



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised May 2018

1. General Information

a. Agency/Board Name*		
b. Agency/Board Address	c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number
g. Agency Liaison Email Address		
h. Date of Public Notice		i. Comment Period End Date
j. Public Comment URL or Email Address:		
k. Program		

* By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.

2. Legislative Enactment

For purposes of this Section 2, "new" only applies to regular rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.

a. Are these rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?

No. Yes. Please provide the Chapter Numbers and Years Enacted
(eg: 2015 Session Laws Chapter 154):

3. Rule Type and Information

a. Provide the Chapter Number, Title, and Proposed Action for Each Chapter.
Please use the Additional Rule Information form for more than 10 chapters, and attach it to this certification.

Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
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Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed
Chapter Number:	Chapter Name:	<input type="checkbox"/> New	<input type="checkbox"/> Amended	<input type="checkbox"/> Repealed

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. Indicate one (1):

The Agency has complied with the requirements of W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

Not Applicable.

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

DEPARTMENT OF INSURANCE

STATE OF WYOMING

IN THE MATTER OF THE AMENDMENT)
OF CHAPTER 21 OF THE WYOMING)
DEPARTMENT OF INSURANCE RULES)
AND REGULATIONS.) Docket No. 16-20

STATEMENT OF PRINCIPAL REASONS

FOR

THE AMENDMENT OF CHAPTER 21 OF THE WYOMING INSURANCE
DEPARTMENT REGULATIONS

The Department of Insurance (DOI) originally promulgated Chapter 21 of its Rules and Regulations in 1974 and last amended it in 1997. Substantial changes have occurred in advertising insurance policies since that time. The DOI has amended Chapter 21 to address the changes in insurance advertising and to clarify the wording by removing ambiguity.

The new language of Chapter 21 is based largely upon model language drafted by the National Association of Insurance Commissioners (NAIC). The NAIC provides opportunity for input from all states, territories, and the insurance industry regarding the model regulation's proposed language. Chapter 21's amendments adopted much of the NAIC model regulation language regarding insurance policy advertising with modifications incorporating appropriate statutory references and removing any inconsistencies or conflicts with existing Wyoming law.

On or about November 25, 2013, Governor Mead required all State Agencies to reduce their Rules both in number and in length. Under the DOI's subsequent review of Chapter 21, it became apparent substantial revisions were necessary to address changes in

insurance advertising that developed after the rule's original promulgation. Unfortunately, the revisions to Chapter 21 did not result in reducing the length of the regulation. In fact, the amended Chapter 21 contains approximately 9,063 words, which is substantially longer in length than the original of approximately 3,767 words. Nevertheless, the changes are necessary to provide contemporary regulations for enhanced consumer protection in a changing insurance industry and reflect national standards which the DOI believes are best adopted to protect consumers and uphold necessary industry standards.

Chapter 21
Rules Governing Advertisements of Accident and Sickness Insurance

Section 1. Authority.

These regulations are promulgated pursuant to Wyoming Statutes §§ 26-2-110 and 26-13-101 *et seq.*

Section 2. Applicability.

(a) These regulations shall apply to individual and group accident and sickness insurance “advertisement,” as defined in Section 3(b), (h), (i), and (j) unless otherwise specified in this regulation, which the insurer knows or reasonably should know, is intended for presentation, distribution, or dissemination in Wyoming when the presentation, distribution, or dissemination is made either directly or indirectly by or on behalf of an insurer or producer as those terms are defined in the Wyoming Insurance Code.

(b) Every insurer shall establish, and at all times maintain, a system of control over, and be responsible for the content, form, and method of dissemination of all its policy advertisements-regardless of by whom written, created, designed, or presented.

(c) Advertising materials shall be identified by form numbers or other identifying means sufficient to distinguish an advertisement from any other advertising materials, policies, applications, or other materials used by the insurer.

(d) The requirements of these regulations shall also apply to health maintenance organizations.

Section 3. Definitions.

As used in these rules and regulations:

(a) “Accident and sickness insurance policy” means a policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement providing accident or sickness benefits or medical surgical or hospital benefits on an indemnity, reimbursement, service, or prepaid basis, except when issued in connection with insurance other than life insurance and annuities. An accident and sickness insurance policy includes a Medicare supplement insurance policy.

(i) “Accident and sickness insurance policy” does not apply to disability income insurance, waiver of premium, and double indemnity benefits included in life insurance, endowment, or annuity contracts containing only provisions that:

(A) Provide additional benefits in case of death, dismemberment, or loss of sight by accident; or

(B) Operate to safeguard the contracts against lapse or to give a special surrender value, special benefit, or an annuity in the event the insured or annuitant becomes totally and permanently disabled as defined by the contract or supplemental contract.

(b) “Advertisement” means:

(i) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, websites, and other Internet displays or communications, other forms of electronic communications, social media, billboards, and similar displays;

(ii) Descriptive literature and sales aids of all kinds issued by an insurer or producer for presentation to members of the insurance-buying public, such as circulars, leaflets, booklets, depictions, illustrations, form letters, and lead-generating devices of all kinds;

(iii) Prepared sales talks, presentations, and material for use by producers, whether prepared by the insurer or the producer;

(iv) Advertising material included with policies delivered and material used to solicit renewals and reinstatements; and

(v) All media communications by producers to the general public and specific members of the general public.

(vi) The definition of advertisement does **not** include:

(A) Material used solely for training and educating an insurer’s employees or producers;

(B) Material used in-house by insurers;

(C) Communications within an insurer’s own organization not intended for dissemination to the public;

(D) Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;

(E) Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;

(F) Material ordered by a court to be disseminated to policyholders; or

(G) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list regarding a contract or program having been written or arranged; provided the announcement clearly indicates it is preliminary to issuing a booklet and the announcement does not describe the specific contract or program benefits nor advantages of purchasing the contract or program. This does not prohibit a sponsor’s general endorsement of the program.

(c) “Certificate” means a statement of the coverage and provisions of a group accident and sickness insurance policy which has been delivered or issued for delivery in Wyoming and includes riders, endorsements, and enrollment forms, if attached.

(d) “Exception” means any provision in a policy whereby coverage for a specified hazard is entirely excluded; it is a statement of a risk not assumed under the policy.

(e) “Insurer” means an individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, hospital service corporation, prepaid health plan, and any other legal entity defined as an insurer in the Wyoming insurance code and engaged in advertising itself or an accident and sickness insurance policy.

(f) “Institutional advertisement” means an advertisement whose sole purpose is promoting the reader’s, viewer’s, or listener’s interest in accident and sickness insurance, or promoting the insurer as a seller of accident and sickness insurance.

(g) “Invitation to contract” means an advertisement that is neither an invitation to inquire nor an institutional advertisement.

(h) “Invitation to inquire” means:

(i) An advertisement aimed at creating a desire to inquire about accident and sickness insurance, limited to a brief description of the loss for which benefits are payable but may contain:

(A) The dollar amount of benefits payable; and

(B) The period of time during which benefits are payable.

(ii) An invitation to inquire may not refer to cost.

(iii) An invitation to inquire shall contain a provision in the following or substantially similar form:

“This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent of the company [whichever is applicable].”

(i) “Lead generating device” means any communication directed to the public, regardless of form, content, or stated purpose, intended to result in compiling or qualifying a list containing names and other personal information to solicit Wyoming residents to purchase accident and sickness insurance.

(j) “Limitation” means a provision restricting policy coverage other than an exception or reduction.

(k) “Limited benefit health coverage” is insurance offered and marketed as supplemental health insurance and not as a substitute for hospital or medical insurance or major medical expense insurance.

(l) “Person” as defined by W.S. § 26-1-102(a)(xx).

(m) “Producer” means an insurance producer as defined by W.S. § 26-1-102(a)(xxxv).

(n) “Prominently” or “conspicuously” means presented in a manner noticeably set apart from other information or images in the advertisement.

(o) “Reduction” means a provision reducing the benefit amount; a risk of loss is assumed but payment upon occurrence of the loss is limited to some amount or period less than would be otherwise payable and such reduction has not been used.

Section 4. Method of Disclosure of Required Information.

(a) All information, exceptions, limitations, reductions, and other restrictions required to be disclosed by this regulation shall be set out conspicuously and in close conjunction to the statements to which the information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure, presented in an ambiguous fashion, or intermingled with the context of the advertisement so as to be confusing or misleading. This regulation permits, but is not limited to, use of either of the following methods of disclosure:

(i) In the description of the related benefits or in a paragraph set out in close conjunction with the description of the policy benefits; or

(ii) Disclosure not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure, or otherwise made to appear unimportant. The phrase “under appropriate captions” means the title must accurately describe the captioned material. Appropriate captions include the following: “Exceptions,” “Exclusions,” “Conditions Not Covered,” and “Exceptions and Reductions.” Use of captions such as the following are prohibited because they do not provide adequate notice of the significance of the material: “Extent of Coverage,” “Only these Exclusions,” or “Minimum Limitations.”

Section 5. Form and Content of Advertisements.

(a) The format and content of accident or sickness insurance policy advertisements shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Format means the arrangement of text and captions.

(b) Distinctly different advertisements are required for publication in different media, such as newspapers or magazines of general circulation as compared to scholarly, technical, or business journals, and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must independently conform to the disclosure requirements.

(c) Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner from the overall impression the advertisement may be reasonably expected to create within the segment of the public to which it is directed.

(d) Advertisements shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by implication or familiarity with insurance terminology, shall not be used.

(e) An insurer shall clearly identify its accident and sickness insurance policy as an insurance policy. A policy trade name shall be followed by the words “insurance policy” or similar words clearly identifying that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans, and other direct services organizations) is being offered.

(f) An insurer, producer, or other person shall not solicit a Wyoming resident to purchase accident and sickness insurance in connection with or as the result of using advertisement by the person or any other persons, where the advertisement:

(i) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive, or misleading regarding the information imparted, the status, character, or representative capacity of the person, or the true purpose of the advertisement; or

(ii) Otherwise violates the provisions of this regulation.

(g) An insurer, producer, or other person shall not solicit Wyoming residents to purchase accident and sickness insurance using a true or fictitious name that is deceptive or misleading regarding the status, character, or proprietary or representative capacity of the person, or the true purpose of the advertisement.

Section 6. Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

(a) Covered Benefits:

(i) The use of deceptive words, phrases, or illustrations in accident and sickness insurance advertisements is prohibited.

(ii) An advertisement that fails to state clearly the type of insurance coverage being offered is prohibited.

(iii) An advertisement shall not omit information or use words, phrases, statements, references, or illustrations if the omission or 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, or premium payable. The fact the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(iv) An advertisement shall not contain or use words or phrases such as “all,” “full,” “complete,” “comprehensive,” “unlimited,” “up to,” “as high as,” “this policy will help fill some of the gaps Medicare and your present insurance leave out,” “this policy will help replace your income,” (when used to express loss of time benefits), or similar words and phrases, in a manner that exaggerates any benefits beyond the policy’s terms.

(v) An advertisement of a hospital or other similar facility confinement benefit referencing direct payment of the benefit to the policyholder is prohibited unless, in making the reference, the advertisement includes a statement that the benefits may be paid directly to the hospital or other health care facility if the policyholder assigns their benefits. An advertisement of medical

and surgical expense benefits shall comply with this regulation. Phrases such as “you collect,” “you get paid,” “pays you,” or other words or phrases of similar import may be used so long as the advertisement indicates it is payable to the insured or someone designated by the insured.

(vi) An advertisement for limited benefit health coverage or coverage of only certain types of loss is prohibited if:

(A) The advertisement refers to a total benefit maximum limit payable under the policy in any headline, lead-in, or caption without also in the same headline, lead-in, or caption specifying the applicable daily limits and other internal limits;

(B) The advertisement states a total benefit limit without stating the periodic benefit payment, if any, and the length of time the periodic benefit would be payable to reach the total benefit limit; or

(C) The advertisement prominently displays a total benefit limit that would not, as a general rule, be payable under an average claim.

(vii) Section 6(a)(vi) does not apply to individual major medical expense coverage, individual basic medical expense coverage, or disability income insurance.

(viii) Advertisements emphasizing total amounts payable under hospital, medical, or surgical accident and sickness insurance coverage or other benefits in a policy, such as benefits for private duty nursing, are prohibited unless the actual amounts payable per day for the indemnity or benefits are stated.

(ix) Advertisements examples of benefits payable under a policy shall not use examples in a way that implies the maximum payable benefit under the policy will be paid when less than maximum benefits are paid in an average claim.

(x) When an advertisement sets forth a range of benefit levels, it shall be clear the insured will receive only the benefit level written or printed in the policy selected and issued. Language implying the insured may select the benefit level at the time of filing claims is prohibited.

(xi) Language in an advertisement implying the amount of benefits payable under a loss-of-time policy may be increased at the time of claim or disability according to the needs of the insured is prohibited.

(xii) Advertisements for policies with modest premiums due to limited coverage or limited amounts of benefits shall not describe premiums as “low,” “low cost,” “budget,” or use qualifying words of similar import. The use of words such as “only” and “just” in conjunction with statements of premium amounts when used to imply a bargain is prohibited.

(xiii) Advertisements stating or implying premiums will not be changed in the future are prohibited unless the advertised policies expressly provide that the premiums will not be changed in the future.

(xiv) An advertisement for a policy that does not require the premium to

accompany the application shall not overemphasize that fact and shall clearly indicate under what circumstances coverage will become effective.

(xv) An advertisement exaggerating the effects of statutorily mandated benefits or required policy provisions or implying the provisions are unique to the advertised policy is prohibited.

(xvi) An advertisement implying that a common type of policy or a combination of common benefits is “new,” “unique,” “a bonus,” “a breakthrough,” or is otherwise unusual is prohibited. The addition of a novel method of premium payment to an otherwise common plan of insurance does not render it new.

(xvii) Language in an advertisement stating or implying that each member under a family contract is covered as to the maximum benefits advertised where that is not the fact is prohibited.

(xviii) An advertisement containing statements such as “anyone can apply,” or “anyone can join,” other than with respect to a guaranteed issue policy for which administrative procedures exist to assure the policy is issued within a reasonable period of time after the application is received by the insurer, is prohibited.

(xix) An advertisement stating or implying immediate coverage of a policy is prohibited unless administrative procedures exist so the policy is issued within fifteen (15) working days after the insurer receives the completed application.

(xx) An advertisement containing statements such as “here is all you do to apply,” “simply,” or “merely” to refer to the act of applying for a policy that is not a guaranteed issue policy is prohibited unless it refers to the fact that the application is subject to acceptance of approval by the insurer.

(xxi) An advertisement of accident and sickness insurance sold by direct response shall not state or imply that because no insurance agent will call and no commissions will be paid to agents that it is a low cost plan, or use other similar words or phrases because the cost of advertising and servicing the policies is a substantial cost in the marketing by direct response.

(xxii) Applications, request forms for additional information, and similar related materials are prohibited if they resemble paper currency, bonds, stock certificates, etc., or use any name, service mark, slogan, symbol, or device in a manner implying the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.

(xxiii) An advertisement implying in any manner that the prospective insured may realize a profit from obtaining hospital, medial, or surgical insurance coverage is prohibited.

(xxiv) An advertisement using words such as “extra,” “special,” or “added” to describe a benefit in the policy is prohibited. No advertisement of a benefit for which payment is conditioned 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 because these words and phrases have the capacity, tendency, or effect of misleading the public into believing

the policy advertised will, in some way, enable them to make a profit from being hospitalized.

(xxv) An advertisement of a hospital or other similar facility confinement benefit shall not 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 the monthly or weekly benefit amounts are juxtaposed with equally prominent statements of the benefit payable on a daily basis. The term “juxtaposed” means side by side or immediately above or below. When the policy contains a limit on the number of days of coverage provided, such limit must appear in the advertisement.

(xxvi) An advertisement of a policy covering only one disease or a list of specified diseases shall not imply coverage beyond the policy terms. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

(xxvii) An advertisement that is an invitation to contract for a specified disease policy that provides lesser benefit amounts for a particular subtype of disease, shall clearly disclose the subtype and its benefits. This provision shall not apply to institutional advertisements.

(xxviii) An advertisement of a specified disease policy providing expense benefits shall not use the term “actual” when the policy only pays up to a limited amount for expenses. Instead, the term “charges” or substantially similar language should be used which does not create the misleading impression that there is full coverage for expenses.

(xxix) An advertisement describing any benefits which vary by age shall disclose that fact.

(xxx) An advertisement using a phrase such as “no age limit” if benefits or premiums vary by age or if age is an underwriting factor shall disclose that fact.

(xxxi) A television, radio, mail, or newspaper advertisement, or lead-generating device designed to produce leads either by use of a coupon, a request to write or to call the company, or a subsequent advertisement prior to contact shall include information disclosing that an agent may contact the applicant.

(xxxii) Advertisements, applications, requests for additional information, and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had his or her eligibility for the insurance individually determined in advance when the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.

(xxxiii) An advertisement, including invitations to inquire or invitations to contract, shall not employ devices designed to create undue fear or anxiety in those to whom they are directed. Examples of prohibited devices are:

(A) Using phrases such as “cancer kills somebody every two minutes” and “total number of accidents” without reference to the total population from which the statistics are drawn;

(B) Exaggerating the importance of diseases rarely or seldom found in the class of persons to whom the policy is offered;

(C) Using phrases such as “the finest kind of treatment,” implying that the treatment would be unavailable without insurance;

(D) Reproducing newspaper articles, magazine articles, information from the Internet, or other similar published material containing irrelevant facts and figures;

(E) Using images unduly emphasizing automobile accidents, disabled persons or persons confined in beds who are in obvious distress, persons receiving hospital or medical bills, or persons being evicted from their homes due to their medical bills.

(F) Using phrases such as “financial disaster,” “financial distress,” “financial shock,” or another phrase implying financial ruin is likely without insurance. Using such phrases is only permissible in advertising major medical expense coverage, individual basic medical expense coverage, or disability income coverage, and only if the phrase does not dominate the advertisement;

(G) Using phrases or devices that unduly excite fear of dependence upon relatives or charity; and

(H) Using phrases or devices implying that long sicknesses or hospital stays are common among the elderly.

(b) Exceptions, Reductions and Limitations:

(i) An advertisement shall not contain descriptions of policy limitations, exceptions, or reductions, worded in a positive manner implying it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even pre-existing conditions are covered after two years.” Words and phrases used in an advertisement describing the policy limitations, exceptions, and reductions shall fairly and accurately describe the negative features of the limitations, exceptions, and reductions of the offered policy.

(ii) An advertisement that is an invitation to contract shall disclose exceptions, reductions, and limitations affecting the basic policy provisions.

(iii) An advertisement subject to the requirements of the preceding paragraph shall prominently disclose 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 the loss.

(iv) An advertisement shall not use the words “only,” “just,” “merely,” “minimum,” “necessary,” or similar words or phrases to describe applicability of any exceptions, reductions, limitations, or exclusions such as: “This policy is subject to the following minimum exceptions and reductions.”

(v) An advertisement that is an invitation to contract that fails to disclose the amount of any deductible or the percentage of any coinsurance factor is prohibited.

(vi) An advertisement for loss-of-time coverage that is an invitation to contract which sets forth a range of amounts of benefit levels is prohibited unless it also states eligibility for the benefits is based upon condition of health, income, or other economic conditions, or other underwriting standards of the insurer if that is the fact.

(vii) An advertisement that refers to “hospitalization for injury or sickness” omitting the word “covered” when the policy excludes certain sicknesses or injuries, or that refers to “whenever you are hospitalized,” “when you go to the hospital,” or “while you are confined in the hospital” omitting the phrase “for covered injury or sickness,” if the policy excludes certain injuries or sickness, is prohibited. Continued reference to “covered injury or sickness” is not necessary where the advertisement has prominently disclosed this fact and where the description of sicknesses or injuries not covered is prominently set forth.

(viii) An advertisement that fails to disclose that the definition of “hospital” does not include certain facilities providing institutional care such as a nursing home, convalescent home, or extended care facility, when the facilities are excluded under the policy’s definition of hospital is prohibited.

(ix) The term “confining sickness” or “homebound status” shall be explained in an advertisement containing the term.

(x) An advertisement that fails to disclose any waiting or elimination periods for specific benefits is prohibited.

(xi) An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, or other policies providing benefits that are limited in nature shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to, or substantially similar to, the following: “THIS IS A LIMITED POLICY,” “THIS POLICY PROVIDES LIMITED BENEFITS,” “THIS IS A CANCER ONLY POLICY,” “THIS IS A MEDICARE SUPPLEMENT POLICY,” or “THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY.”

(c) Pre-Existing Conditions:

(i) An advertisement that is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of loss is traceable to a condition existing prior to the policy’s effective date. The term “pre-existing condition” shall not be used without an appropriate definition or description complying with Wyoming Statutes.

(ii) Under no circumstance shall the definition of “preexisting condition” be based upon “prudent person” or similar language, meaning the average layperson would have sought treatment or advice for the given condition or symptom. Preexisting conditions shall only relate to conditions for which medical advice, diagnosis, care, or treatment was actually recommended or received.

(iii) When an accident and sickness insurance policy does not cover losses resulting from preexisting conditions, an advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect issuance of the policy or payment of

a claim under the policy. The phrase “no health questions” or words of similar import shall not be used if the policy excludes preexisting conditions. Use of a phrase such as “guaranteed issue or “automatic issue,” if the policy excludes preexisting conditions for a certain period, must be accompanied by a statement disclosing that fact in a manner that does not minimize, render obscure, or otherwise make it appear unimportant and is otherwise consistent with Section 4.

(iv) When an advertisement contains an application form to be completed by the applicant and returned by mail, the application form shall contain a question or statement reflecting the pre-existing condition provisions of the policy immediately preceding a blank space for the applicant's signature. The application form shall contain a question or statement substantially as follows:

“I understand the policy applied for will not pay benefits for any loss incurred during the first twelve (12) months after the issue date on account of disease or physical conditions for which medical advice, diagnosis, care, or treatment was actually recommended or received in the last six (6) months.”

Section 7. Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability, and Termination.

(a) An advertisement that is an invitation to contract shall disclose provisions relating to renewability, cancellability, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

(b) Advertisements of non-renewable accident and sickness insurance policies shall state renewability of the contract at the company's option in language substantially similar to the following: “This policy is renewable at the option of the company,” or “The company has the right to refuse renewal of this policy,” or “Renewable at the option of the insurer.”

(c) Advertisements of insurance policies that are guaranteed renewable, or renewable at the option of the company, shall disclose that the insurer has the right to increase premium rates if the policy so states.

(d) Qualifying conditions constituting limitations on the permanent nature of coverage shall be disclosed in advertisements of policies which are guaranteed renewable, or renewable at the option of the company. Examples of qualifying conditions include (1) age limits, (2) reservation of a right to increase premiums, and (3) establishment of lifetime maximum limits.

(i) Provisions for reducing benefits at stated ages shall be set forth. For example, a policy may contain a provision reducing benefits fifty percent (50%) after age sixty (60) although it is renewable to age sixty-five (65). Provisions for eliminating certain hazards at any specific ages or after the policy has been in force for a specified period of time shall also be set forth.

(ii) An advertisement for a policy providing for step-rated premium rates based upon the policy year or the insured's attained age shall disclose the rate increases and the times or ages at which the premiums increase.

Section 8. Standards for Marketing.

- (a) An insurer, directly or through its producers, shall:
 - (i) Establish marketing procedures assuring any policy comparison by its producers will be fair and accurate;
 - (ii) Establish marketing procedures assuring excessive insurance is not sold or issued, except in the case of group major medical expense coverage and disability income coverage; and
 - (iii) Establish auditable procedures for verifying compliance with this subsection.
- (b) In addition to the practices prohibited in Wyoming Statute § 26-13-101 *et seq.*, the following acts and practices are prohibited:
 - (i) **High Pressure Tactics.** Employing marketing methods that effectually induce insurance purchases, or tends to induce insurance purchases, through force, fright, threat (explicit or implied), or undue pressure to purchase or recommend the purchase of insurance; and
 - (ii) **Cold Lead Advertising.** Using, directly or indirectly, any marketing method which fails to disclose in a conspicuous manner that a purpose of the marketing method is soliciting insurance and contact will be made by an insurance producer or insurance company.

Section 9. Testimonials or Endorsements by Third Parties.

- (a) Testimonials and endorsements used in advertisements shall be genuine, represent the current opinion of the author, applicable to the policy advertised, and accurately reproduced. In using a testimonial or endorsement, the insurer makes as its own all of the statements contained in it, and the advertisement, including the statement, is subject to all provisions of this regulation. When a testimonial or endorsement is used more than one year after originally given, a written confirmation to continue using the testimonial or endorsement must be obtained.
- (b) A person shall be deemed a “spokesperson” if the person making the testimonial or endorsement:
 - (i) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise;
 - (ii) Has been formed by the insurer or, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer;
 - (iii) Is any person in a policy-making position affiliated with the insurer in any of the above described capacities; or
 - (iv) Is in any way directly or indirectly compensated for making a testimonial or endorsement.

(c) The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement in the introductory portion of the testimonial or endorsement. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. In the case of television or radio advertising, the required disclosure shall be in the introductory portion of the advertisement and shall be given prominence.

(d) The disclosure requirements shall not apply where the sole financial interest or compensation of a spokesperson for all testimonials or endorsements made on behalf of the insurer consists of payment of union scale wages required by union rules and if the payment is actually the scale for TV or radio performances.

(e) An advertisement shall not state or imply that an insurer or accident and sickness insurance policy has been approved or endorsed by any individual, group of individuals, society, association, or other organizations, unless that is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. An advertisement must disclose if the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.

(f) When a testimonial refers to benefits received under an accident and sickness insurance policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four (4) years or until the insurer files their next regular report of examination, whichever is the longer period of time. Use of testimonials that do not correctly reflect present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

Section 10. Use of Statistics.

(a) An advertisement relating to dollar amounts of claims paid, number of persons insured, or similar statistical information relating to an insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all current and relevant facts. The advertisement shall not imply that the statistics are derived from the policy advertised unless that is the fact.

(i) An advertisement shall specifically identify the accident and sickness insurance policy to which statistics relate and where statistics are given which are applicable to a different policy, it shall be stated clearly that the data do not relate to the policy being advertised.

(ii) An advertisement using statistics describing an insurer, such as assets, corporate structure, financial standing, age, product lines, or relative position in the insurance business, may be irrelevant and, if used at all, shall be used with extreme caution. As a specific example, an advertisement for accident and sickness insurance referring to the amount of life insurance the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.

(b) An advertisement shall not represent or imply that insurer's claim settlements are "liberal" or "generous" or use words of similar import, or that claim settlements are or will be beyond the actual terms of the policy. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

(c) The source of any statistics used in an advertisement shall be identified in the advertisement.

Section 11. Identification of Plan or Number of Policies.

(a) An advertisement that uses the word "plan" without prominently identifying it as an accident and sickness insurance policy is prohibited.

(b) When a choice of the benefits amount is referred to, an advertisement that is an invitation to contract shall disclose that the amount of benefits provided depends upon the plan selected and the premium varies with the amount of the benefits selected.

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

Section 12. Disparaging Comparisons and Statements.

(a) An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services, or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

(b) An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

(c) Advertisements stating or implying that competing insurance coverages customarily contain certain exceptions, reductions, or limitations not contained in the advertised policies are prohibited unless the exceptions, reductions, or limitations are contained in a substantial majority of the competing coverages.

(d) Advertisements stating or implying that an insurer's premiums are lower or its loss ratios are higher because its organizational structure differs from that of competing insurers are prohibited.

Section 13. Jurisdictional Licensing and Status of Insurer.

(a) An advertisement intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(b) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are approved, endorsed, or accredited by any division or agency of the State of Wyoming or the federal government. Terms such as "official," or words of similar import, used to describe any policy or application form are prohibited

because of the potential for deceiving or misleading the public.

(c) An advertisement shall not imply that approval, endorsement, or accreditation of policy forms or advertising has been granted by any division or agency of the state of Wyoming or the federal government. Approval of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial condition.

Section 14. Identity of Insurer.

(a) The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement that 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 that, 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) An advertisement shall not use any combination of words, symbols, or physical materials whose content, phraseology, shape, color or other characteristics are so similar to combinations of words, symbols, or physical materials used by agencies of the federal government or of the state of Wyoming, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing the solicitation is in some manner connected with an agency of the municipal, state, or federal government.

(c) Advertisements, envelopes or stationery that employ words, letters, initials, symbols, or other devices similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:

(i) That the advertised coverages are somehow provided by or endorsed by the governmental agencies or the other insurers; or

(ii) That the advertiser is the same as, is connected with, or is endorsed by the governmental agencies or the other insurers.

(d) An advertisement shall not use the name of a state or political subdivision of a state in a policy name or description.

(e) An advertisement in the form of envelopes or stationery of any kind may not use any name, service mark, slogan, symbol, or any device in a manner implying that the insurer, the policy advertised, or that any agent who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

(f) An advertisement may not incorporate the word "Medicare" in the plan or policy title advertised unless, wherever it appears, the word is qualified by language differentiating it from Medicare. The advertisement, however, shall not use the phrase "[] Medicare Department of the [] Insurance Company," or language of similar import.

(g) An advertisement may not imply that the reader may lose a right or privilege or benefit under federal, state, or local law if he or she fails to respond to the advertisement.

(h) Use of letters, initials, or symbols of the corporate name or trademark having the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct, and complete name of the insurer is in close conjunction and in the same size type as the letters, initials, or symbols of the corporate name or trademark.

(i) The use of the name of an agency or “[] Underwriters” or “[] Plan” in a type, size, and location with the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

(j) The use of an address so as to mislead or deceive as to true identity of the insurer, its location, or licensing status is prohibited.

(k) An insurer shall not use, in the trade name of its insurance policy any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive, or mislead prospective purchasers.

(l) Advertisements used or created by agents, producers, brokers, or solicitors of an insurer shall have prior written approval of the insurer before they may be used.

(m) An agent who makes contact with a consumer, as a result of acquiring that consumer’s name from a lead-generating device, shall disclose that fact in the initial contact with the consumer. An agent or insurer may not use names produced from lead-generating devices that do not comply with the requirements of this regulation.

Section 15. Group or Quasi-Group Implications.

(a) An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as members enjoy special rates or underwriting privileges, unless that is the fact.

(b) Solicitations of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when in fact the policy being advertised is sold only on an individual basis at regular rates is prohibited.

(c) Advertisements indicating that a particular coverage or policy is exclusively for “preferred risks,” a particular segment of the population, or that a particular segment of the population is an acceptable risk when the distinctions are not maintained in issuing policies are prohibited.

(d) An advertisement to join an association, trust, or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust, or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application requiring a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as “enroll” or “join” to imply group or blanket insurance coverage when that is not the fact.

(e) Advertisements for group or franchising plans providing a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

Section 16. Introductory, Initial or Special Offers.

(a) 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, 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 the enrollment periods as the usual method of marketing accident and sickness insurance.

(b) An enrollment period included in limited health benefit plans during which a particular insurance product may be purchased on an individual basis shall not be offered within Wyoming unless there has been a lapse of not less than twenty-four (24) months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall not be less than ten (10) days and not more than forty (40) days from the date the enrollment period is advertised for the first time. This regulation applies to all advertising media, i.e., mail, newspapers, the Internet, radio, television, magazines and periodicals, by any one insurer. It is inapplicable to solicitations of employees or members of a particular group or association otherwise eligible under specific provisions of the Insurance Code for group, blanket, or franchise insurance. The phrase “any one insurer” includes all affiliated companies of a group of insurance companies under common management or control.

(i) The phrase “a particular insurance product” means an insurance policy providing substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; and an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy are not sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

(c) Any statement or implication to the effect that only a specific number of policies will be sold or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy is prohibited, unless that is the fact.

(d) An advertisement shall not offer a policy utilizing a reduced initial premium rate in a manner that overemphasizes the availability and 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.

(e) Special awards, such as a “safe driver's award,” shall not be used in connection with advertisements of accident and sickness insurance.

Section 17. Statements About an Insurer.

An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age, or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendations.

Section 18. Enforcement Procedures.

(a) Each insurer shall maintain at its home or principal office a complete file containing every advertisement of its individual policies and typical advertisements of its blanket, franchise, and group policies disseminated in this or any other state, whether or not licensed in another state, with a notation attached to each advertisement indicating the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to regular and periodical inspection by the Commissioner. All advertisements shall be maintained in a file for a period of either four (4) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. The provisions of this paragraph shall also apply to all insurer-approved agency advertisement.

(b) Each insurer required to file an annual statement shall file with the Commissioner by March 1 of each year a certificate of compliance executed by an authorized officer of the insurer stating that, to the best of the officer's knowledge, information, and belief, the advertisements disseminated by the insurer during the preceding statement year complied with the provisions of this regulation and the insurance laws of Wyoming as implemented and interpreted by this regulation.

Section 19. Filing of Advertising Material.

At the Commissioner's discretion and request, any insurer or agent may be required to submit all or any part of their advertisements to the Department for review and approval prior to use.

Chapter 21 Rules Governing Advertisements of Accident and Sickness Insurance

Section 1. Authority.

~~These rules (regulations) governing advertisements of accident and sickness insurance supplement the provisions of Section 26-13-101 et seq. of the Wyoming Insurance Code. They are promulgated by authority of and pursuant to the Wyoming Administrative Procedure Act (Sections 16-3-101 et seq.) and to the Wyoming Insurance Code (Sections Wyoming Statutes §§ 26-2-110, 26-2-125, and Section 26-13-101 et seq.).~~

Section 2. Purpose

~~The purpose of these rules is to assure truthful and adequate disclosure of all material and relevant information in the advertising of accident and sickness insurance. The purpose is intended to be accomplished by the establishment of, and adherence to, certain minimum standards and guidelines of conduct in the advertising of accident and sickness insurance in a manner which prevents unfair competition among insurers and is conducive to the accurate presentation and description to the insurance buying public of a policy of such insurance offered through various advertising media.~~

Section 2. Applicability.

(a) ~~These rules~~regulations shall apply to any individual and group accident and sickness insurance “advertisement,” as ~~that term is hereinafter~~ defined in Section 3(b), (h), (i), and (j) unless otherwise specified in this regulation, which the insurer knows or reasonably should know, is intended for presentation, distribution, or dissemination in Wyoming~~this State~~ when ~~thesuch~~ presentation, distribution, or dissemination is made either directly or indirectly by or on behalf of an insurer, ~~agent, broker or producer~~producer ~~or producer~~ as those terms are defined in the Wyoming Insurance Code of this State and these rules.

(b) Every insurer shall establish, and at all times maintain, a system of control over, and be responsible for the content, form, and method of dissemination of all its policy advertisements ~~of its policies. All such advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the insurer whose policies are so advertised.~~

(c) Advertising materials shall be identified by form numbers or other identifying means sufficient to distinguish an advertisement from any other advertising materials, policies, applications, or other materials used by the insurer.

(d) The requirements of these regulations shall also apply to health maintenance organizations.

Section 3. Definitions.

~~An advertisement for the purpose of these rules shall include:~~ As used in these rules

and regulations:

(a) “Accident and sickness insurance policy” means a policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement providing accident or sickness benefits or medical surgical or hospital benefits on an indemnity, reimbursement, service, or prepaid basis, except when issued in connection with insurance other than life insurance and annuities. An accident and sickness insurance policy includes a Medicare supplement insurance policy.

(i) “Accident and sickness insurance policy” does not apply to disability income insurance, waiver of premium, and double indemnity benefits included in life insurance, endowment, or annuity contracts containing only provisions that:

(A) Provide additional benefits in case of death, dismemberment, or loss of sight by accident; or

(B) Operate to safeguard the contracts against lapse or to give a special surrender value, special benefit, or an annuity in the event the insured or annuitant becomes totally and permanently disabled as defined by the contract or supplemental contract.

(b) “Advertisement” means:

(i) Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, websites, and other Internet displays or communications, other forms of electronic communications, social media, billboards, and similar displays; and

(ii) Descriptive literature and sales aids of all kinds issued by an insurer, agent or broker-producer for presentation to members of the insurance-buying public, such as including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters, and lead-generating devices of all kinds; and

(iii) Prepared sales talks, presentations, and material for use by agents, brokers and solicitors-producers, whether prepared by the insurer or the producer; and

(iv) Advertising material included with policies delivered and material used to solicit renewals and reinstatements; and

(v) All media communications by producers to the general public and specific members of the general public.

(vi) The definition of advertisement does **not** include:

(A) Material used solely for training and educating an insurer’s employees or producers;

(B) Material used in-house by insurers;

(C) Communications within an insurer’s own organization not intended

for dissemination to the public;

(D) Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;

(E) Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;

(F) Material ordered by a court to be disseminated to policyholders; or

(G) A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list regarding a contract or program having been written or arranged provided the announcement clearly indicates it is preliminary to issuing a booklet and the announcement does not describe the specific contract or program benefits nor advantages of purchasing the contract or program. This does not prohibit a sponsor's general endorsement of the program.

(c) "Certificate" means a statement of the coverage and provisions of a group accident and sickness insurance policy which has been delivered or issued for delivery in Wyoming and includes riders, endorsements, and enrollment forms, if attached.

~~(b) — "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, service or prepaid basis, except when issued in connection with another kind of insurance other than life and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts.~~

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

~~(ee) "Insurer" means an~~for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, hospital service corporation, prepaid health planhealth maintenance organization, and any other legal entity which is defined as an "insurer" in the Wyoming Insurance Code of this State and is engaged in the advertisement of advertising itself or an accident and sickness insurance policy~~a policy as "policy" is herein defined.~~

(f) "Institutional advertisement" means an advertisement whose sole purpose is promoting the reader's, viewer's, or listener's interest in accident and sickness insurance, or promoting the insurer as a seller of accident and sickness insurance.

(g) "Invitation to contract" means an advertisement that is neither an invitation to inquire nor an institutional advertisement.

(h) "Invitation to inquire" means:

(i) An advertisement aimed at creating a desire to inquire about accident and sickness insurance, limited to a brief description of the loss for which benefits are payable but may contain:

(A) The dollar amount of benefits payable; and

(B) The period of time during which benefits are payable.

(ii) An invitation to inquire may not refer to cost.

(iii) An invitation to inquire shall contain a provision in the following or substantially similar form:

“This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent of the company [whichever is applicable].”

(i) “Lead generating device” means any communication directed to the public, regardless of form, content, or stated purpose, intended to result in compiling or qualifying a list containing names and other personal information to solicit Wyoming residents to purchase accident and sickness insurance.

(j) “Limitation” means a provision restricting policy coverage other than an exception or reduction.

(k) “Limited benefit health coverage” is insurance offered and marketed as supplemental health insurance and not as a substitute for hospital or medical insurance or major medical expense insurance.

(l) “Person” as defined by W.S. § 26-1-102(a)(xx).

(m) “Producer” means an insurance producer as defined by W.S. § 26-1-102(a)(xxxv).

(n) “Prominently” or “conspicuously” means presented in a manner noticeably set apart from other information or images in the advertisement.

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

~~(f) “Limitation” for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a deduction.~~

Section 54. Method of Disclosure of Required Information.

(a) All information, exceptions, limitations, reductions, and other restrictions required to be disclosed by this regulation~~these rules~~ shall be set out conspicuously and in close conjunction

to~~with~~ the statements to which ~~the~~^{such} information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure, ~~or~~ presented in an ambiguous fashion, or intermingled with the context of the advertisement so as to be confusing or misleading. This regulation permits, but is not limited to, use of either of the following methods of disclosure:

(i) Disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of the policy benefits; or

(ii) Disclosure not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure, or otherwise made to appear unimportant. The phrase “under appropriate captions” means the title must accurately describe the captioned material. Appropriate captions include the following: “Exceptions,” “Exclusions,” “Conditions Not Covered,” and “Exceptions and Reductions.” Use of captions such as the following are prohibited because they do not provide adequate notice of the significance of the material: “Extent of Coverage,” “Only these Exclusions,” or “Minimum Limitations.”

Section 65. Form and Content of Advertisements.

(a) ~~The format and content of an advertisement of an accident or sickness insurance policy advertisements shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Format means the arrangement of text and captions. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Commissioner of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.~~

(b) Distinctly different advertisements are required for publication in different media, such as newspapers or magazines of general circulation as compared to scholarly, technical, or business journals, and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must independently conform to the disclosure requirements.

(c) Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner from the overall impression the advertisement may be reasonably expected to create within the segment of the public to which it is directed.

(~~b~~d) 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.

(e) An insurer shall clearly identify its accident and sickness insurance policy as an insurance policy. A policy trade name shall be followed by the words “insurance policy” or similar words clearly identifying that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans, and other direct services organizations) is being offered.

(f) An insurer, producer, or other person shall not solicit a Wyoming resident to purchase accident and sickness insurance in connection with or as the result of using advertisement by the person or any other persons, where the advertisement:

(i) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive, or misleading regarding the information imparted, the status, character, or representative capacity of the person, or the true purpose of the advertisement; or

(ii) Otherwise violates the provisions of this regulation.

(g) An insurer, producer, or other person shall not solicit Wyoming residents to purchase accident and sickness insurance using a true or fictitious name that is deceptive or misleading regarding the status, character, or proprietary or representative capacity of the person, or the true purpose of the advertisement.

Section 76. Advertisements of Benefits Payable, Losses Covered or Premiums Payable.

(a) Covered Benefits: Deceptive Words, Phrases or Illustrations Prohibited.

(i) The use of deceptive words, phrases, or illustrations in accident and sickness insurance advertisements is prohibited.

(ii) An advertisement that fails to state clearly the type of insurance coverage being offered is prohibited.

(iii) ~~No~~ An advertisement shall not omit information or use words, phrases, statements, references, or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(iv) ~~An~~ An advertisement shall not contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "this policy will help to replace your income," (when used to express loss of time benefits), or similar words and phrases, in a manner that which exaggerates any benefits beyond the policy's terms of the policy.

(iii) ~~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 pre-existing conditions are covered after two years". Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.~~

(v) An advertisement of a hospital or other similar facility confinement benefit referencing direct payment of the benefit to the policyholder is prohibited unless, in making the reference, the advertisement includes a statement that the benefits may be paid directly to the hospital or other health care facility if the policyholder assigns their benefits. An advertisement of medical and surgical expense benefits shall comply with this regulation. Phrases such as "you collect," "you get paid," "pays you," or other words or phrases of similar import may be used so long as the

advertisement indicates it is payable to the insured or someone designated by the insured.

(vi) An advertisement for limited benefit health coverage or coverage of only certain types of loss is prohibited if:

(A) The advertisement refers to a total benefit maximum limit payable under the policy in any headline, lead-in, or caption without also in the same headline, lead-in, or caption specifying the applicable daily limits and other internal limits;

(B) The advertisement states a total benefit limit without stating the periodic benefit payment, if any, and the length of time the periodic benefit would be payable to reach the total benefit limit; or

(C) The advertisement prominently displays a total benefit limit that would not, as a general rule, be payable under an average claim.

(vii) Section 6(a)(vi) does not apply to individual major medical expense coverage, individual basic medical expense coverage, or disability income insurance.

(viii) Advertisements emphasizing total amounts payable under hospital, medical, or surgical accident and sickness insurance coverage or other benefits in a policy, such as benefits for private duty nursing, are prohibited unless the actual amounts payable per day for the indemnity or benefits are stated.

(ix) Advertisements examples of benefits payable under a policy shall not use examples in a way that implies the maximum payable benefit under the policy will be paid when less than maximum benefits are paid in an average claim.

(x) When an advertisement sets forth a range of benefit levels, it shall be clear the insured will receive only the benefit level written or printed in the policy selected and issued. Language implying the insured may select the benefit level at the time of filing claims is prohibited.

(xi) Language in an advertisement implying the amount of benefits payable under a loss-of-time policy may be increased at the time of claim or disability according to the needs of the insured is prohibited.

(xii) Advertisements for policies with modest premiums due to limited coverage or limited amounts of benefits shall not describe premiums as “low,” “low cost,” “budget,” or use qualifying words of similar import. The use of words such as “only” and “just” in conjunction with statements of premium amounts when used to imply a bargain is prohibited.

(xiii) Advertisements stating or implying premiums will not be changed in the future are prohibited unless the advertised policies expressly provide that the premiums will not be changed in the future.

(xiv) An advertisement for a policy that does not require the premium to accompany the application shall not overemphasize that fact and shall clearly indicate under what

circumstances coverage will become effective.

(xv) An advertisement exaggerating the effects of statutorily mandated benefits or required policy provisions or implying the provisions are unique to the advertised policy is prohibited.

(xvi) An advertisement implying that a common type of policy or a combination of common benefits is “new,” “unique,” “a bonus,” “a breakthrough,” or is otherwise unusual is prohibited. The addition of a novel method of premium payment to an otherwise common plan of insurance does not render it new.

(xvii) Language in an advertisement stating or implying that each member under a family contract is covered as to the maximum benefits advertised where that is not the fact is prohibited.

(xviii) An advertisement containing statements such as “anyone can apply,” or “anyone can join,” other than with respect to a guaranteed issue policy for which administrative procedures exist to assure the policy is issued within a reasonable period of time after the application is received by the insurer, is prohibited.

(xix) An advertisement stating or implying immediate coverage of a policy is prohibited unless administrative procedures exist so the policy is issued within fifteen (15) working days after the insurer receives the completed application.

(xx) An advertisement containing statements such as “here is all you do to apply,” “simply,” or “merely” to refer to the act of applying for a policy that is not a guaranteed issue policy is prohibited unless it refers to the fact that the application is subject to acceptance of approval by the insurer.

~~(iv) 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 because such words and phrases have the capacity, tendency, or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized.~~

~~(v) 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. When the policy contains a limit on the number of days of coverage provided, such limit must appear in the advertisement.~~

~~(vi) No advertisement of a policy covering only one 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.~~

~~(vii) 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 worked~~

~~in language identical to, or substantially similar to the following: "THIS IS A LIMITED POLICY"; "THIS IS A CANCER ONLY POLICY"; "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."~~

~~(vixxi) An advertisement of accident and sickness insurance sold by a direct response insurance product shall not state or imply that because "no insurance agent will call and no commissions will be paid to agents" that it is "a low cost plan", or use other similar words or phrases because the cost of advertising and servicing thesuch policies is a substantial cost in the marketing by of a direct response insurance product.~~

(xxii) Applications, request forms for additional information, and similar related materials are prohibited if they resemble paper currency, bonds, stock certificates, etc., or use any name, service mark, slogan, symbol, or device in a manner implying the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.

(xxiii) An advertisement implying in any manner that the prospective insured may realize a profit from obtaining hospital, medial, or surgical insurance coverage is prohibited.

(xxiv) An advertisement using words such as "extra," "special," or "added" to describe a benefit in the policy is prohibited. No advertisement of a benefit for which payment is conditioned 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 because these words and phrases have the capacity, tendency, or effect of misleading the public into believing the policy advertised will, in some way, enable them to make a profit from being hospitalized.

(xxv) An advertisement of a hospital or other similar facility confinement benefit shall not 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 the monthly or weekly benefit amounts are juxtaposed with equally prominent statements of the benefit payable on a daily basis. The term "juxtaposed" means side by side or immediately above or below. When the policy contains a limit on the number of days of coverage provided, such limit must appear in the advertisement.

(xxvi) An advertisement of a policy covering only one disease or a list of specified diseases shall not imply coverage beyond the policy terms. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

(xxvii) An advertisement that is an invitation to contract for a specified disease policy that provides lesser benefit amounts for a particular subtype of disease, shall clearly disclose the subtype and its benefits. This provision shall not apply to institutional advertisements.

(xxviii) An advertisement of a specified disease policy providing expense benefits shall not use the term "actual" when the policy only pays up to a limited amount for expenses.

Instead, the term “charges” or substantially similar language should be used which does not create the misleading impression that there is full coverage for expenses.

(xxix) An advertisement describing any benefits which vary by age shall disclose that fact.

(xxx) An advertisement using a phrase such as “no age limit” if benefits or premiums vary by age or if age is an underwriting factor shall disclose that fact.

(xxxii) A television, radio, mail, or newspaper advertisement, or lead-generating device designed to produce leads either by use of a coupon, a request to write or to call the company, or a subsequent advertisement prior to contact shall include information disclosing that an agent may contact the applicant.

(xxxiii) Advertisements, applications, requests for additional information, and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had his or her eligibility for the insurance individually determined in advance when the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.

(xxxiii) An advertisement, including invitations to inquire or invitations to contract, shall not employ devices designed to create undue fear or anxiety in those to whom they are directed. Examples of prohibited devices are:

(A) Using phrases such as “cancer kills somebody every two minutes” and “total number of accidents” without reference to the total population from which the statistics are drawn;

(B) Exaggerating the importance of diseases rarely or seldom found in the class of persons to whom the policy is offered;

(C) Using phrases such as “the finest kind of treatment,” implying that the treatment would be unavailable without insurance;

(D) Reproducing newspaper articles, magazine articles, information from the Internet, or other similar published material containing irrelevant facts and figures;

(E) Using images unduly emphasizing automobile accidents, disabled persons or persons confined in beds who are in obvious distress, persons receiving hospital or medical bills, or persons being evicted from their homes due to their medical bills.

(F) Using phrases such as “financial disaster,” “financial distress,” “financial shock,” or another phrase implying financial ruin is likely without insurance. Using such phrases is only permissible in advertising major medical expense coverage, individual basic medical expense coverage, or disability income coverage, and only if the phrase does not dominate the advertisement;

(G) Using phrases or devices that unduly excite fear of dependence upon relatives or charity; and

(H) Using phrases or devices implying that long sicknesses or hospital stays are common among the elderly.

(b) Exceptions, Reductions and Limitations:-

(i) An advertisement shall not contain descriptions of policy limitations, exceptions, or reductions, worded in a positive manner implying it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even pre-existing conditions are covered after two years.” Words and phrases used in an advertisement describing the policy limitations, exceptions, and reductions shall fairly and accurately describe the negative features of the limitations, exceptions, and reductions of the offered policy.

(ii) An advertisement that is an invitation to contract shall disclose exceptions, reductions, and limitations affecting the basic policy provisions. ~~When an advertisement refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such 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.~~

(iii) An advertisement subject to the requirements of the preceding paragraph shall prominently disclose ~~When a policy contains a waiting, elimination, probationary, or similar time period between the effective date of the policy and the effective date of coverage under the policy, or at a time period between the date a loss occurs and the date benefits begin to accrue for the such loss, an advertisement which is subject to the requirements of the preceding paragraph shall disclose the existence of such periods.~~

(iv) An advertisement shall not use the words “only,”; “just,”; “merely,”; “minimum,” “necessary,” or similar words or phrases to describe ~~the~~ applicability of any exceptions, ~~and~~ reductions, limitations, or exclusions such as: “This policy is subject to the following minimum exceptions and reductions.”

(v) An advertisement that is an invitation to contract that fails to disclose the amount of any deductible or the percentage of any coinsurance factor is prohibited.

(vi) An advertisement for loss-of-time coverage that is an invitation to contract which sets forth a range of amounts of benefit levels is prohibited unless it also states eligibility for the benefits is based upon condition of health, income, or other economic conditions, or other underwriting standards of the insurer if that is the fact.

(vii) An advertisement that refers to “hospitalization for injury or sickness” omitting the word “covered” when the policy excludes certain sicknesses or injuries, or that refers to “whenever you are hospitalized,” “when you go to the hospital,” or “while you are confined in the hospital” omitting the phrase “for covered injury or sickness,” if the policy excludes certain injuries or sickness, is prohibited. Continued reference to “covered injury or sickness” is not necessary where the advertisement has prominently disclosed this fact and where the description of sicknesses or injuries not covered is prominently set forth.

(viii) An advertisement that fails to disclose that the definition of “hospital” does

not include certain facilities providing institutional care such as a nursing home, convalescent home, or extended care facility, when the facilities are excluded under the policy's definition of hospital is prohibited.

(ix) The term "confining sickness" or "homebound status" shall be explained in an advertisement containing the term.

(x) An advertisement that fails to disclose any waiting or elimination periods for specific benefits is prohibited.

(xi) An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, or other policies providing benefits that are limited in nature shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to, or substantially similar to, the following: "THIS IS A LIMITED POLICY," "THIS POLICY PROVIDES LIMITED BENEFITS," "THIS IS A CANCER ONLY POLICY," "THIS IS A MEDICARE SUPPLEMENT POLICY," or "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY."

(c) Pre-Existing Conditions:-

(i) An advertisement that is an invitation to contract which is subject to the requirements of Section 6(b) shall, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the policy's effective date of the policy. The use of the term "pre-existing condition" shall not be used without an appropriate definition or description complying with Wyoming Statutes shall not be used.

(ii) Under no circumstance shall the definition of "preexisting condition" be based upon "prudent person" or similar language, meaning the average layperson would have sought treatment or advice for the given condition or symptom. Preexisting conditions shall only relate to conditions for which medical advice, diagnosis, care, or treatment was actually recommended or received.

(iii) When an accident and sickness insurance policy does not cover losses resulting from preexisting conditions, an advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder the policy. This rule prohibits the use of the phrase "no health questions/medical examination required" or words and phrases of similar import, but does shall not be used if the policy excludes preexisting conditions. Use of a phrase such as "guaranteed issue" or "automatic issue," if the policy excludes preexisting conditions for a certain period, must be accompanied by a statement disclosing that fact in a manner that does not minimize, render obscure, or otherwise make it appear unimportant and is otherwise consistent with Section 4. prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement shall disclose that a medical examination is required.

(iiiv) When an advertisement contains an application form to be completed by the applicant and returned by mail, the for a direct response insurance product, such application form shall contain a question or statement which reflects reflecting the pre-existing condition provisions

of the policy immediately preceding ~~the~~ a blank space for the applicant's signature. ~~For example, These~~ an application form shall contain a question or statement substantially as follows:

~~"Do you understand that this policy will not pay benefits during the first 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 that the policy applied for will not pay benefits for any loss incurred during the first twelve (12) months—year(s) after the issue date on account of a ~~known~~ disease or a ~~treated~~ physical conditions for which medical advice, diagnosis, care, or treatment was actually recommended or received in the last six (6) months. I ~~now have or have had in the past.~~"~~

Section 87. Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability, and Termination.

(a) ~~When a~~ An advertisement that 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 specific policy benefit or the loss for which such benefit is payable, it shall disclose the provisions relating to renewability, cancellability, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

(b) Advertisements of non-renewable accident and sickness insurance policies shall state renewability of the contract is ~~renewable~~ at the company's option in language substantially similar to the following: "This policy is renewable at the option of the company," or "The company has the right to refuse renewal of this policy," or "Renewable at the option of the insurer."

(c) Advertisements of insurance policies that are guaranteed renewable, or renewable at the option of the company, shall disclose that the insurer has the right to increase premium rates if the policy so states.

(d) Qualifying conditions constituting limitations on the permanent nature of coverage shall be disclosed in advertisements of policies which are guaranteed renewable, or renewable at the option of the company. Examples of qualifying conditions include (1) age limits, (2) reservation of a right to increase premiums, and (3) establishment of lifetime maximum limits.

(i) Provisions for reducing benefits at stated ages shall be set forth. For example, a policy may contain a provision reducing benefits fifty percent (50%) after age sixty (60) although it is renewable to age sixty-five (65). Provisions for eliminating certain hazards at any specific ages or after the policy has been in force for a specified period of time shall also be set forth.

(ii) An advertisement for a policy providing for step-rated premium rates based upon the policy year or the insured's attained age shall disclose the rate increases and the times or ages at which the premiums increase.

Section 8. Standards for Marketing.

- (a) An insurer, directly or through its producers, shall:
- (i) Establish marketing procedures assuring any policy comparison by its producers will be fair and accurate;
 - (ii) Establish marketing procedures assuring excessive insurance is not sold or issued, except in the case of group major medical expense coverage and disability income coverage; and
 - (iii) Establish auditable procedures for verifying compliance with this subsection.
- (b) In addition to the practices prohibited in Wyoming Statute § 26-13-101 et seq., the following acts and practices are prohibited:
- (i) High Pressure Tactics. Employing marketing methods that effectually induce insurance purchases, or tends to induce insurance purchases, through force, fright, threat (explicit or implied), or undue pressure to purchase or recommend the purchase of insurance; and
 - (ii) Cold Lead Advertising. Using, directly or indirectly, any marketing method which fails to disclose in a conspicuous manner that a purpose of the marketing method is soliciting insurance and contact will be made by an insurance producer or insurance company.

Section 9. Testimonials or Endorsements by Third Parties.

- (a) Testimonials and endorsements used in advertisements shall must be genuine, made with the consent of the author, represent the his current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer, in In using a testimonial or endorsement, the insurer makes as its own all of the statements contained therein it, and the advertisement, including the such statement, is subject to all the provisions of this regulation these rules. When a testimonial or endorsement is used more than one year after originally given, a written confirmation to continue using the testimonial or endorsement must be obtained.
- (b) A person shall be deemed a “spokesperson” if the person making the testimonial or endorsement:
- (i) Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise;
 - (ii) Has been formed by the insurer or, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer;
 - (iii) Is any person in a policy-making position affiliated with the insurer in any of the above described capacities; or
 - (iv) Is in any way directly or indirectly compensated for making a testimonial or endorsement.

(c) The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement in the introductory portion of the testimonial or endorsement. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. In the case of television or radio advertising, the required disclosure shall be in the introductory portion of the advertisement and shall be given prominence.

(d) The disclosure requirements shall not apply where the sole financial interest or compensation of a spokesperson for all testimonials or endorsements made on behalf of the insurer consists of payment of union scale wages required by union rules and if the payment is actually the scale for TV or radio performances.

~~(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, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact shall be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid endorsement." This rule does not require disclosure of union "scale" wages required by union rules if the payment is actually for such "scale" wages for TV or radio performances. The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of TV or radio advertisements remove the filming or recording from the category of an unsolicited testimonial and require disclosure of such compensation.~~

(ee) An advertisement shall not state or imply that an insurer or an accident and sickness insurance policy has been approved or endorsed by any individual, group of individuals, society, association, or other organizations, unless that such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. An advertisement must disclose if the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, the such fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.

(df) When a testimonial refers to benefits received under an accident and sickness insurance policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four (4) years or until the insurer filing of their next regular report of examination of the insurer, whichever is the longer period of time. Use of testimonials that do not correctly reflect present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

Section 10. Use of Statistics.

(a) An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the current and relevant facts. The such an advertisement shall not imply that the such statistics are derived from the policy advertised unless

~~that such is the fact, and when applicable to other policies or plans shall specifically so state.~~

(i) An advertisement shall specifically identify the accident and sickness insurance policy to which statistics relate and where statistics are given which are applicable to a different policy, it shall be stated clearly that the data do not relate to the policy being advertised.

(ii) An advertisement using statistics describing an insurer, such as assets, corporate structure, financial standing, age, product lines, or relative position in the insurance business, may be irrelevant and, if used at all, shall be used with extreme caution. As a specific example, an advertisement for accident and sickness insurance referring to the amount of life insurance the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.

(b) An advertisement shall not represent or imply that insurer's 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~~ policy. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

(c) The source of any statistics used in an advertisement shall be identified in ~~thesuch~~ advertisement.

Section 11. Identification of Plan or Number of Policies.

(a) An advertisement that uses the word "plan" without prominently identifying it as an accident and sickness insurance policy is prohibited.

(~~ab~~) When a choice of the benefits amount ~~of benefits~~ is referred to, an advertisement that is an invitation to contract shall disclose that the amount of benefits provided depends upon the plan selected and ~~that the premium will vary~~ varies with the amount of the benefits selected.

(~~bc~~) When an advertisement that 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 ~~thesuch~~ benefits are provided only through a combination of ~~such~~ policies.

Section 12. Disparaging Comparisons and Statements.

(a) An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services, or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

(b) An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

(c) Advertisements stating or implying that competing insurance coverages customarily contain certain exceptions, reductions, or limitations not contained in the advertised policies are prohibited unless the exceptions, reductions, or limitations are contained in a substantial majority of the competing coverages.

(d) Advertisements stating or implying that an insurer's premiums are lower or its loss ratios are higher because its organizational structure differs from that of competing insurers are prohibited.

Section 13. Jurisdictional Licensing and Status of Insurer.

(a) An advertisement ~~which is~~ intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

(b) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are approved, endorsed, or accredited by any division or agency of ~~the~~this State of Wyoming or the ~~federal government~~United States Government. Terms such as "official," or words of similar import, used to describe any policy or application form are prohibited because of the potential for deceiving or misleading the public.

(c) An advertisement shall not imply that approval, endorsement, or accreditation of policy forms or advertising has been granted by any division or agency of the state of Wyoming or the federal government. Approval of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial condition.

Section 14. Identity of Insurer.

(a) The name of the actual insurer shall be stated in all of its advertisements. ~~and~~ ~~the~~ form number or numbers of the policy advertised shall be stated, identified and made clear in an all of its advertisements that 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 that~~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) ~~An~~No advertisement shall not use any combination of words, symbols, or physical materials ~~which by their~~whose content, phraseology, shape, color or other characteristics are so similar to combinations of words, symbols, or physical materials used by agencies of the federal government or of ~~the~~this State of Wyoming, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing ~~that~~ the solicitation is in some manner connected with an agency of the municipal, state, or federal government.

(c) Advertisements, envelopes or stationery that employ words, letters, initials, symbols, or other devices similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:

(i) That the advertised coverages are somehow provided by or endorsed by the governmental agencies or the other insurers; or

(ii) That the advertiser is the same as, is connected with, or is endorsed by the governmental agencies or the other insurers.

(d) An advertisement shall not use the name of a state or political subdivision of a state in a policy name or description.

(e) An advertisement in the form of envelopes or stationery of any kind may not use any name, service mark, slogan, symbol, or any device in a manner implying that the insurer, the policy advertised, or that any agent who may call upon the consumer in response to the advertisement is connected with a governmental agency, such as the Social Security Administration.

(f) An advertisement may not incorporate the word "Medicare" in the plan or policy title advertised unless, wherever it appears, the word is qualified by language differentiating it from Medicare. The advertisement, however, shall not use the phrase "[] Medicare Department of the [] Insurance Company," or language of similar import.

(g) An advertisement may not imply that the reader may lose a right or privilege or benefit under federal, state, or local law if he or she fails to respond to the advertisement.

(h) Use of letters, initials, or symbols of the corporate name or trademark having the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct, and complete name of the insurer is in close conjunction and in the same size type as the letters, initials, or symbols of the corporate name or trademark.

(i) The use of the name of an agency or "[] Underwriters" or "[] Plan" in a type, size, and location with the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.

(j) The use of an address so as to mislead or deceive as to true identity of the insurer, its location, or licensing status is prohibited.

(k) An insurer shall not use, in the trade name of its insurance policy any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive, or mislead prospective purchasers.

(l) Advertisements used or created by agents, producers, brokers, or solicitors of an insurer shall have prior written approval of the insurer before they may be used.

(m) An agent who makes contact with a consumer, as a result of acquiring that consumer's name from a lead-generating device, shall disclose that fact in the initial contact with the consumer. An agent or insurer may not use names produced from lead-generating devices that do not comply with the requirements of this regulation.

Section 15. Group or Quasi-Group Implications.

(a) An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as ~~members~~ ~~such~~ enjoy special rates or underwriting privileges, unless ~~that~~ ~~such~~ is the fact.

(b) Solicitations of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when in fact the policy being advertised is sold only on an individual basis at regular rates is prohibited.

(c) Advertisements indicating that a particular coverage or policy is exclusively for

“preferred risks,” a particular segment of the population, or that a particular segment of the population is an acceptable risk when the distinctions are not maintained in issuing policies are prohibited.

(d) An advertisement to join an association, trust, or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust, or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application requiring a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as “enroll” or “join” to imply group or blanket insurance coverage when that is not the fact.

(e) Advertisements for group or franchising plans providing a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

Section 16. Introductory, Initial or Special Offers.

~~(a)~~ ~~(i)~~ 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~~^{such} is the fact. An advertisement shall not contain phrases describing an enrollment period as “special,” “limited,” or similar words or phrases when the insurer ~~uses~~^{used} ~~such~~^{the} enrollment periods as the usual method of ~~marketing~~^{advertising} accident and sickness insurance.

~~(b)~~ ~~(ii)~~—An enrollment period included in limited health benefit plans during which a particular insurance product may be purchased on an individual basis shall not be offered within ~~Wyoming~~^{this State} unless there has been a lapse of not less than twenty-four (24) months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall not be less than ten (10) days and not more than forty (40) days from the date ~~that~~^{the} ~~such~~^{enrollment period} is advertised for the first time. This ~~regulation~~^{rule} applies to all advertising media, i.e., mail, newspapers, the Internet, radio, television, magazines and periodicals, by any one 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.

~~(iii)~~ This ~~rule~~ prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact.

~~(iv)~~ The phrase “a particular insurance product” ~~in Paragraph (2) of this Section~~ means an insurance policy ~~which~~ ^{providing} substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar

amounts of benefits; and an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy ~~shall not be~~ not sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

(c) Any statement or implication to the effect that only a specific number of policies will be sold or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy is prohibited, unless that is the fact.

(~~b~~d) An advertisement shall not offer a policy ~~which utilizes~~ utilizing a reduced initial premium rate in a manner ~~that~~ 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.

(~~e~~e) Special awards, such as a "safe driver's award," shall not be used in connection with advertisements of ~~accident or~~ accident and sickness insurance.

Section 17. Statements About an Insurer.

An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age, or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendations.

Section 18. Enforcement Procedures.

(a) ~~Advertising File.~~ Each insurer shall maintain at its home or principal office a complete file containing every ~~printed, published or prepared~~ advertisement of its individual policies and typical ~~printed, published or prepared~~ advertisements of its blanket, franchise, and group policies ~~hereafter~~ disseminated in this or any other state, whether or not licensed in ~~another such other~~ state, with a notation attached to each ~~such~~ advertisement ~~which shall indicate~~ indicating the manner and extent of distribution and the form number of any policy advertised. ~~The~~ Such file shall be subject to regular and periodical inspection by ~~the Commissioner~~ this Department. All ~~such~~ advertisements shall be maintained in ~~asaid~~ file for a period of either four (4) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. The provisions of this paragraph shall also apply to all insurer-approved agency advertisements.

(b) Each insurer required to file an annual statement shall file with the Commissioner by March 1 of each year a certificate of compliance executed by an authorized officer of the insurer stating that, to the best of the officer's knowledge, information, and belief, the advertisements disseminated by the insurer during the preceding statement year complied with the provisions of this regulation and the insurance laws of Wyoming as implemented and interpreted by this regulation.

~~Section 19. Severability Provision.~~

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

Section 19. Filing of Advertising Material.

At the Commissioner's discretion and request, any insurer or agent may be required to submit all or any part of their advertisements to the Department for review and approval prior to use.