

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 10. LIFE, ACCIDENT AND HEALTH**

**SUBCHAPTER 3. ADVERTISING**

**PART 3. LIFE INSURANCE ADVERTISING**

**365:10-3-30. Purpose**

The purpose of this Part is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

**365:10-3-31. Definitions**

(a) The following words or terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Advertisement**" means material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy, provided:

(A) "**Advertisement**" shall include:

(i) printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, social media, billboards and similar displays;

(ii) descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by such insurer or insurance producer; including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

(iii) material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;

(iv) prepared sales talks, presentations and material for use by insurance producers.

(B) "**Advertisement**" shall not include:

(i) communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(ii) communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

(iii) a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

(2) "**Insurance producer**" means an individual who solicits, negotiates, effects, procures, renews, continues or binds policies of life insurance covering risks located in this State.

(3) "**Insurer**" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's, fraternal benefit society, and any other legal entity which is defined as an "insurer" in the insurance code of this State or issues life insurance or annuities in this State and is engaged in the advertisement of a policy.

(4) "**Policy**" means any policy, plan, certificate, including fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

(5) "**Non-guaranteed policy element**" means any premium, cash value, death benefit, endowment value, dividend or other policy benefit or pricing element or portion thereof whose amount is not guaranteed by the terms of the contract. Any policy element that contractually follows a separate account result or a defined index is not considered a non-guaranteed policy element.

(6) "**Pre-need funeral contract or prearrangement**" means an agreement by or for an individual before the individual's death relating to the purchase of provision of specific funeral or cemetery merchandise or services.

**(b) Applicability.**

(1) The rules of this section shall apply to any life insurance or annuity advertisement intended for dissemination in this State.

(2) Every insurer of life insurance shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer.

**(c) Conflict with other rules.** It is not intended that the rules of this section conflict with or supersede any rules currently in force or subsequently adopted in this State governing specific aspects of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of the rules of this section.

**(d) Severability.** If any section, term or provision of this section shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other Section, term or provision of this section, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

[Source: Amended at 32 Ok Reg 1933, eff 9-15-15]

**365:10-3-32. Form and contents of advertisements**

**(a) Truthful, not misleading.** Advertisements for life insurance shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive 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) **Terms prohibited.** No life insurance advertisement shall use the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

### **365:10-3-33. Disclosure requirements**

(a) **Disclosure must be clear.** The information required to be disclosed by this section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(b) **Contain complete information.** No advertisement shall omit material information or use words, phrases, statements, references or illustrations if such omission or such use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insurer 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.

(c) **Disclosure of unique terms.** In the event an advertisement uses "Non-Medical," "No Medical Examination Required," or similar terms where issue is not guaranteed, such terms shall be accompanied by a further disclosure of equal prominence and juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(d) **Life insurance.** An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.

(e) **Describe type of policy.** An advertisement shall prominently describe the type of policy advertised.

(f) **Direct marketing.** An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless such is the fact. No such cost savings may be stated or implied without justification satisfactory to the Insurance Commissioner prior to use.

(g) **Graded policies shall display limited benefits.** An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

(h) **Prohibited terms.** An advertisement for the types of policies described in (f) and (g) of this subsection shall not use the words "inexpensive," "low cost," or other phrases or words of similar import when such policies are being marketed to persons who are fifty years of age or older, where the policy is guaranteed issue.

(i) **Premiums.**

(1) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

(2) An advertisement in which the insurer describes a policy where it reserves the right to change the amount of the premium during the policy term, but which does not prominently describe this feature, is deemed to be deceptive and misleading and is prohibited.

(3) An advertisement shall not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

(4) An advertisement which represents a pure endowment benefit as a "profit" or "return" on the premium paid rather than as a policy benefit for which a specified premium is paid is deemed to be deceptive and misleading and is prohibited.

(j) **Accurate cash value and savings accounts analogies.** Analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate.

(k) **Policy loans.** An advertisement shall not state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(l) **Nonforfeiture values.** If nonforfeiture values are shown in any advertisement, the values must be shown either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

(m) **Use of "free".** The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor must be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

(n) **Use of "financial planner".** No insurance producer may use terms such as "financial planner," "Investment advisor," "financial consultant," or "financial counseling" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless such actually is the case.

(o) **Non-guaranteed policy elements.**

(1) An advertisement shall not utilize or describe non-guaranteed policy elements in a manner which is misleading or has the capacity or tendency to mislead.

(2) An advertisement shall not state or imply that the payment or amount of non-guaranteed policy elements is guaranteed. If non-guaranteed policy elements are illustrated, they must be based on the insurer's current scale and the illustration must contain a statement to the

effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

(3) An advertisement that includes any illustrations or statements containing or based upon non-guaranteed elements shall set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed elements.

(4) If an advertisement refers to any non-guaranteed policy element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

(5) An advertisement shall not refer to dividends as "tax free" or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly.

(p) **Share of company assets.** An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

(q) **Testimonials, appraisals, analysis or endorsement by third parties.**

(1) Testimonials, appraisals or analysis used in advertisements must be genuine; represent that current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis; the insurer or insurance producer makes as its own all of the statements contained therein, and such statements are subject to all the provisions of this section.

(2) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, such fact shall be prominently disclosed in the advertisement.

(3) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer from making such endorsement or testimonial, such fact shall be disclosed in the advertisement.

(r) **Accurate statistical information.** An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

(s) **Policies sold to students.**

(1) The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university or their education or training

institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement.

(2) All advertisements including but not limited to informational flyers used in the solicitation of insurance must be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities must be clearly identified as such.

(3) The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with a university, college, school or other educational or training institution, unless true.

**(t) Introductory, initial or special offers and enrollment periods.**

(1) An advertisement of an individual policy or combination of such policy shall not state or imply that such policy or combination of such policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(2) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(3) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduced initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to the specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

(4) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this State unless there has been a lapse of not less than three (3) months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the application must mail the application, which shall not be less than ten days and not more than forty days from the date on which such enrollment period is advertised for the first time. This paragraph applies to all advertising media; i.e., mail, newspapers, radio, television, magazines and periodicals -- by any one insurer or insurance producer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control. This paragraph does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his request. It is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specified provisions of the Insurance Code for group, blanket or franchise insurance. In cases where an insurance product is marketed on a direct mail basis

to prospective insureds by reason of some common relationship with a sponsoring organization, this paragraph shall be applied separately to each sponsoring organization.

(u) **Implied membership.** An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless such is the fact.

(v) **Comparisons or disparaging other policies prohibited.** An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not disparage other insurers, insurance producers, policies, services or methods or marketing.

(w) **Individual deferred annuity products or deposit funds.** For individual deferred annuity products or deposit funds, the following shall apply:

(1) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher interest rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than three months subsequent to the date of declaration.

(2) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and the net premiums.

(3) If any contract does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning such contract shall prominently state that cash surrender benefits are not provided.

(x) **Life insurance with annuities.** An advertisement of a life insurance product and an annuity as a single policy or life insurance policy with an annuity rider shall include the following disclosure or substantially similar statement at the point of sale before the application is taken; provided, however, if the policy contains an unconditional refund provision of at least ten days, then the disclosure statement shall be delivered with or prior to the delivery of the policy, or upon the applicant's request, whichever occurs sooner. The disclosure shall include the first five policy years, the tenth and twentieth policy years, at least one age from sixty to seventy and the scheduled commencement of annuity payments:

<u>Year</u>	<u>Gross Annual Life %</u>	<u>Premium Annuity %</u>	<u>Guaranteed Cash Value of Annuity</u>
1	%	%	\$
2	%	%	\$
3	%	%	\$
4	%	%	\$
5	%	%	\$
10	%	%	\$
20	%	%	\$
etc.	%	%	\$

Information in the disclosure statement shall be based on gross premium. The life and annuity percentages of the total gross premium shall equal 100% for each required duration. The guaranteed cash value of the annuity shall be the value at the end of the contract year. A copy of the disclosure statement shall be provided to the applicant.

(y) **Pre-need funeral contracts.** An advertisement for the solicitation or sale of a preneed funeral contract or pre-arrangement as defined in (a) of this section which is funded or is to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

- (1) the fact that a life insurance policy or annuity contract is involved or being used to fund a prearrangement as defined in (a) of this section, and
- (2) the nature of the relationship amount the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person.

#### **365:10-3-34. Identity of insurer.**

(a) **Name of insurer.** The name of the insurer shall be clearly identified in all advertisements, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

(b) **No copies of governmental programs.** No advertisement shall use any combination of words, symbols or other physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

#### **365:10-3-35. Jurisdictional licensing and status of insurer**

(a) **No implied licensure.** 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 such limits.

(b) **Stating licensure in state.** An advertisement may state that an insurer or insurance producer is licensed in the state where the advertisement appears, provided it does not exaggerate such fact or suggest or imply that competing insurers or insurance producers may not be licensed.

(c) **May not imply governmental endorsement.** An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

**365:10-3-36. Statements about the insurer**

An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation.

**365:10-3-37. Enforcement procedures**

(a) **Specimen copies.** Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by this Department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on the examination of the insurer, whichever is the longer period of time.

(b) **Prior approval on possible misleading ads.** If the Commissioner determines that an advertisement has the capacity or tendency to mislead or deceive the public, the Commissioner may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use.

(c) **Certificate of compliance.** Each insurer subject to the provisions of this section shall file with this Department with its Annual Statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by or on behalf of the insurer in this State during the preceding statement year, or during the portion of such year when these rules were in effect, complied or were made to comply in all respects with the provisions of this section and the Insurance Laws of this State as implemented by this section.

**365:10-3-38. Penalties**

Any insurer or any of its officers, directors, agents (producers) or employees thereof which, or who, violate any of the provisions of this section, or knowingly participate in or abet such violation, shall be subject to a fine up to \$1,000 for each violation and/or subject to suspension or revocation of their certificate of authority or license.

**365:10-3-39. Testimonials or endorsements by third parties**

Testimonials or endorsements by third parties in advertisement for insurance shall not be used in such a manner that they have the capacity, tendency or effect of being misleading or deceptive. Testimonials or endorsements shall comply with the following minimum standards:

(1) Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of this section.

(2) 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 by language substantially as follows: "Paid Endorsement." This section does not require disclosure of union "scale" wages required by union rules if the payment is actually for such "scale" for TV or radio performances. However, 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.

(3) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. 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, such fact shall be disclosed in the advertisement.

(4) When a testimonial refers to benefits received under a 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 filing of the next regular report on examination of the insurer, whichever is the longer period of time.

[Source: Added at 10 Ok Reg 1471, eff 5-1-93]