

## Advertising Product Review Checklist

Every effort has been made to ensure the accuracy of the information in this document. All parties should consult the Texas Insurance Code (TIC), the Texas Administrative Code (TAC), and other applicable laws.

### Important Notes

All lines of insurance advertising are reviewed by the Life and Health Lines Office.

- Advertising Filing Rule - [28 TAC Section 21.120](#).
  - Required File for Review: Medicare Supplement - [28 TAC Section 3.3313](#) (additional requirements for Medicare Select [28 TAC Section 3.3325](#)).
- Long Term Care - [28 TAC Section 3.3838](#).
  - Required File for Information: Life Settlement - [28 TAC Section 3.1744](#).
- All other lines of insurance may be filed for information, but are not required to be filed.
- Any variable material shall be bracketed on the advertisement(s); and filed with an explanation of variable material - [28 TAC Section 21.120\(a\)\(6\)](#).
- Insurance agents must file their advertisements with the insurance company for written approval prior to use - [28 TAC Section 21.122\(c\)](#).
- Company logo filings will be closed as informational. Refer to [28 TAC Section 21.104\(b\)](#) for guidance.
- Requirements for electronic delivery to consumers are addressed in [TIC Chapter 35](#).

### Institutional - [28 TAC Section 21.102\(6\)](#)

Comment \_\_\_\_\_ : Purpose is to promote the insurer, agent, or consumer's interest.

Comment \_\_\_\_\_ : Does not provide an opportunity to request a quote or apply for coverage.

**Note:** Web pages or navigation aids within an Internet website that provide a link to another web page, the content of which refers to a specific insurance policy, certificate of coverage, or evidence of coverage or provides an opportunity for an individual to apply for coverage or request a quote, but that do not, themselves, otherwise include such content are institutional advertisements.

### Invitation to Inquire - [28 TAC Section 21.102\(7\)](#)

Comment \_\_\_\_\_ : Refers to a specific policy or provides an opportunity to request information.

Comment \_\_\_\_\_ : Uses consumer contact information to request additional information or a quote. (Exception for Internet Advertising web pages - [TIC Section 541.082\(b\)-\(e\)](#))

## **Invitation to Contract - [28 TAC Section 21.102\(8\)](#)**

Comment \_\_\_\_\_ : Includes an application or enrollment form for insurance or which is presented with an opportunity to apply for the advertised coverage

## **General Requirements For All Lines of Insurance - [TIC Chapter 541](#) and [28 TAC Chapter 21](#)**

Comment \_\_\_\_\_ : Must not be misleading in fact, implication or omission - [28 TAC Section 21.103\(a\)](#) and [Section 21.112](#)

Comment \_\_\_\_\_ : Format and content must be complete and clear to avoid deception or the capacity or tendency to mislead or deceive; determined by the department of insurance, or the Commissioner of Insurance on appeal, 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. - [28 TAC Section 21.103\(b\)](#)

Comment \_\_\_\_\_ : Disclosures must be conspicuous and in close conjunction with the statements to which the information relates or with appropriate captions of such prominence that required information is not minimized, rendered obscure, or presented in an ambiguous fashion, or intermingled with the context of the advertisement so as to be confusing or misleading. Regarding Internet advertising, the disclosures may be provided through a conspicuous and clearly labeled link, provided that the link must be placed near the relevant information to which it relates, and must connect directly to the information necessary to comply with the applicable requirements:

- with respect to "invitation to inquire" advertisements, [Section 21.104\(a\)](#) (relating to requirement to identify the person or entity responsible for the advertisement).
- [Section 21.108](#) (relating to Use of Statistics and Citations).
- [Section 21.113](#) (relating to Rules Pertaining Specifically to Accident and Health Insurance Advertising and Health Maintenance Organization Advertising).
- [Section 21.114](#) (relating to Rules Pertaining Specifically to Life Insurance and Annuity Advertising).

### [28 TAC Section 21.103\(c\)\(1\)-\(5\)](#)

Comment \_\_\_\_\_ : No unclear language and insurance terminology which has the capacity to mislead or deceive - [28 TAC Section 21.103\(d\)](#)

Comment \_\_\_\_\_ : The full licensed name of the insurer is required to be stated in each of its invitation to inquire and invitation to contract advertisements and must appear prior to the first appearance of any shortened or substitute name. (NOTE: Department interpretation of first appearance means the body of the text (not to be confused with a header or logo). It is sufficient to state the full licensed name, assumed name registered (does not have to include LLC or INC) or Texas agent's license number when advertisements address coverages in general and do not

describe a specific policy or coverages of a particular insurer) - [28 TAC Section 21.104\(a\)](#)

Comment \_\_\_\_\_ : Must not mislead or deceive as to the true identity of the insurer (n/a for institutional ads)

**Note:** May not use trade name, any insurance group designation, name of parent company, name of a particular division of the insurer, service mark, slogan, symbol, or other device, without disclosing full name) - [28 TAC Section 21.104\(b\)](#)

Comment \_\_\_\_\_ : Must not imply that a government entity is connected with the advertisement - [28TAC Section 21.104\(c\)](#)

Comment \_\_\_\_\_ : Identifies the type of insurance product (noninstitutional) - [28 TAC Section 21.104\(d\)](#)

Comment \_\_\_\_\_ : Must not imply licensing beyond the limits of the jurisdiction in which the insurer is licensed - [28 TAC Section 21.104\(e\)](#)

Comment \_\_\_\_\_ : Clearly states product is insurance (health, annuity, HMO (HMO is not insurance, auto, etc) - [28 TAC Section 21.104\(f\)](#)

Comment \_\_\_\_\_ : If advertising more than one policy, the ad must separately disclose the cost and benefit of each policy - [28 TAC Section 21.104\(g\)](#)

Comment \_\_\_\_\_ : Must not mislead regarding insurer's assets, structure, financial standing, age, industry position, or in any other material respect - [28 TAC Section 21.104\(h\)](#) and [Section 21.110\(b\)](#)

**Note:** [28 TAC Section 21.104\(h\)](#) refers to the advertiser talking about their own company and [28 TAC Section 21.110\(b\)](#) refers to the advertiser disparaging another company.

Comment \_\_\_\_\_ : Ads regarding multiple insurers must clearly identify the insurer of each product advertised and it discloses that each insurer has sole financial responsibility for its own products (n/a for institutional) - [28 TAC Section 21.104\(i\)](#)

Comment \_\_\_\_\_ : May not imply or represent any coverage or benefits beyond the terms of the contract - [28 TAC Section 21.105\(a\) and \(b\)](#)

Comment \_\_\_\_\_ : Omission of information may not be misleading regarding loss covered, premium or benefit payable - [28 TAC Section 21.105\(c\)](#)

Comment \_\_\_\_\_ : Must not contain untrue statements about the time within which claims will be paid or represent or imply that claim settlements will be liberal or generous beyond the terms of a policy or that special treatment not provided for in the policy will be provided or extended. An unusual amount paid for a unique claim for the policy advertised is misleading and may not be used, unless it is disclosed that such payment is unusual or unique - [28 TAC Section 21.105\(d\)](#)

Comment \_\_\_\_\_ : May not falsely represent directly or indirectly, that a policy may be sold only to certain persons because of their occupation, association, age, sex, or other condition - [28 TAC Section 21.105\(e\)](#)

Comment \_\_\_\_\_ : Rider benefits must not be deceptive as to the nature of the primary policy benefits - [28 TAC Section 21.105\(f\)](#)

Comment \_\_\_\_\_ : Premium stated must be for the coverage advertised - [28 TAC Section 21.106\(a\)](#) If premium does not apply to all risk classes, then the risk classes must be identified - [28 TAC Section 21.106\(b\)](#)

Comment \_\_\_\_\_ : Must disclose any optional benefits are available at an additional cost; rates for optional benefits must appear separate and apart from the base policy premium - [28 TAC Section 21.106\(c\) and \(d\)](#)

Availability of credit card billing must disclose it is optional - [28 TAC Section 21.106\(e\)](#) If premium may be changed upon policy renewal, then the advertisement must disclose - [28 TAC Section 21.106\(f\)](#)

Comment \_\_\_\_\_ : Testimonials, appraisals, or analyses - [28 TAC Section 21.107](#)

- Spokesperson defined
- No implication of endorsement of government entity
- Must not present licensing as government endorsement
- Non-spokesperson testimonials must represent the current personal opinion of the author
- Must be applicable to the insurer or contract advertised
- Must disclose paid endorsements (request clarification if the ad uses "sponsored by...")
- Certification that no person has been compensated is located on the [Advertising Transmittal](#)

Comment \_\_\_\_\_ : Must not use irrelevant facts and misuse statistics; sources of statistics must include publication name and date and shall not be more than five years old, unless certified; "average" costs or savings must indicate if national or regional, and if regional, identify the region - [28 TAC Section 21.108](#)

**Note:** If over five years old, certify the source is the most recent available on the [Advertising Transmittal](#)

Comment \_\_\_\_\_ : Inducement (rebates, noncontractual benefits);

- Prohibited rebates and inducements - [TIC Section 541.056](#);
- Certain practices not inducements - [TIC Section 541.058](#);

- No value offered outside of contract - [28 TAC Section 21.109\(a\)](#) and [Section 21.113\(d\)\(17\)](#);
- Does not apply to health related services - [28 TAC Section 21.109\(a\)\(1\)](#);
- Definitions - [28 TAC Section 21.109\(a\)\(2\)](#);
- Disclose health related services may end at any time and may be subject to geographical availability - [28 TAC Section 21.109\(a\)\(3\)](#);
- No insurer or agent may state or imply as an inducement to the purchase of insurance a guarantee of return of premium based upon the quality of its policy other than when such guarantee is required by law or stated within the policy of insurance offered. No return of premium outside of contract - [28 TAC Section 21.109\(b\)](#);
- Incentive to inquire must disclose no purchase necessary - [28 TAC Section 21.109\(c\)](#);
- Offer no advantage contrary to law - [28 TAC Section 21.109\(d\)](#);
- May not state or imply discount contrary to law - [28 TAC Section 21.109\(e\)](#); and
- May not state or imply an advantage by purchase of insurance to be gained by an organization because of past or prospective donation to be made out of proceeds of purchase - [28 TAC Section 21.109\(f\)](#).

Comment \_\_\_\_\_ : Must not unfairly disparage competitor's policies, services, business methods, or marketing - [28 TAC Section 21.110\(a\)](#)

Comment \_\_\_\_\_ : Must not make unfair or incomplete comparisons with competitors' policies, benefits, dividends, or rates, or noncomparable policies - [28 TAC Section 21.111\(a\)](#)

Comment \_\_\_\_\_ : An advertisement containing a comparison of policies of different insurers must prominently state the following: the description of (the other insurance company's (fill in appropriate name)) policy was not furnished by (the insurance company (fill in appropriate name)). If there are questions regarding the illustration, please contact a representative of (the other insurance company (fill in the appropriate name)) - [28 TAC Section 21.111\(b\)](#)

Comment \_\_\_\_\_ : Lead solicitations:

- Entity receiving leads responsible for the ad - [28 TAC Section 21.121\(a\)](#)
- Must prominently disclose that an insurer or agent may contact the recipient of the solicitation. An insurer or agent who makes contact with a person as a result of acquiring that person's name from a lead solicitation must disclose that fact in the initial contact with the person. Must disclose an agent will contact the recipient (use of licensed agent, licensed producer, licensed representative, etc is acceptable) - [28 TAC Section 21.121\(b\)](#)
- "Seminar", "Meeting", and "Class", are permissible terms, but must disclose it is an "insurance sales presentation" - [28 TAC Section 21.121\(c\)](#)

Comment \_\_\_\_\_ : Defamation of insurer - [TIC Section 541.053](#)

## **Additional Accident & Health Requirements - [TIC Chapter 1214](#) and [28 TAC Section 21.113](#)**

Comment \_\_\_\_\_ : Disclosure statement required if advertisement mentions amount or timing of benefit payment - [28 TAC Section 21.113\(a\)](#)

Comment \_\_\_\_\_ : Subject to certain requirements, an invitation to inquire about a health benefit plan may include rate information without including information about all benefit exclusions and limitations so long as any rate mentioned in an advertisement indicates the age, gender, and geographic location on which that rate is based and so long as the advertisement includes prominent disclaimers clearly indicating that:

- the rates are illustrative only;
- a person should not send money to the issuer of the health benefit plan in response to the advertisement;
- a person cannot obtain coverage under the health benefit plan until the person completes an application for coverage; and
- subject to certain requirements, an advertisement for a health benefit plan may include rate information without including information about each benefit exclusion or limitation
- [28 TAC Section 21.113\(b\)](#) and [TIC Section 1214.003\(a\) and \(b\)](#)

**Note:** This section does not apply to a health benefit plan that provides coverage only for a specified disease, only for AD&D, disability income or long term care, including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefits so comprehensive that the policy is a health benefit plan [TIC Section 1214.002](#)

Comment \_\_\_\_\_ : Must disclose form number (invitation to contract only) - [28 TAC Section 21.113\(c\)\(1\)](#)

Comment \_\_\_\_\_ : Must disclose if benefits are from multiple policies - [28 TAC Section 21.113\(c\)\(2\)](#)

Comment \_\_\_\_\_ : May not use "plan" unless first described as "insurance plan" or "HMO plan" - [28 TAC Section 21.113\(c\)\(3\)](#)

Comment \_\_\_\_\_ : Descriptions of claims, rates, or benefits; must disclose exclusions, reductions, and limitations - [28 TAC Section 21.113\(d\)\(1\)](#)

Comment \_\_\_\_\_ : Varying benefit payments, disclosure required - [28 TAC Section 21.113\(d\)\(2\)](#)

Comment \_\_\_\_\_ : A benefit payable under a "family" policy must disclose if the full amount of the benefit is payable upon a claim against each member of the family - [28 TAC Section 21.113\(d\)\(3\)](#)

Comment \_\_\_\_\_ : If advertisement implies no medical underwriting, then it must be true - [28 TAC Section 21.113\(d\)\(4\)\(A\)](#)

Comment \_\_\_\_\_ : If medical exam required, advertisement must disclose - [28 TAC Section 21.113\(d\)\(4\)\(B\)](#)

Comment \_\_\_\_\_ : Accident only must disclose any specified time limit - [28 TAC Section 21.113\(d\)\(5\)](#)

Comment \_\_\_\_\_ : Must disclose if benefits limited or reduced by age - [28 TAC Section 21.113\(d\)\(6\)](#)

Comment \_\_\_\_\_ : If aggregate claim amount, advertisement must disclose maximum daily benefit and time - [28 TAC Section 21.113\(d\)\(7\)](#)

Comment \_\_\_\_\_ : Must accurately describe benefits, based on confinement, and paid periodically (pro rata versus weekly / monthly) - [28 TAC Section 21.113\(d\)\(8\)](#)

Comment \_\_\_\_\_ : May not exaggerate benefits - such as "100%", "unlimited" - [28 TAC Section 21.113\(d\)\(14\)](#)

Comment \_\_\_\_\_ : May not describe exclusion, limitation, or reduction as a benefit - such as "pre-existing conditions covered after two years" - [28 TAC Section 21.113\(d\)\(15\)](#)

Comment \_\_\_\_\_ : May not imply hospitalization profitable - such as "tax free", "extra cash" - [28 TAC Section 21.113\(d\)\(16\)](#)

Comment \_\_\_\_\_ : May not offer value outside policy - exception inducements in compliance with [28 TAC Section 21.109](#) - [28 TAC Section 21.113\(d\)\(17\)](#)

Comment \_\_\_\_\_ : May not use synonymous terms to mislead - applies to specified disease or accident policy - [28 TAC Section 21.113\(d\)\(18\)](#)

Comment \_\_\_\_\_ : Must disclose limited benefit policies - such as "cancer only", "supplemental" - [28 TAC Section 21.113\(d\)\(19\)](#)

Comment \_\_\_\_\_ : Must disclose waiting periods - [28 TAC Section 21.113\(e\)\(1\)](#)

Comment \_\_\_\_\_ : May not describe exclusions, limitations, or reductions with terms such as "only", "just" or "merely" - [28 TAC Section 21.113\(e\)\(2\)](#)

Comment \_\_\_\_\_ : An advertisement that states or implies that pre-existing conditions may apply must define the applicable pre-existing condition provisions - [28 TAC Section 21.113\(f\)\(1\)](#)

Comment \_\_\_\_\_ : An advertisement that is an invitation to contract shall, in accurate terms, disclose the extent to which a loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy - [28 TAC Section 21.113\(f\)\(2\)](#)

Comment \_\_\_\_\_ : Disclosure related to renewability, cancellability, and termination - [28 TAC Section 21.113\(g\)](#)

- Invitation to contract advertisements must disclose.
- "Guaranteed renewable" - must disclose termination at certain ages.
- Imply rates are static (for example, "stable premiums") - must disclose how rates may change.
- May not imply indefinite renewability if not true.
- May not state "noncancellable" if rates can change.
- An invitation to contract shall contain a notice stating that the person to whom the policy is issued is permitted to return the policy within 10 days (or more as stated in the policy) of its delivery to that person and to have the premium paid refunded.

Comment \_\_\_\_\_ : Descriptions of premiums, costs, and interest - [28 TAC Section 21.113\(h\)](#)

- Consideration shall be described as "premiums", "consideration", "cost", or "payments."
- Group costs - disclose as "cost" and "consideration."
- Same prominence: low initial premium, higher renewal.
- May not say low initial premium is free insurance.
- May not state "low cost plan", without established support.
- "Deposit", "savings", "investment" or similar words are prohibited.
- May not make billing of premium for increased coverage without disclosure.
- Must disclose if the cost of home collection results in a higher premium.

Comment \_\_\_\_\_ : Dividends - prohibited descriptions - [28 TAC Section 21.113\(i\)](#)

- May not describe in a manner that is misleading
- May not state or imply dividends are guaranteed
- Dividend illustrations must state "not guaranteed"
- May not, as an inducement, state or imply declaration of dividends

Comment \_\_\_\_\_ : May not say that the company/agent is required to change (replace) policy to comply with law(s) - [28 TAC Section 21.113\(j\)](#)



Comment \_\_\_\_\_ : Prohibited deception on introductory, initial, and special offers - [28 TAC Section 21.113\(k\)](#)

- Implying prospects become group members, if not true (**Note: "quasi-group"**).
- May not state or imply advantages of a special offer unless it is a fact.
- May not contain phrases describing enrollment period as "special" or "limited."
- Shall indicate the date by which the application must be mailed, not less than 10 days.
- May not imply only a specific number of policies will be sold or time is limited because of special advantages in the policy.
- An invitation to contract Medicare supplement advertisement must describe all available "open enrollment" opportunities.

## **Additional Medicare Supplement Requirements**

CMS recognizes the term Medigap, which is acceptable in place of Medicare Supplement insurance.

Comment \_\_\_\_\_ : Must state in a prominent place the following or similar words: "Not connected with or endorsed by the United States government or the federal Medicare program" - [TIC Section 1652.156\(c\)](#) and [28 TAC Section 21.113\(d\)\(11\)](#)

**Note:** Disclosure is not required for institutional ads - [TIC Section 541.082\(b\)-\(e\)](#)

Comment \_\_\_\_\_ : Advertisements directed primarily to Medicare recipients or senior citizens with "Important Notice" or similar language, are presumed to be misleading – [28 TAC Section 21.113\(d\)\(12\)](#)

Comment \_\_\_\_\_ : References to "Medicare" may not be misleading or deceptive - [28 TAC Section 21.113\(d\)\(12\)](#)

Comment \_\_\_\_\_ : Plans F or G referencing Part B excess charges must disclose the amount may not exceed any charge limitations established by Medicare – [28 TAC Section 21.105\(d\)](#) and [Section 3.3306\(b\)\(3\)\(D\)](#)

Comment \_\_\_\_\_ : Invitation to contract advertisements must include the following statement: "Benefits and premiums under this policy may be suspended for up to 24 months if you become entitled to benefits under Medicaid. You must request that your policy be suspended within 90 days of becoming entitled to Medicaid. If you lose (are no longer entitled to) benefits from Medicaid, this policy can be reinstated if you request reinstatement within 90 days of the loss of such benefits and pay the required premium." - [28 TAC Section 3.3324\(f\)](#)

Comment \_\_\_\_\_ : An invitation to contract advertisement must describe complete information regarding all available "open enrollment" opportunities or prominently disclose a means of obtaining complete information regarding such opportunities - [28 TAC Section 21.113\(k\)\(3\)\(C\)](#)

Comment \_\_\_\_\_ : Issuers may use additional benefit designations in the advertisement of the benefit plans. If they do, the advertisement for the additional benefit designations must include a clear statement about the applicable benefit plan being marketed. Additional benefit designations shall not be deceptive or misleading - [28 TAC Section 3.3319\(c\)\(4\)](#)

Comment \_\_\_\_\_ : Cold lead ads must disclose that it is a solicitation for insurance. It must also disclose that contact will be made by an insurance agent (use of licensed agent, licensed producer, licensed representative, etc is acceptable) - [28 TAC Section 3.3319\(c\)\(3\)](#)

Comment \_\_\_\_\_ : The advertisement must comply with the Medicare Supplement benefit standards - [28 TAC Section 3.3306\(c\)](#)

Comment \_\_\_\_\_ : High pressure tactics - employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance - [28 TAC Section 3.3319\(c\)\(2\)](#)

Comment \_\_\_\_\_ : An advertisement offering assistance or information concerning Medicare may not state or imply that an obligation is imposed by the receipt of such information - [28 TAC Section 21.113\(d\)\(9\)](#)

Comment \_\_\_\_\_ : An invitation to contract advertisement mentioning foreign travel emergency services must state that the necessary emergency services must begin during the first 60 days of each trip outside the USA - [28 TAC Section 3.3306\(b\)\(3\)\(E\)](#)

Comment \_\_\_\_\_ : An invitation to contract advertisement must disclose that creditable coverage may reduce or waive the pre-existing condition limitations during open enrollment- [28 TAC Section 21.113\(f\)](#) and [Section 3.3324\(c\)](#)

Comment \_\_\_\_\_ : An invitation to contract advertisement must disclose the 30 day free examination period - [28 TAC Section 3.3308\(a\)\(5\)](#)

Comment \_\_\_\_\_ : A telephone application must be one that was filed and approved (form number) - [28 TAC Section 21.120\(a\)\(1\) - \(6\)](#)

## **Additional Medicare Select Requirements**

Comment \_\_\_\_\_ : An invitation to contract must disclose, "Only certain hospitals are network providers under this policy. Check with your physician to determine if he or she has admitting privileges at the network hospital. If he or she does not, you may be required to use another physician at the time of hospitalization or you will be required to pay for all expenses." - [28 TAC Section 3.3325\(k\)\(8\)](#)

Comment \_\_\_\_\_ : An invitation to contract advertisement must disclose that if an insured moves out of the service area, they will no longer have coverage and they will have the opportunity to purchase any comparable Medicare supplement policy within 63 days of termination - [28 TAC Section 21.113\(d\)\(1\)](#) and [Section 3.3312\(d\)](#)

Comment \_\_\_\_\_ : An invitation to contract advertisement must disclose that the proposed applicant may purchase any Medicare supplement policy offered by the insurer - [28 TAC Section 3.3325\(n\)](#)

## **Additional Long Term Care Requirements**

Comment \_\_\_\_\_ : High pressure tactics - Employing any method of marketing having the effect of ortending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance - [28 TAC Section 3.3839\(c\)\(2\)](#)

Comment \_\_\_\_\_ : Cold lead advertising - Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent (use of licensed agent, licensed producer, licensed representative, etc is acceptable) or insurance company - [28 TAC Section 3.3839\(c\)\(3\)](#)

Comment \_\_\_\_\_ : Selling, marketing, offering, or advertising any insurance policy, certificate, or rider to such policy or certificate, which substantially meets the definition of long term care insurance found in [TIC Section 1651.003](#), but which provides benefit for a period of fewer than 12 months, is a misrepresentation - [28 TAC Section 3.3839\(c\)\(4\)](#)

Comment \_\_\_\_\_ : If the advertisement mentions Inflation Protection, then, the advertisement must include the 5% offer and other offers if the 5% is rejected at the time of application - [28 TAC Section 3.3820\(a\) and \(f\)](#)

## **Additional Discount Health Care Program Requirements**

Comment \_\_\_\_\_ : Shall identify the discount health care program operator; it's sufficient to state thefull registered name or an assumed name filed with the department - [28 TAC Section 21.153\(a\)](#)

Comment \_\_\_\_\_ : Do not make, publish, disseminate, circulate, or place before the public or directly or indirectly cause to be made, published, disseminated, circulated, or placed before the public an advertisement, solicitation, or marketing material containing an untrue, deceptive, or misleading assertion, representation, or statement regarding the discount health care program - [TIC Section 562.052](#) and [28 TAC Section 21.153\(b\)](#)

Comment \_\_\_\_\_ : It is an unfair method of competition or an unfair or deceptive act or practice in the business of discount health care programs to:

- (1) misrepresent the price range of discounts offered by the discount health care program.
- (2) misrepresent the size or location of the program's network of providers.
- (3) misrepresent the participation of a provider in the program's network.
- (4) suggest that a discount card offered through the program is a federally approved Medicare prescription discount card.
- (5) use the term "insurance," except as:
  - (A) a disclaimer of any relationship between the discount health care program and insurance.
  - (B) a description of an insurance product connected with a discount health care program.
- (6) use the term "health plan," "coverage," "copay," "copayments," "deductible," "preexisting conditions," "guaranteed issue," "premium," "PPO," or "preferred provider organization," or another similar term, in a manner that could reasonably mislead an individual into believing that the discount health care program is health insurance or provides coverage similar to health insurance - [TIC Section 562.051](#)

Comment \_\_\_\_\_ : It is unlawful for a program operator or marketer to advertise, solicit, or market a discount health care program containing the words "approved by the Texas Department of Insurance" or words with a similar meaning - [TIC Section 562.102](#)

Comment \_\_\_\_\_ : Each advertisement, solicitation, or marketing material of a discount health care program must clearly and conspicuously state that the discount health care program is not insurance - [TIC Section 562.104\(d\)](#)

## **Additional Life Requirements**

Comment \_\_\_\_\_ : Descriptions of claims, rates, or benefits; must disclose exclusions, reductions, and limitations - [28 TAC Section 21.114\(2\)\(A\)](#)

Comment \_\_\_\_\_ : If advertisement implies no medical underwriting, then it must be true - [28 TAC Section 21.114\(2\)\(C\)\(i\)](#)

Comment \_\_\_\_\_ : An advertisement that uses "non-medical," "no medical examination required," or similar language where the advertised policy's issuance is not guaranteed must provide an equally prominent disclosure in close conjunction to such language that issuance of the policy may depend upon the answers to questions set forth in the application - [28 TAC Section 21.114\(2\)\(C\)\(ii\)](#)

Comment \_\_\_\_\_ : May not use terms such as "investment" or "savings" to describe interest paid to a contract - [28 TAC Section 21.114\(1\)\(B\)](#)

Comment \_\_\_\_\_ : Accident only must disclose any specified time limit - [28 TAC Section 21.114\(2\)\(D\)](#)

Comment \_\_\_\_\_ : Must disclose if benefits limited or reduced by age - [28 TAC Section 21.114\(2\)\(E\)](#)

Comment \_\_\_\_\_ : Must disclose if death benefit varies with length of time policy has been in force, specified period, if death does not result from suicide, hazardous occupation, or aviation hazard - [28 TAC Section 21.114\(2\)\(F\)](#)

Comment \_\_\_\_\_ : Guaranteed interest rates must appear with current interest rates and be of equal prominence - [28 TAC Section 21.114\(2\)\(G-H\)](#)

Comment \_\_\_\_\_ : May not represent a pure endowment policy as earnings on a premium - [28 TAC Section 21.114\(2\)\(I\)](#)

Comment \_\_\_\_\_ : Only actual credited interest may be called earnings - [28 TAC Section 21.114\(2\)\(L\)](#)

Comment \_\_\_\_\_ : Descriptions of premiums, costs, and interest - [28 TAC Section 21.114\(3\)](#)

- Consideration shall be described as "premiums," "consideration," "cost," or "payments," "annuity consideration," or "purchase payment."
- Group costs - disclose as "cost" and "consideration."
- Same prominence: low initial premium, higher renewal.
- May not say low initial premium is free insurance.
- May not state "low cost plan", without established support.
- "Deposit," "savings," "investment" or similar words are prohibited.

Comment \_\_\_\_\_ : Dividends - prohibited descriptions - [28 TAC Section 21.114\(4\)](#)

- Must not mislead regarding descriptions.
- Must not state or imply dividends are guaranteed.
- Dividend illustrations must not state or imply that dividends will be or can be sufficient at any future time to assure without the future payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains the benefits or coverage provided at such time and the conditions required for that to occur.

- An insurer or agent may not, as an inducement to purchase insurance circulate, publish, or otherwise exhibit to any person who is an insured or prospective insured a form of director resolution, stockholders resolution, or form of company action that states or implies the action an insurer will take in the future as respects a declaration of dividend or other such matter if the insurer, its directors, or its stockholders are not bound to take the action stated or implied or if the insurer does not presently have the earnings or the funds or assets to make payments or to consummate the transaction in accordance with the appropriate statutes and rules if any.

Comment \_\_\_\_\_ : Prohibited deception on introductory, initial, and special offers - [28 TAC Section 21.114\(7\)](#)

- Implying prospective policyholders become group or quasi-group members that enjoy special rates or underwriting privileges;
- If an insured or prospective insured has been provided a policy or coverage of insurance without first having paid a premium or returned an application to the insurer or its agents or representatives, the insurer, its agents, or representative may not make any billing or attempt to collect a premium on such policy until such time as an application or acknowledgment of acceptance by the insured is received;
- May not state or imply, that a policy or combination of policies is an introductory, initial, special, or limited offer and that applicants will receive advantages by accepting the offer or that such advantages will not be available at a later date unless such is the fact.

Comment \_\_\_\_\_ : All charges, penalties, or surrender fees and termination fees for withdrawals must be clearly and conspicuously disclosed in an invitation to contract - [28 TAC Section 21.114\(2\)\(J\)](#)

Comment \_\_\_\_\_ : Comparisons of life policies must disclose nonforfeiture and loan rights – [28 Section 21.114\(2\)\(K\)](#)

## **Additional Acceleration of Life Insurance Requirements**

Comment \_\_\_\_\_ : Any "invitation to contract," as defined in [28 TAC Section 21.102](#), used in the marketing, solicitation or sale of a life insurance contract containing an acceleration-of-life-insurance provision shall clearly and concisely disclose the following:

- the illness, condition, care, or confinement necessary to trigger eligibility for any acceleration-of-life-insurance benefit;
- the effect that an acceleration-of-life-insurance benefit provision will have on the death benefit and other values available under the life insurance contract;
- the tax-related disclosures contained in either subsection (a) or (b) of [28 TAC Section 3.4316](#), and the disclosure contained in subsection (c) of Section 3.4316, or disclosures

substantially similar to these disclosures - [28 TAC Section 3.4313\(a\)\(1\)-\(3\)](#).

## **Additional Property and Casualty Requirements**

Comment \_\_\_\_\_ : May not use the word "dividends" or similar words or illustrations in such a manner as to state or to imply that future dividends are guaranteed or certain to occur - [28 TAC Section 21.115](#)