite inquiry for details of the  
2 insurance advertised, either by follow-up literature or by  
3 personal interview.

4 C. Method of disclosure of required information. All  
5 information required to be disclosed by 4 MCAR SS 1.9420-~~1.9442~~  
6 1.9441 must be set out clearly, conspicuously, and in close  
7 conjunction with the statements to which the information relates  
8 or under appropriate captions of such prominence that it is  
9 readily noticed and not minimized, rendered obscure, or  
10 presented in an ambiguous fashion or intermingled with the  
11 contents of the advertisement or representation, whether written  
12 or oral, so as to be confusing or misleading.

13 D. Advertisements. Advertisements and representations must  
14 be sufficiently complete and clear, under the circumstances in  
15 which they are made, to avoid deception or the capacity or  
16 tendency to mislead or deceive. Words or phrases, the meaning  
17 of which ~~is~~ are clear only by implication or by familiarity with  
18 insurance terminology, must not be used.

19 4 MCAR S 1.9423 Definitions.

20 For the purposes of 4 MCAR SS 1.9420-~~1.9442~~ 1.9441 the  
21 terms in A.-I. have the meanings given them.

22 A. Advertisement. "Advertisement" includes:

23 1. printed and published material, audio visual material,  
24 and descriptive literature of an insurer or agent used in direct  
25 mail, newspapers, magazines, other periodicals, radio scripts,  
26 television scripts, billboards and other similar displays,  
27 excluding advertisements prepared for the sole purpose of  
28 obtaining employees, agents, or agencies;

29 2. descriptive literature and sales ads of all kinds  
30 issued by an insurer or agent for presentation to members of the  
31 public, including but not limited to circulars, leaflets,  
32 booklets, depictions, illustrations, and form letters;

33 3. prepared sales talks, presentations, and material for  
34 use by agents and representations made by agents in accordance  
35 with these talks, presentations, and materials;

36 4. statements, written or oral, by an agent.

1 B. Agent, agents, or agencies. "Agent," "agents," or  
2 "agencies" includes insurance agents and agencies licensed  
3 pursuant to Minnesota Statutes, section 60A.17, insurance  
4 agencies, and designated representatives of these agents or  
5 agencies.

6 C. Exception. "Exception" includes any provision in a  
7 policy whereby coverage for a specified hazard is entirely  
8 eliminated; it is a statement of risk not assumed under the  
9 policy.

10 D. Insurer. "Insurer" includes any individual, corporation,  
11 association, partnership, reciprocal exchange, Lloyd's,  
12 fraternal benefits society, self-insurer, surplus line insurer,  
13 pooled or joint self-insurance group, or self-insurance  
14 administrator, nonprofit service plan, and any other legal  
15 entity engaged in the advertisement of a policy. An insurer  
16 includes an affiliate of a group of insurers under common  
17 management and control.

18 E. Limitation. "Limitation" means any provision which  
19 restricts coverage under the policy other than an exception or a  
20 reduction.

21 F. Policy. "Policy" includes any policy, plan, certificate,  
22 contract, agreement, statement of coverage, rider or  
23 endorsement, binder, or other evidence of coverage which  
24 provides insurance or self-insurance, whether on an indemnity,  
25 reimbursement, service, or prepaid basis. "Policy" includes any  
26 subscriber contract issuing coverage under a self-insurance  
27 plan, annuity, group self-insurance, or pooled or joint  
28 self-insurance employee plan.

29 G. Reduction. "Reduction" includes any provision which  
30 reduces the amount of a benefit; a risk of loss is assumed but  
31 payment upon the occurrence of the loss is limited to some  
32 amount or period less than would be otherwise payable had the  
33 reduction not been used.

34 H. Self-insurer. "Self-insurer" includes any entity  
35 authorized pursuant to Minnesota Statutes, sections 65B.48 and  
36 176.181, Minnesota Statutes, chapter 62H, Laws of Minnesota

1 1983, chapter 290, section 171, or Minnesota Statutes, section  
 2 471.981 and includes any entity which, for compensation employs  
 3 the services of vendors of risk management services in the  
 4 administration of a self-insurance plan as defined by Minnesota  
 5 Statutes, section 60A.23, subdivision 8.

6 I. Similar policies. "Similar policies" include policies  
 7 which provide similar benefits even though there may be  
 8 differences in benefit amounts, elimination periods, renewal  
 9 terms, or ancillary benefits.

10 ~~4-MCAR-S-1.9424-Suitability-of-policies-~~

11 ~~In-recommending-the-purchase-of-any-life,-endowment,-~~  
 12 ~~annuity,-life-endowment,-or-medical-supplement-insurance-to-a~~  
 13 ~~customer,-an-agent-must-have-reasonable-grounds-for-believing~~  
 14 ~~that-the-recommendation-is-suitable-for-the-customer,-and-must~~  
 15 ~~make-reasonable-inquiries-to-determine-suitability.--The~~  
 16 ~~suitability-of-a-recommended-purchase-of-insurance-will-be~~  
 17 ~~determined-by-reference-to-the-totality-of-the-particular~~  
 18 ~~customer's-circumstances,-including,-but-not-limited-to:-the~~  
 19 ~~customer's-income,-the-customer's-need-for-insurance,-and-the~~  
 20 ~~values,-benefits,-and-costs-of-the-customer's-existing-insurance~~  
 21 ~~program,-if-any,-when-compared-to-the-values,-benefits,-and~~  
 22 ~~costs-of-the-recommended-policy-or-policies-~~

23 4 MCAR S 1.9425 1.9424 Deceptive words, phrases, or  
 24 illustrations.

25 A. General prohibition. No advertisement or representation,  
 26 written or oral, may omit information or use words, phrases,  
 27 statements, references, or illustrations if the omission of the  
 28 information or use of the words, phrases, statements,  
 29 references, or illustrations has the capacity, tendency, or  
 30 effect of misleading or deceiving purchasers or prospective  
 31 purchasers as to the nature or extent of any policy benefit  
 32 payable, loss covered, or premium payable. The fact that the  
 33 policy offered is made available to a prospective insured for  
 34 inspection prior to consummation of the sale or an offer is made  
 35 to refund the premium if the purchaser is not satisfied does not

1 remedy misleading statements.

2 B. Coverage terms. No advertisement may contain or use  
3 words or phrases such as "all," "full," "complete,"  
4 "comprehensive," "unlimited," "up to," "as high as," "this  
5 policy will help pay your hospital and surgical bills," "this  
6 policy will help fill some of the gaps that medicare and your  
7 present insurance leave out," "this policy will help to replace  
8 your income," when used to express loss of time benefits or  
9 similar words and phrases, in a deceptive or misleading manner  
10 so as to exaggerate any benefits beyond the terms of the policy.

11 C. Statements regarding tax benefits. An advertisement must  
12 not state a policy's benefits are tax free unless an explanation  
13 of the rules applicable to the taxation of these types of policy  
14 benefits are clearly shown with equal prominence and in close  
15 conjunction with the statement. An advertisement of a benefit  
16 for which payment is conditioned upon confinement in a hospital  
17 or similar facility must not state that the benefit is tax free.

18 D. Benefit terms. An advertisement may not use the  
19 expressions "extra cash," "cash income," "income," "cash," or  
20 similar words or phrases in such a way as to imply that the  
21 insured will receive benefits in excess of the expenses incurred  
22 while being sick, injured, or hospitalized.

23 E. Payment terms. The words "free," "no cost," "without  
24 cost," "no additional cost," "at no extra cost," "without  
25 additional cost," or words of similar import, may not be used  
26 with respect to any benefit or service being made available with  
27 the policy unless true and accurate. An advertisement may  
28 specify the charge for a benefit or a service or may state that  
29 a charge is included in the premium, or use other similar  
30 language.

31 F. Dividends. Dividends are a return of premium and it is  
32 misleading and deceptive to refer to them as being tax free, or  
33 to use words of similar import, unless they are used within an  
34 instructive context and the nature of dividend as a return of  
35 premium is clearly indicated.

36 G. Dread disease policies. A policy covering only one

1 disease or a list of specified diseases must not be advertised  
2 so as to imply coverage beyond the terms of the policy. A  
3 particular disease shall not be referred to in more than one  
4 term so as to imply broader coverage than is the fact.

5 H. Policy limitations. The benefits of a policy which pays  
6 varying amounts for the same loss occurring under different  
7 conditions or which pays benefits only when a loss occurs under  
8 certain conditions, must not be advertised without disclosing  
9 the limitations or reductions under which the benefits referred  
10 to are provided by the policy.

11 I. Maximum benefits. The maximum benefit available under a  
12 policy must not be emphasized in a manner which exaggerates its  
13 relationship to any internal limits or other conditions of the  
14 policy. Phrases such as "this policy pays \$1,800 for hospital  
15 room and board expenses" are incomplete without indicating the  
16 maximum daily benefit and the maximum time limit for hospital  
17 room and board expenses.

18 J. Aggregate benefits. The aggregate amounts or the monthly  
19 or weekly benefits payable under coverage such as hospital or  
20 similar facility confinement indemnity or private duty nursing  
21 must not be emphasized unless the actual amounts payable per day  
22 are disclosed with substantially equal prominence and in close  
23 conjunction with the statement. Any limitation or reduction in  
24 the policy and the number of days of coverage provided must be  
25 disclosed.

26 K. False statements regarding coverage. An advertisement  
27 must not state or imply that each member under a family policy  
28 is covered as to the maximum benefits advertised when such is  
29 not the case.

30 L. Exaggeration of certain diseases. The importance of  
31 diseases rarely or never found in the class of persons to whom  
32 the policy is offered shall not be exaggerated in an  
33 advertisement.

34 M. Benefit examples. Examples of what benefits may be paid  
35 under a policy must be shown only for losses from common  
36 illnesses or injuries rather than exceptional or rare illnesses

1 or injuries.

2 N. Benefit clarification. When a range of hospital room  
3 expense benefits is set forth in an advertisement, it must be  
4 made clear that the insured will receive only the benefit  
5 indicated in the policy purchased. It must not be implied that  
6 the insured may select his room expense benefit at the time of  
7 hospitalization.

8 O. Benefit increases at time of disability. An  
9 advertisement must not imply that the amount of benefits payable  
10 under a loss of time policy may be increased at time of  
11 disability according to the needs of the insured.

12 P. Misleading payment claims. An advertisement must not  
13 state that the insurer "pays hospital, surgical, medical bills,"  
14 "pays dollars to offset the cost of medical care," "safeguards  
15 your standard of living," "pays full coverage," "pays complete  
16 coverage," "pays for financial needs," "provides for replacement  
17 of your lost paycheck," "guarantees your paycheck," "guarantees  
18 your income," "continues your income," "provides a guaranteed  
19 paycheck," "provides a guaranteed income," or "fills the gaps in  
20 medicare," or use similar words or phrases unless the statement  
21 is literally true.

22 Q. Premium levels. An advertisement shall not state that  
23 premiums will not be changed in the future unless such is the  
24 fact.

25 R. Deductibles. An advertisement which states dollar  
26 amounts of benefits payable and premiums must clearly indicate  
27 the provisions of any deductible under a policy.

28 S. Other insurance. If a policy contains any of the  
29 following or similar provisions, an advertisement referring to  
30 the policy must not state that benefits are payable in addition  
31 to other insurance unless the statement contains an appropriate  
32 reference to the coverage excepted:

33 1. an "other insurance" exception, reduction, limitation,  
34 or deductible;

35 2. a "coordination of benefits" or "nonduplication"  
36 provision;

- 1 3. an "other insurance in this company" provision;
- 2 4. an "insurance in another insurer's" provision;
- 3 5. a "relation of earnings to insurance" provision;
- 4 6. a workers' compensation, employer's liability,
- 5 occupational disease law, or automobile no-fault exception,
- 6 reduction, or limitation;
- 7 7. a reduction based on social security benefits or other
- 8 disability benefits; or
- 9 8. a medicare exception, reduction, or limitation.

10 T. Immediate coverage or guaranteed issuance. An  
11 advertisement may refer to immediate coverage or guaranteed  
12 issuance of a policy only if suitable administrative procedures  
13 exist so that the policy is issued within a reasonable time  
14 after the application is received.

15 U. Premium increases or premium reductions. If an  
16 advertisement indicates an initial premium which differs from  
17 the renewal premium on the same mode, the renewal premium shall  
18 be disclosed with equal prominence and in close conjunction with  
19 any statement of the initial premium. Any increase in premium  
20 or reduction in coverage because of age shall be clearly  
21 disclosed.

22 V. Pre-existing conditions. An advertisement must not state  
23 that the policy contains no waiting period unless pre-existing  
24 conditions are covered immediately or unless the effect of  
25 pre-existing conditions is disclosed with equal prominence and  
26 in close conjunction with the statement.

27 W. Age limits. An advertisement must not state that no age  
28 limit applies to an insured or applicant unless application from  
29 applicants of any age are considered in good faith, and the  
30 statement clearly indicates the date or age to which the policy  
31 may be renewed or that the company may refuse renewal.

32 X. Health provisions. An advertisement shall not state that  
33 no medical, doctor's, or physical examination is required or  
34 that no health, medical, or doctor's statements or questions are  
35 required or that the examination, statements, or questions are  
36 waived or otherwise state or imply that the applicant's physical



1 condition or medical history will not affect the policy unless:

2 1. the statement indicates with equal prominence that it  
3 applies only to the issuance of the policy or to both the  
4 issuance of the policy and the payment of claims; and

5 2. pre-existing conditions are covered immediately under  
6 the policy or the period of time following the effective date of  
7 the policy during which pre-existing conditions are not covered  
8 is disclosed with equal prominence and in close conjunction with  
9 the statement.

10 Y. Limited accident and health policies. An advertisement  
11 of a limited accident and health policy must prominently  
12 indicate that the policy provides limited coverage with an  
13 appropriate statement such as "this is a cancer only policy" or  
14 "this is an automobile accident only policy," "this is an  
15 accident policy only--this policy does not allow coverage for  
16 sickness," "this policy provides dental insurance only."

17 Z. Exceptions, reductions, or limitations. An advertisement  
18 must not set out exceptions, reductions, or limitations from a  
19 policy worded in a positive manner to imply that they are  
20 beneficial features such as describing a waiting period as a  
21 benefit builder. Words and phrases used to disclose exceptions,  
22 reductions, or limitations shall fairly and accurately describe  
23 their negative features. The words "only," "minimum," "just,"  
24 "merely," or similar words or phrases must not be used to refer  
25 to exceptions, reductions, or limitations.

26 AA. Misleading cost statements. An advertisement must not  
27 state or imply, or use similar words or phrases to the effect  
28 that because no insurance agent will call and no commissions  
29 will be paid to agents, the policy is a low cost plan, unless  
30 literally true.

31 BB. Awards. Devices such as a safe driver's award and other  
32 such awards must not be used in connection with an  
33 advertisement, except advertisements for property and casualty  
34 insurance.

35 CC. Applications. An advertisement must not use an  
36 application which is deceptively similar to paper currency,

1 bonds, or stock certificates.

2 DD. Mandated benefits. An advertisement must not exaggerate  
3 the effect of statutorily mandated benefits or required policy  
4 provisions or imply that these provisions are unique to the  
5 advertised policy.

6 EE. Statements of coverage. An advertisement must state  
7 clearly the insurance coverage being offered.

8 FF. Medicare supplement policies. An advertisement which  
9 refers to a policy as being a "medicare supplement" policy must,  
10 in addition to the other disclosure requirements required by  
11 law, comply with the following requirements:

12 1. contain a prominent statement indicating which  
13 medicare benefits the policy is intended to supplement, for  
14 example, hospital benefits; and which medicare benefits the  
15 policy will not supplement, for example, nursing home benefits;  
16 and must clearly disclose any gaps in medicare coverage for  
17 which the policy does not provide benefits;

18 2. clearly indicate the extent and amount of the benefits  
19 if the policy benefits are on an expenses-incurred basis beyond  
20 what medicare covers;

21 3. clearly indicate the classification of the medicare  
22 supplement coverage being offered by the policy as defined by  
23 Minnesota Statutes, sections 62A.31, 62A.32, 62A.33, 62A.34, and  
24 62A.35;

25 4. must not imply or state that the policy is in any  
26 manner related to the federal medicare program or any other  
27 governmental program.

28 GG. Federal program information. An advertisement which  
29 offers to provide information concerning the federal medicare  
30 program or any related government program or changes in the  
31 program must:

32 1. include no reference to the program on the envelope,  
33 the reply envelope, or on the address side of the reply postal  
34 card, if any;

35 2. include on any page containing a reference to the  
36 program an equally prominent statement to the effect that in

1 providing supplemental coverage the insurer and agent involved  
2 in the solicitation are not in any manner connected with the  
3 program;

4 3. contain a statement that it is an advertisement for  
5 insurance or is intended to obtain insurance prospects;

6 4. prominently identify the insurer or insurers which  
7 will issue the coverage; and

8 5. prominently state that any material or information  
9 offered will be delivered in person by a representative of the  
10 insurer, if that is the case.

11 4 MCAR S 1-9426 1.9425 Exceptions, reductions, and  
12 limitations.

13 A. Disclosure. When an advertisement for health or accident  
14 insurance refers to any dollar amount of benefits payable,  
15 period of time for which any benefit is payable, cost of a  
16 policy, specific policy benefit, or the loss for which the  
17 benefit is payable, it must also disclose those exceptions,  
18 reductions, and limitations, including waiting, elimination,  
19 probationary, or similar periods, and pre-existing condition  
20 exceptions, affecting the basic provisions of the policy without  
21 which the advertisement would have the capacity and tendency to  
22 mislead or deceive.

23 B. Pre-existing conditions summary. If the policy  
24 advertised does not provide immediate coverage for pre-existing  
25 conditions, an application or enrollment form contained in or  
26 included with an advertisement to be completed by the applicant  
27 and returned to the insurer must contain a question or statement  
28 immediately preceding the applicant's signature line which  
29 summarizes the pre-existing condition provisions of the policy.

30 C. Pre-existing conditions disclosure. An advertisement  
31 must in negative terms disclose the extent to which any loss is  
32 not covered if the cause of the loss is a condition which exists  
33 prior to the effective date of the policy. The expression  
34 "pre-existing conditions" shall not be used unless appropriately  
35 defined.

36 D. Medical exam disclosure. If a medical examination is

1 required for a policy, an advertisement for that policy must  
2 disclose this requirement.

3 4 MCAR S ~~1-9427~~ 1.9426 Renewability, cancelability, and  
4 termination.

5 An advertisement which refers to renewability,  
6 cancelability, or termination of a policy, or which refers to a  
7 policy benefit, or which states or illustrates time or age in  
8 connection with eligibility of applicants or continuation of the  
9 policy, must disclose the provisions relating to renewability,  
10 cancelability, and termination and any modification of benefits,  
11 losses covered, or premiums because of age or for other reasons,  
12 in a manner which would not have the capacity or tendency to  
13 mislead, deceive, minimize, or render obscure the qualifying  
14 conditions. An advertisement of a group or blanket policy which  
15 would otherwise be subject to the disclosure requirements of  
16 this rule need not disclose the policy's provisions relating to  
17 renewability, cancelability, and termination. The advertisement  
18 must provide, however, as a minimum, that an insured's coverage  
19 is contingent upon his or her continued membership in the group  
20 and the continuation of the plan.

21 4 MCAR S ~~1-9428~~ 1.9427 Identity.

22 A. Disclosure. The identity of the insurer, agents, or  
23 agency must be made clear in all advertisements or  
24 representations, whether written or oral.

25 B. Names. An advertisement or representation, whether  
26 written or oral, must not use a trade name, an insurance group  
27 designation, the name of the parent company of the insurer, the  
28 name of a government agency or program, the name of a department  
29 or division of an insurer, the name of an agency, the name of  
30 any other organization, a service mark, a slogan, a symbol, or  
31 any other device which has the capacity or tendency to mislead  
32 or deceive as to the identify of the insurer, agents, or agency.

33 C. Connection with a government agency. An advertisement or  
34 representation, whether written or oral, must not use any  
35 combination of words, symbols, or materials which, by its

1 content, phraseology, shape, color, nature, or other  
2 characteristics, is so similar to combinations of words,  
3 symbols, or materials used by federal, state, or local  
4 government agencies that it tends to confuse or mislead  
5 prospective buyers into believing that the solicitation is in  
6 some manner connected with the government agency.

7 4 MCAR S ~~1.9429~~ 1.9428 Testimonials, endorsements, or  
8 commendations by third parties.

9 A. Disclosure of interests. If a person, group, or  
10 association making a testimonial, endorsement, or a commendatory  
11 statement concerning the insurer has a financial interest in the  
12 insurer or a related entity as a stockholder, director, officer,  
13 employee, or otherwise, the facts must be disclosed in the  
14 advertisement or representation, whether written or oral. If  
15 the person, organization, or association is compensated for  
16 making a testimonial, endorsement, or commendatory statement,  
17 the facts must be disclosed in the advertisement or  
18 representation, whether written or oral, by language fully  
19 disclosing that compensation was paid. This rule does not  
20 require disclosure of union "scale" wages required by union  
21 rules if the payment is actually for the "scale" for television  
22 or radio performances. The payment of substantial amounts,  
23 directly or indirectly, for "travel and entertainment," for  
24 filming or recording of television or radio advertisements  
25 remove the filming and recording from the category of an  
26 unsolicited testimonial and require disclosure of the  
27 compensation.

28 B. Approvals or endorsements. An advertisement or  
29 representation, whether written or oral, must not state or imply  
30 that an insurer or a policy has been approved or endorsed by any  
31 individual, group of individuals, society, association, or other  
32 organizations, unless that is the fact, and only if any  
33 proprietary relationship between an organization and the insurer  
34 is disclosed. If the entity making the endorsement or  
35 testimonial has been formed by the insurer or is owned or  
36 controlled by the insurer or by a person or persons who are in

1 control of the insurer, the facts must be disclosed in the  
2 advertisement.

3 C. Genuineness. A testimonial, endorsement, or commendatory  
4 statement used in an advertisement or representation, whether  
5 written or oral, must be genuine, represent the current opinion  
6 of the author, be applicable to the policy advertised and be  
7 accurately reproduced.

8 D. General restrictions. An insurer, agent, or agency shall  
9 not use a testimonial, endorsement, or commendatory statement in  
10 any advertisement or representation, whether written or oral:

11 1. which is fictional;

12 2. where the insurer, agent, or agency has some  
13 information indicating a substantial change of view on the part  
14 of the author;

15 3. where more than two years have elapsed from the date  
16 of the testimonial or the last confirmation of the statement  
17 without obtaining a confirmation that the statement represents  
18 the author's current opinion;

19 4. which does not accurately reflect the present practice  
20 of the insurer, agent, or agency;

21 5. which refers to a policy other than the one for which  
22 such statement was given, unless the statement clearly has some  
23 reasonable application to the other policy;

24 6. in which a change or omission has been effected which  
25 alters or distorts its meaning or intent as originally written;  
26 or

27 7. if it contains a description of benefit payments which  
28 does not disclose the true nature of the insurance coverage  
29 under which the benefits were paid.

30 4 MCAR S ~~1-9430~~ 1.9429 Jurisdictional licensing.

31 A. Misrepresentation. An advertisement which may be seen or  
32 heard beyond the limits of the jurisdiction in which the insurer  
33 is licensed must not imply licensing beyond those limits.

34 B. Disclosure. Advertisements by direct mail insurers must  
35 indicate that the insurer is licensed in a specified state or  
36 states, or is not licensed in a specified state or states, by

1 use of some language such as "This company is licensed in state  
2 A" or "This company is not licensed in state B."

3 4 MCAR S ~~1.9431~~ 1.9430 Approval by government agency.

4 A. Misleading advertisements. An advertisement or  
5 representation, whether written or oral, must not state or  
6 imply, or otherwise create the impression directly or  
7 indirectly, that the insurer, its financial condition or status,  
8 the payment of its claims, its policy forms or the merits or  
9 desirability of its policy forms or kinds or plans of insurance  
10 are approved, endorsed, or accredited by any agency of this  
11 state or the federal government, unless that is the fact.

12 B. Licensing as endorsement disclaimed. In any  
13 advertisement or representation, whether written or oral, any  
14 reference to licensing must contain an appropriate disclaimer  
15 that the reference is not to be construed as an endorsement or  
16 implied endorsement of the insurer, agent, or agencies by the  
17 Department of Commerce or any other agency of this state.

18 C. Reproduction of report of examination prohibited. No  
19 advertisement or representation, whether written or oral, may  
20 reproduce any portion of a Department of Commerce report of  
21 examination.

22 4 MCAR S ~~1.9432~~ 1.9431 Introductory, initial, or special offers  
23 in limited enrollment periods.

24 A. Regulation. An advertisement or representation, whether  
25 written or oral, must not state or imply that a policy or  
26 combination of policies is an introductory, initial, or special  
27 offer and that the applicant will receive advantages not  
28 available at a later date by accepting the offer, that only a  
29 limited number of policies will be sold, that a time is fixed  
30 for the discontinuance of the sale of the policy advertised  
31 because of special advantages available in the policies, or that  
32 an applicant will receive special advantages by enrolling within  
33 an open enrollment period or by a deadline date, unless that is  
34 fact.

35 B. Disclosure of enrollment period. A written advertisement

1 shall not state or imply that enrollment under a policy is  
2 limited to a specific period unless the period of time permitted  
3 to enroll is disclosed.

4 C. Disclosure of similar offers. If the insurer making a  
5 special offer has previously offered the same or similar policy  
6 on the same basis or intends to repeat the current offer for the  
7 same or similar policy, the advertisement or representation,  
8 whether written or oral, must so indicate.

9 D. Limits of timing of enrollment periods. An insurer must  
10 not establish for residents of this state a limited enrollment  
11 period within which an individual policy or certificate may be  
12 purchased less than six months after the close of an earlier  
13 limited enrollment period for the same or similar policy or  
14 certificate. This restriction also applies to all  
15 advertisements or representations, whether written or oral,  
16 soliciting enrollment under mass marketed or direct response  
17 solicitations for life or health insurance coverage.

18 4 MCAR S ~~1.9433~~ 1.9432 Group, quasi-group, or special class  
19 implications.

20 An advertisement or representation, whether written or  
21 oral, must not state or imply that prospective policyholders or  
22 members of a particular class of individuals become group or  
23 quasi-group members or are uniquely eligible for a special  
24 policy or coverage and as such will be subject to special rates  
25 or underwriting privileges or that a particular coverage or  
26 policy is exclusively for preferred risk, a particular segment  
27 of people, or a particular age group or groups, unless that is  
28 the fact.

29 4 MCAR S ~~1.9434~~ 1.9433 Identification of plan or numbers of  
30 policies.

31 A. Benefits to depend on plan selected. When an  
32 advertisement or representation, whether written or oral, refers  
33 to a choice regarding benefit amounts, it must disclose that the  
34 benefit amounts provided will depend upon the plan selected and  
35 that the premium will vary with the amount of the benefits.



1 B. Benefits requiring combination of policies. When an  
2 advertisement refers to various benefits which may be contained  
3 in two or more policies, other than group policies, it must  
4 disclose that the benefits are provided only through a  
5 combination of the policies.

6 4 MCAR S ~~1.9435~~ 1.9434 Use of statistics.

7 A. Relevant facts. An advertisement or representation,  
8 whether written or oral, relating to the dollar amounts of  
9 claims paid, the number of persons insured, or similar  
10 statistical information relating to any insurer or policy must  
11 not be used unless it accurately reflects all of the relevant  
12 facts. Irrelevant statistical data shall not be used. The  
13 sources of all statistical information must be disclosed in the  
14 advertisement or representation.

15 B. Applicable statistics. An advertisement or  
16 representation, whether written or oral, must not imply that any  
17 statistics used are derived from the policy advertised unless  
18 those statistics are derived from the policy.

19 4 MCAR S ~~1.9436~~ 1.9435 Inspection of the policy.

20 A. Effect. An offer in an advertisement or representation,  
21 whether written or oral, of free inspection of a policy or offer  
22 of a premium refund is not a cure for misleading or deceptive  
23 statements contained in the advertisement or representation.

24 B. Return disclosure. An advertisement or representation,  
25 whether written or oral, which refers to the provision in the  
26 policy advertised or represented regarding the right to return  
27 the policy must disclose the time limitation applicable to this  
28 right.

29 4 MCAR S ~~1.9437~~ 1.9436 Disparaging comparisons and statements.

30 An advertisement must not directly or indirectly make  
31 unfair or incomplete comparisons of policies or benefits or  
32 otherwise falsely or unfairly disparage, discredit, or criticize  
33 competitors, their policies, services, or business methods or  
34 competing marketing methods.

1 4 MCAR S ~~1-9438~~ 1.9437 Statement about an insurer.

2 An advertisement must not contain statements which are  
3 untrue in fact or by implication misleading with respect to the  
4 insurer's assets, corporate structure, financial standing, age,  
5 experience, or relative position in the insurance business.

6 4 MCAR S ~~1-9439~~ 1.9438 Service facilities.

7 An advertisement or representation, whether written or  
8 oral, must not contain untrue statements with respect to the  
9 time within which claims are paid or statements which imply that  
10 claim settlements will be liberal or generous beyond the terms  
11 of the policy, or contain a description of a claim which  
12 involves unique or highly unusual circumstances.

13 4 MCAR S ~~1-9440~~ 1.9439 Insurer's advertising file.

14 A. Retention of copies. Each insurer shall maintain at its  
15 home or principal office a complete file containing every  
16 printed, published, or prepared advertisement of individual  
17 policies and typical printed, published, or prepared  
18 advertisements of blanket, franchise, or group policies  
19 hereafter disseminated in this or any other state whether or not  
20 licensed in the other state. A notation must be attached to  
21 each advertisement in the file indicating the manner and extent  
22 of distribution and the form number of any policy, amendment,  
23 rider, or endorsement form advertised. The company must be able  
24 to identify and provide a copy of the policy advertised,  
25 together with any amendment, rider, or endorsement applicable  
26 thereto. All advertisements must be maintained for a period of  
27 not less than three years. The file is subject to regular and  
28 periodic inspection by the Department of Commerce.

29 B. Affidavit with annual statement. Each insurer required  
30 to file an annual statement which is now or which hereafter  
31 becomes subject to the provisions of 4 MCAR SS 1.9420-~~1-9442~~  
32 1.9441 must file with the Department of Commerce together with  
33 its annual statement, a certificate executed by an authorized  
34 officer of the insurer wherein it is stated that to the best of  
35 their knowledge, information, and belief, that the

1 advertisements which were disseminated by the insurer during the  
2 preceding statement year complied or were made to comply in all  
3 respects with the provisions of the insurance laws of this state  
4 as implemented and interpreted by these rules.

5 4 MCAR S ~~1.9441~~ 1.9440 Responsibility of insurer, agent, or  
6 agency.

7 A. System of control required. Every insurer, agent, or  
8 agency shall establish and at all times maintain a system of  
9 control over the content, form, and method of advertisements and  
10 representations, oral and written, concerning its policies. All  
11 advertisements and representations, whether written or oral,  
12 regardless of by whom written, created, designed, or presented,  
13 shall be the responsibility of the insurer whose policies are so  
14 advertised or represented.

15 B. Prior approval by insurer. An insurer shall require its  
16 agents or agencies and any other person or agency preparing  
17 advertisements naming the insurer or its products to submit  
18 proposed advertisements to it for approval prior to use.

19 4 MCAR S ~~1.9442~~ 1.9441 Penalty.

20 Violations of 4 MCAR SS ~~1.9420-1.9441~~ 1.9440 subject the  
21 violator to the penalties described in Minnesota Statutes,  
22 chapters 60A and 62A.