

Date: 12/29/09

As recommended by the Product Standards Committee

Highlighting reflects disposition of public comments received 11/3 and 12/17

STANDARDS FOR INDIVIDUAL LONG TERM CARE INSURANCE ADVERTISING MATERIAL

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** To be updated before draft is recommended to Management Committee **

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STANDARDS FOR INDIVIDUAL LONG TERM CARE INSURANCE ADVERTISING MATERIAL

Scope: These standards apply to all individual long term care advertisements and advertising material ~~that will be used by or on behalf of a company, and~~ that are ~~is~~ for use with individual long term care insurance forms filed with or approved by the Interstate Insurance Product Regulation Commission. ~~The Commission will not review or approve advertisements filed with the Commission for use with state approved policy forms.~~

Mix and Match: These standards are not available to be used in combination with State Product Components as described in Section 110(b) of the Operating Procedure for the Filing and Approval of Product Filings.

Self-Certification: These standards are not available to be filed on a self-certification basis.

These standards do not apply to material that is solely:

- (1) ~~Material u~~Used solely for the training and education of a company's employees or producers;
- (2) ~~Material u~~Used in-house by companies;
- (3) ~~Material u~~Used for communications within a company's own organization but not intended for dissemination to the public;
- (4) ~~Material u~~Used for individual communications of a personal nature with current insureds, other than material encouraging insureds to purchase, increase, replace or expand coverages;
- (5) ~~Material u~~Used with current or previous insureds to inform or effectuate contractual rights described in a policy, provided that such material is administrative in nature, a regular part of doing business and routinely sent to all similar insureds. For example, a grace period lapse notice or a notice explaining the availability of a policy reinstatement provision would not require filing;
- (6) ~~Material that contains~~ Composed of prescribed language that is required by statute, regulation or an Interstate Insurance Product Regulation Commission standard, or material ordered and approved by a court to be disseminated to insureds; or
- (7) ~~Material u~~Used by a company to recruit or retain producers, but not intended for dissemination to the general public.
- (8) ~~Material u~~Used with insureds to describe administrative and claims services and procedures, and consumer advocacy and assistance programs.

As used in these standards, the following definitions apply:

"Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, hereinafter referred to as "advertising material".

Advertising material includes but is not limited to:

- (1) Printed and published material, audio visual material, and descriptive literature of a company used in direct mail, newspapers, magazines, telephone scripts, radio scripts, television scripts, web sites and other ~~i~~Internet displays or communications, other forms of electronic communications, billboards and similar displays;
- (2) Descriptive literature and sales aids, such as circulars, leaflets, booklets, depictions, illustrations, form letters, lead-generating devices and envelopes; and
- (3) Prepared sales talks, presentations and material for use by producers, whether prepared by the company or the producer.

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The term “advertisement” includes ~~but is not limited to~~ “institutional advertising material”, “invitation to inquire” and “invitation to contract.”, ~~as appropriate, but each~~ Each of these have their unique purpose and meaning, as follows:

- (1) “Institutional advertising material” means advertising material having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of long-term care insurance, or the promotion of the company as a seller of long-term care insurance;
- (2) “Invitation to inquire” means advertising material having as its objective the creation of a desire to inquire further about long-term care insurance and that is limited to a brief description of the loss for which benefits are payable. An invitation to inquire may include the dollar amount of benefits payable and the period of time during which benefits are payable. An invitation to inquire does not refer to premium cost.
- (3) “Invitation to contract” means advertising material that is neither an invitation to inquire nor an institutional advertisement.

Drafting Note: The definitions of advertising material and advertisement are not intended to limit the material presented to the Interstate Insurance Product Regulation Commission for approval as advertising material. Use of material not approved by the Interstate Insurance Product Regulation Commission remains subject to applicable state regulation about the use of advertising material.

Unless otherwise specified, these standards apply to all advertising material.

Drafting Notes:

Any reference to “policy” in these standards shall include a rider, endorsement or amendment used to provide long term care insurance. “Policy” shall not include a group policy or a group certificate.

The references to “policy” do not preclude Fraternal Benefit Societies from substituting “certificates” in their forms.

If the owner is other than the insured, any reference to the insured in these standards shall mean the owner, if appropriate.

§1. ADDITIONAL SUBMISSION REQUIREMENTS

A. GENERAL

The following additional filing submission requirements apply:

- (1) All forms filed for approval shall be included with the filing. Changes to previously approved advertising material shall be highlighted.
- (2) If a filing is being submitted on behalf of a company, include a letter or other document authorizing the firm to file on behalf of the company.
- (3) If the advertising material is submitted for use by more than one company, the following requirements shall apply:
 - (a) The name of each company shall appear at the beginning of the advertising material or on the first page and a means of designating the appropriate company must be available, such as checkboxes in front of each company’s name. A “blank space write in” format will not be acceptable;
 - (b) Multiple companies may be represented in one filing, provided that:
 - (i) All companies shown at the beginning of the advertising material or the top of the first page are properly licensed in all states for which the filer is requesting approval;

- (ii) The filer is requesting approval for an identical filing (no exceptions for any company represented in the filing) in all states for which the filer is requesting approval; and
 - (iii) Separate filing fees may apply and transaction fees for each combination of company and state shall apply; and
 - (c) The advertising material shall have the same form number for each company, and the form number shall be unique within each company.
- (4) If the advertising material includes variable material, include a Statement of Variability. The submission shall also include a certification that any change or modification to a variable item shall be administered in accordance with the requirements in the Variability of Information section, including any requirement for prior approval of a change or modification.
- (5) Include an identification of the policy form being advertised. Additionally:
- (a) If the advertising material is for use with more than one policy previously approved by the Interstate Insurance Product Regulation Commission, include a listing of all such policy form numbers and their respective approval dates and approval record identifiers, as appropriate; and
 - (b) If the advertising material is intended for use with a policy that is concurrently being filed for approval with the Interstate Insurance Product Regulation Commission, specify this and include the policy form number.
- (6) Include an identification of the type of advertisement submitted, i.e., institutional advertisement, invitation to inquire, or invitation to contract.
- (7) Include an identification of the method or media used for dissemination of the advertising material, such as:
- (a) Printed and published material, audio visual material, descriptive literature of a company used in direct mail, newspapers, magazines, telephone scripts, radio scripts, television scripts, web sites and other Internet displays or communications, other forms of electronic communications, billboards and similar displays;
 - (b) Descriptive literature and sales aids, such as circulars, leaflets, booklets, depictions, illustrations, form letters and lead-generating devices; and
 - (c) Prepared sales talks, presentations and material for use by producers.
- (8) The advertising material may be submitted in a proof format for preliminary review. If this is the case, the filing shall specify this and the company shall include a certification that the text and format so filed accurately reflects what the final copy will look like, including contrasting color, font size, bold face, highlighting, or any other similar type of differentiation that may be used. If the advertising material is determined to be acceptable, the company shall submit a final copy for approval, along with a certification that the final copy represents an exact copy of the proof and that no changes have been made after the company was notified that the proofs were determined to be acceptable.

B. VARIABILITY OF INFORMATION

- (1) The company may identify items in the advertising material that will be considered variable, such as:
- (a) Optional benefit features related to plan parameters approved for the policy or policies being advertised;
 - (b) The form number of the policy or rider being advertised; and
 - (c) In the case of advertising material for use by more than one company, the name of each company may be variable only to permit:

- (i) Deletion if the company ceases to do new business; and
- (ii) Addition of a company authorized to do business by the respective compacting states.

~~The submission shall include a Statement of Variability that will discuss the conditions under which each variable item may change.~~

- (2) Any change in the content of advertising material other than that described in (1) above shall require prior approval.
- (3) The submission shall include a Statement of Variability that will discuss both the conditions under which each variable item may change as well as the alternative content to which the item may change. The Statement of Variability shall present reasonable and realistic illustrations of how the item may change.
- (4) Items such as company or producer contact information (street address, telephone number, fax number, Internet address, etc.) may be denoted as variable and changed without notice or prior approval.

C. FAIRNESS

- (1) The format (arrangement of text and captions, their size, color and prominence) and content of advertising material shall be truthful and sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive and shall be clear that the material is for long term care insurance, or a type of long term care insurance.
- (2) All information required to be included in advertising material under these standards shall be set out conspicuously and in close conjunction to the statement to which it relates and in a manner that does not minimize, render obscure or otherwise make it appear unimportant.
- (3) Advertising material shall not omit information or use words, phrases, statements, references or illustrations if such omission or use has the capacity, tendency or effect of misleading or deceiving persons as to the nature or extent of any policy benefit payable, loss covered or premium payable.
- (4) Advertising material shall not use words, phrases, images or methods that are designed to create undue fear or anxiety in the minds of those to whom they are directed. Examples:
 - (a) The exaggeration of the importance of diseases rarely or seldom found in the class of persons to whom the policy is offered;
 - (b) The use of phrases such as “the finest kind of treatment,” implying that the treatment would be unavailable without insurance;
 - ~~(c) The use of reproduced newspaper articles, magazine articles, information from the Internet or other similar published material containing outdated or irrelevant facts and figures;~~
 - (c) The use of images that unduly emphasize 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;
 - (d) The use of phrases such as “financial disaster,” “financial distress,” “financial shock,” or another phrase implying that financial ruin is likely without insurance; and
 - (e) The use of words, phrases or images that unduly excite fear of dependence upon relatives or charity.

§2. ADVERTISING MATERIAL REQUIREMENTS

A. FOR IDENTIFYING THE COMPANY

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- (1) The full corporate name of the company shall appear in prominent print at the beginning of the advertising material or on the first page of the advertising material. The full corporate name, including city and state, shall appear in the disclaimer section at the end of the advertising material. "Prominent print" means, for example, all capital letters, contrasting color, underlined or otherwise differentiated from the other type in the advertising.
- (2) The full corporate name included in any advertisement used in a specified state shall be the name under which that company is licensed in that state.
- (3) If advertising material will be used by more than one company:
 - (a) Each company's full corporate name shall appear in prominent print at the beginning of the advertising material or on the first page of the advertising material. The full corporate name of each company, including city and state, shall appear in the disclaimer section at the end of the advertising material; and
 - (b) The material shall clearly specify which products, benefits or features are offered by each company and shall state that each company has sole financial responsibility for its own products.
- (4) The company's address shall not be used to mislead or deceive as to true identity of the company, its location or licensing status.
- (5) A marketing name or logo shall not be used to mislead or deceive as to the identity of the company.
- (6) Advertising material shall not contain include the name of a producer, plan sponsor or any other name in type, size and location that may have the capacity and tendency to mislead or deceive as to the true identity of the company, for example The name of a producer, or plan sponsor, or other name, or means shall not be used in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the company.

Drafting Note: Advertising material should not be in the "voice" of a plan sponsor not licensed as a producer for example marketing information from a company or producer may reference an employer marketing the plan but may not mislead or deceive as to the true identity of the company.

- (7) Advertising material shall not contain statements that are untrue, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the company in the insurance business.
- (8) Advertising material shall not contain a rating by any commercial rating system unless such rating is current, refers only to the overall financial status of the company and is not presented as a recommendation of the specific policy provisions, rates, or services of the company.
- (9) Advertising material shall not refer to or emphasize the occupations of the persons comprising the company's board of directors or the public's familiarity with their names or reputations. The preponderance of a particular occupation or profession among the board of directors of a company shall not be used to justify advertising material for a plan of insurance offered to the general public as insurance designed or recommended by members of that occupation or profession.
- (10) Advertising material that is intended to be seen or heard beyond the limits of the jurisdiction in which the company is licensed shall not imply licensing beyond the licensed jurisdictions.
- (11) Advertising material shall not refer to a company's licensing by a public body as an endorsement of a company or producer as distinguished from other licensed companies and producers.

B. ~~FOR THE~~ FORM NUMBER

- (1) A form identification number shall appear at the beginning of be assigned and clearly specified in the advertising material, or in the lower left hand corner of the page or page equivalent bottom of the first page of the advertising material, if applicable. The form number shall be adequate to distinguish the advertising material from all others

used by the company. The form number shall include a prefix of ICCxx (where xx represents the appropriate year the form was submitted for filing) to indicate it has been approved by the Interstate Insurance Product Regulation Commission.

(2) The form identification number shall include a separate identifying number for each web page or pop-up page having a distinct URL.

(23) Invitations to contract shall also include the advertised policy form number(s).

C. **FOR DESCRIBING BENEFITS PAYABLE, LOSSES COVERED AND PREMIUMS**

(1) Advertising material shall not 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,” or similar words or phrases, if such use exaggerates a benefit beyond the terms of the policy.

(2) Advertising material shall not describe premiums by the use of words such as "deposits," "savings," "investment," and other similar phrases to hide or untruthfully minimize the cost of the hazards insured against.

(3) Advertising material shall not imply that a common type of policy or a combination of common benefits is “new,” “unique,” “a bonus,” “a breakthrough,” or is otherwise unusual. The addition of a novel method of premium payment to an otherwise common plan of insurance does not render it new or unique. For purposes of this standard, the term “common” shall mean generally available within the industry.

(4) Advertising material shall not use words such as “extra,” “special” or “added” to describe a policy benefit.

(5) Advertising material shall not state or imply by word, phrase, statement, reference or illustration that the benefits being offered will be in addition to or supplement any other insurance policy, health benefit plan, or governmental plan if this is not the case.

(6) Advertising material may state total amounts payable under a policy, provided that equal emphasis is given to internal payment limits, such as the actual amounts payable per day ~~also are stated.~~

(7) Advertising material shall not use examples of benefits payable under a policy in a way that implies that the maximum benefit payable under the policy will always be paid.

(8) Advertising material may include a range of benefit levels provided that such material makes it clear that the insured will receive only the benefit level specified in the policy that is issued. Advertising material shall not imply that the insured may select the benefit level at the time of claim.

(9) Advertising material that describes benefits or premiums that vary by age or benefits that are subject to underwriting, shall disclose this.

(10) Advertising material may state or imply that premiums will not be changed in the future only if the advertised policies state that the premiums ~~rate schedule~~ will not be changed in the future.

(11) Advertising material for a policy in which the insurer company may increase premiums shall disclose that fact and shall describe the reasons for such increases (e.g., attained ages, benefit improvements), when such increases may occur (e.g., policy owner's birthday, policy anniversary) and how often such increases may occur (e.g., not more than once annually).

Comment [BMCELDUF1]: The PSC modified the language throughout to ensure consistent usage of terms among the various LTC standards.

(12) Advertising material may use the term “noncancellable” only if the insured has the right to continue the insurance in force by the timely payment of premiums, ~~and during which period~~ the company has no right to unilaterally make any change in any provision of the policy or in the premium rate schedule shown in the policy.

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- (1~~3~~3) Advertising material may use the term “level premium” only to describe long-term care coverage that is noncancellable and where the premiums rate schedule for the coverage ~~are~~-is level for all policy years for which a premium is required.
- (1~~3~~4) Advertising material that describes consideration paid or to be paid for long-term care insurance that uses terms such as premium, consideration, cost, or payments ~~must~~-shall disclose all fees or charges.
- (14~~5~~) Advertising material shall not exaggerate the effects of required policy benefits or provisions or imply that such benefits or provisions are unique to the advertised policy. For example, the phrase, “money back guarantee” is an exaggerated description of the Right to Examine Policy provision.
- (1~~5~~6) Advertising material may state ~~or imply~~ that each family member insured under a policy providing benefits for family members is covered for the maximum benefits advertised, provided this is the case.
- (16~~7~~) Advertising material used for a policy that is not guaranteed issue may include statements such as “here is all you do to apply,” or “simply” or “merely” to refer to the act of applying for the policy provided that such material equally emphasizes that the application is subject to acceptance or approval by the company.
- (17~~8~~) Advertising material shall not resemble paper currency, bonds, stock certificates, etc., or use any name, service mark, slogan, symbol or device in a manner that implies that the company or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.

(18) Advertising material that references a Partnership policy shall include the following or substantially similar language:

The coverage advertised may meet the requirements for participation in a Long-Term Care Insurance Partnership Program in some states. Under this Program, the policyholder may be able to protect assets from Medicaid spend-down requirements through a feature known as ‘asset disregard.’ Nothing in a policy or certificate issued by a company is a guarantee of Medicaid eligibility, nor a guarantee of any ability to disregard assets for purposes of Medicaid eligibility. Please also note that states do not take part in company-specific marketing plans, and states do not endorse specific companies or company specific policy and certificate forms. If you have questions about the availability of this Program in your state, please contact the company or your state insurance department.

- (18~~9~~) Advertising material shall not use words or phrases for which the meaning is clear only by implication or by familiarity with insurance terminology.
- (19~~20~~) Advertising material that describes a confinement benefit may state that a benefit is payable on a monthly or weekly basis when, in fact, the benefit is based on a daily pro-rata basis relating to the number of days of confinement, provided that, immediately above or below or right next to such statement, the advertising material also include a statement that the benefit is based on the daily pro-rata basis relating to the number of days of confinement.
- (20~~1~~) Advertising material that describes a policy which provides coverage for a limited number of days shall specify such limit.
- (21~~2~~) Advertising material that describes benefits that are provided in addition to those provided by the policy, such as a rider or supplemental benefits, shall not describe such additional benefits in a manner that has the effect of misleading or deceiving, or the potential to mislead or deceive, persons as to the existence or nature of the primary policy benefits.
- (22~~3~~) Advertising material that describes any benefits that vary by age shall disclose this.
- (23~~4~~) Advertising material shall specify how any lifetime maximum, or no lifetime maximum, will impact the coverage described.

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- (245) Advertising material that is designed to produce leads either by use of a coupon or reply card, or that contains a request to write or to call the company shall include information disclosing that a producer or the company may contact the prospect.
- ~~(256)~~ Advertising materials that include invitations to inquire about or purchase the policy shall not include any “negative election” features that require the consumer to contact the insurer company or any other party (i.e., “opt out”) in order to avoid receiving unsolicited third party materials such as free trial magazine subscriptions or services, promotions or services unrelated to the policy, or any other materials that have not been explicitly requested by the consumer.
- ~~(2567)~~ Advertising material shall not 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 if the advertising material is directed to all persons in a group or to all persons whose names appear on a mailing list.
- ~~(2678)~~ Advertising material that describes a policy that pays varying amounts of benefits for the same loss occurring under different conditions, or that pays benefits only when a loss occurs under certain conditions, shall disclose the different or limited conditions.
- ~~(2789)~~ Advertising material shall not list or describe benefits, services or company practices other than those provided in the policy, ~~unless such benefits, services or practices are clearly disclosed as noncontractual and subject to change.~~
- ~~(28930)~~ Only guarantees or contractual rights specified in the policy may be advertised as such.
- ~~(29301)~~ Advertising material shall not contain statements such as “no red tape” or otherwise imply that all policy provisions do not need to be satisfied in order to receive benefits.
- ~~(3012)~~ Advertising material shall not directly or indirectly make unfair or incomplete comparisons of policies, benefits or rates within a company’s own portfolio.
- ~~(3123)~~ Advertising material that describes a choice of the amount of benefits shall disclose that the amount of benefits to be provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.
- ~~(334)~~ Advertising material that describes an inflation protection option shall include a similar description of the mandated inflation protection offer.
- ~~(3245)~~ Advertising material that describe various benefits that may be contained in two or more policies or riders, shall disclose that the benefits are provided only through a combination of policies or riders.
- ~~(3356)~~ Advertising material shall not state or imply that claim settlements by the insurer company are “liberal” or “generous,” or use similar words or state or imply 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.
- ~~(3467)~~ 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 [producer] [company] [producer or the company].”
- ~~(3578)~~ Advertising material that describes coverage that requires a medical exam shall disclose this.

D. ~~FOR~~ COMPARISONS AND STATEMENTS ABOUT OTHER COMPANIES AND THEIR PRODUCTS

- (1) Advertising material shall not directly or indirectly make unfair or incomplete comparisons of policies, benefits, dividends or rates of other companies and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

- (2) Advertising material shall not contain statements that are untrue or that are misleading by implication in respect of another company's assets, corporate structure, financial standing, age, or relative position of the company in the insurance business.
- (3) Advertising material shall not use terms such as "low cost" to differentiate its plan(s) from those of a competitor, but a company may use such terms in its advertising material when comparing plans within its own block of business and when the lower cost can be substantiated.

E. ~~FOR~~-EXCEPTIONS, REDUCTIONS AND LIMITATIONS

- (1) An invitation to contract shall fairly and accurately describe the exceptions, reductions and limitations of a policy in a manner that does not minimize, render obscure or otherwise make them appear unimportant.
- (2) Advertising material shall not include descriptions worded in a positive manner so as to imply that it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after two years."
- (3) Advertising material shall not use the words "only," "just," "merely," "minimum," "necessary" or substantially similar words to describe the applicability of any exceptions, reductions and limitations, such as: "This policy is subject to the following minimum exceptions and reductions."
- (4) Advertising material shall not understate any exceptions, reductions and limitations or qualify these to emphasize coverage provided elsewhere, such as "Does not pay for [insert exception, reduction or limitation], however, Medicare pays this."
- (5) An invitation to contract shall disclose the existence of 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.

F. ~~FOR~~-PREEXISTING CONDITIONS

- (1) An invitation to contract shall disclose the extent to which any loss is not covered if the cause of the loss is a condition existing prior to the effective date of the policy, and shall include a definition of or description of the term "preexisting condition" consistent with the policy.
- (2) Advertising material that describes coverage that limits benefits for losses resulting from preexisting conditions shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of a policy or payment of a claim, and shall not use the phrase "no medical exam required" or "no health questions asked" or similar phrases.
- (3) Advertising material that describes coverage that includes a preexisting condition exclusion may use a phrase such as "guaranteed issue" or "automatic issue," provided that these phrases are accompanied by a statement disclosing the preexisting condition exclusion in a manner that does not minimize, render obscure, or otherwise make it appear unimportant.

G. ~~FOR~~-REFERENCES TO FEDERAL, STATE OR LOCAL ENTITIES

- (1) Advertising material shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to any combination of words, symbols or physical materials used by federal, state or local government, 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 or program of a federal, state or local government.
- (2) Advertising material shall not imply that the reader may lose a federal, state or local right or privilege or benefit if he or she fails to respond to the material.

H. ~~FOR~~ INTRODUCTORY, INITIAL OR SPECIAL OFFER FOR COVERAGE

- (1) Advertising material shall not include introductory, initial or special offer periods, or imply that applicants will receive substantial advantages not available at a later date, or imply that the offer is available only to a specified group of individuals, unless this is the case. Such offer periods shall allow adequate time for the consumer to consider the offer and shall not be so long or so frequent that the offer is a standard practice for the company.

I. ~~FOR~~ RENEWAL AND TERMINATION

- (1) An invitation to contract shall describe the provisions relating to renewal and termination in a manner that shall not minimize or render obscure the provisions.

- (2) An invitation to contract must shall clearly disclose the total period of time for making late premium payments, e.g. 65 days.

Comment [BMCELDUF2]: The PSC determined that because of the uniqueness of the late payment protection that is available, it would be an aid to consumers for the late payment period to be disclosed within the same material as other important features of the policy.

- (3) Advertising material that states or implies that policies are “guaranteed renewable” shall disclose that the company has the right to increase the premium rates schedule, if the policy so provides.

- (34) Advertising material that describe increasing premium rates based upon the policy year or the insured’s attained age shall disclose the premium rate schedule increases and the times or ages at which the ~~premiums~~ increases take effect.

- (45) Advertising material that uses the terms “noncancellable,” or “guaranteed renewable” shall be consistent with provisions in the Interstate Insurance Product Regulation Commission long term care product standards.

J. ~~FOR~~ FEDERALLY TAX-QUALIFIED STATUS

- (1) An invitation to contract shall reference the tax qualification status, as defined by the Internal Revenue Code of 1986, §7702B(b), and shall include the following disclosure:

- (2) “This [policy/certificate/riders] [is/is not] intended to be federally tax-qualified.”

K. ~~FOR~~ TESTIMONIALS, RECOMMENDATIONS OR ENDORSEMENTS BY THIRD PARTIES

- (1) Advertising material shall not state or imply that a company or a long-term care insurance policy has been recommended or endorsed by any person or entity, unless that is the fact.
- (2) A testimonial, recommendation or endorsement by any person or entity shall not include representations or promises of future policy outcomes for themselves or others.
- (3) A testimonial, recommendation or endorsement shall be applicable to the policy advertised or to the company if no specific policy is being advertised, and shall be accurately reproduced.
- (4) A testimonial, recommendation or endorsement made by a person or entity who is not a spokesperson as defined in Item (5) below shall represent the current opinion of the author and shall reflect the author’s personal opinions of or experiences with the company or its products.
- (5) A person or entity making a testimonial, recommendation or endorsement shall be deemed a “spokesperson” if the person or entity:
 - (a) Has a proprietary or other financial interest in the company or a related entity as a stockholder, director, officer, employee or otherwise;
 - (b) Has been formed by the company, is owned or controlled by the company, its employees, or the person or persons who own or control the company;

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- (c) Has any person in a policy-making position who is affiliated with the company in any of the above described capacities; or
 - (d) Is in any way directly or indirectly compensated for making a testimonial, recommendation or endorsement.
- (6) A testimonial, recommendation or endorsement made by a spokesperson shall prominently disclose that the person or entity is a spokesperson and shall further disclose any and all of the relationships from Item (5) that are applicable.
- (7) If advertising material describes a donation to an organization contingent upon the purchase of long-term care insurance, such practice shall comply with the laws of the state in which the advertisement is used.

L. ~~FOR~~-USE OF STATISTICS AND CITATIONS

- (1) The source of any statistics or citations used in advertising material shall be identified in the material, including its date of publication. Providing a web site address alone does not constitute credible sourcing.
- (2) Advertising material that refers to the dollar amounts of claims paid, the number of persons insured, or other statistical information relating to a company or policy shall use current, relevant, and credible statistics. If advertising material for a policy use statistics that are applicable to other policies or plans, the material shall specifically state this. A source shall not be more than five years old unless the company certifies that the source is the most recent available.
- (3) Advertising material that refers to the dollar amount of claims paid ~~must~~ shall also indicate the period over which the claims have been paid.
- (4) Advertising material may use nationwide or regional statistics, or Compacting state-specific statistics. In any case, the geographical basis should be specified.
- (5) Advertising material shall not use reproduced newspaper articles, magazine articles, information from the Internet or other similar published material, or excerpts thereof, containing outdated, misleading or irrelevant facts and figures.