

# MINNESOTA RULES 1983

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ADVERTISEMENT OF SICKNESS AND ACCIDENT 2745.0200

## CHAPTER 2745 DEPARTMENT OF COMMERCE ADVERTISEMENT OF SICKNESS AND ACCIDENT INSURANCE

**NOTE:** Pursuant to Laws of Minnesota 1983, chapter 289, section 114, this chapter of Minnesota Rules is to be administered by the commissioner of commerce.

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### 2745.0100 DEFINITIONS.

Subpart 1. **Scope.** These rules shall also apply to agents to the extent that they are responsible for the advertisement.

Subp. 2. **Advertisement.** "Advertisement," for the purpose of these rules, shall include:

A. printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, billboards, and similar displays;

B. descriptive literature and sales aids of all kinds issued by an insurer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and

C. prepared sales talks, presentations and material for use by agents and solicitors, and representations made by agents and solicitors in accordance therewith.

Subp. 3. **Insurer.** "Insurer," for the purpose of these rules, shall include any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds, fraternal benefit society, and any other legal entity engaged in the advertisement of a policy as herein defined.

Subp. 4. **Policy.** "Policy," for the purpose of these rules, shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement that provides accident or sickness benefits or medical, surgical, or hospital expense benefits, whether on a cash indemnity, reimbursement, or service basis, except when issued in connection with another kind of insurance other than life and except disability and double indemnity benefits included in life insurance and annuity contracts.

**Statutory Authority:** *MS s 72A.19*

### 2745.0200 PURPOSE.

The purpose of parts 2745.0100 to 2745.1900 is to formalize standards, pursuant to law, to be followed by insurers to avoid misleading and deceptive advertising in the accident and sickness insurance business. The proper promotion, sale, and expansion of accident and sickness insurance is in the

public interest, and these rules are to be construed in such a manner as not to restrict, inhibit, or retard such promotion, sale, and expansion. In connection with the interpretation and application of these rules it is to be recognized that:

A. Advertising plays an essential part in promoting a broader distribution of accident and sickness insurance. Advertising necessarily seeks to serve this purpose in various ways. Some such advertising is directed toward inviting an offer to contract or otherwise effecting a sale without opportunity for additional explanation of the coverages advertised. Other advertising serves its purpose by outlining one or more of the basic coverages available and inviting inquiry for details. There are also significant differences between group and individual accident and sickness insurance and the manner in which each is advertised. These rules are not intended to change the essential purpose of accident and sickness advertising or to limit the ways and means by which such advertising may properly seek to serve its purpose; they are intended to prevent advertising which tends to mislead or deceive.

B. The disclosure of policy provisions required in advertising should have a reasonable relationship to the content, detail, character, purpose, and use of the advertisement and the nature of the exceptions, reductions, limitations, and other qualifications involved. If an advertisement clearly and prominently indicates that its disclosure of exceptions, reductions, limitations, or other qualifications is incomplete and that complete details are available, the advertisement is not improper per se. The test, in every case, is whether the advertisement does, or does not, have the tendency and capacity to mislead or deceive.

C. The policy of this department, in interpreting the meaning of these rules when applied to a specific advertisement, will be to take into consideration the content, detail, character, purpose, and use of the advertisement, and specifically, whether the advertisement is the direct or principal sales inducement, or whether its function is to invite inquiry for details of the insurance advertised, either by follow-up literature or by personal interview.

D. The foregoing shall be applicable to each and every provision of the rules and the explanations thereof.

**Statutory Authority:** *MS s 72A.19*

#### **2745.0300 ADVERTISEMENTS IN GENERAL.**

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

**Statutory Authority:** *MS s 72A.19*

#### **2745.0400 ADVERTISEMENTS OF BENEFITS PAYABLE, LOSSES COVERED, OR PREMIUMS PAYABLE.**

Subpart 1. **Deceptive words, phrases, or illustrations.** Words, phrases, or illustrations shall not be used in a manner that misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered, or premium payable. An advertisement relating to any policy benefit payable, loss covered, or premium payable shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to deceive.

A. The words and phrases "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will pay your hospital and surgical bills" or "this policy will replace your income," or similar words and phrases shall not be used so as to exaggerate any benefit beyond the terms of the policy, but may be used only in such manner as fairly to describe such benefit.

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B. A policy covering only one disease or a list of specified diseases shall not be advertised so as to imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

C. The benefits of a policy that pays varying amounts for the same loss occurring under different conditions, or that pays benefits only when a loss occurs under certain conditions, shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

D. Phrases such as "this policy pays \$1,800 for hospital room and board expenses" are incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

Subp. 2. **Exceptions, reductions, and limitations.** When an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions, and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive.

A. The term "exception" shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

B. The term "reduction" shall mean any provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

C. The term "limitation" shall mean any provision that restricts coverage under the policy, other than an exception or a reduction.

Subp. 3. **Waiting, elimination, probationary, or similar periods.** When a policy contains a 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 such loss, an advertisement covered by subpart 2, 3, or 4 shall disclose the existence of such periods.

Subp. 4. **Preexisting conditions.** An advertisement covered by subpart 2, 3, or 4 shall disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy.

When a policy does not cover losses traceable to preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This limits the use of the phrase "no medical examination required" and phrases of similar import.

**Statutory Authority:** *MS s 72A.19*

## **2745.0500 DISCLOSING RENEWABILITY, CANCELLABILITY, AND TERMINATION PROVISIONS.**

An advertisement that refers to renewability, cancellability, or termination of a policy, or which refers to a policy benefit, or which states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancellability, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that shall not minimize or render obscure the qualifying conditions.

**Statutory Authority:** *MS S 72A.19*

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### 2745.0600 METHOD OF DISCLOSURE.

All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

**Statutory Authority:** *MS s 72A.19*

### 2745.0700 TESTIMONIALS.

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 statements is subject to all of the provisions of these rules.

**Statutory Authority:** *MS s 72A.19*

### 2745.0800 USE OF STATISTICS.

An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact.

**Statutory Authority:** *MS s 72A.19*

### 2745.0900 INSPECTION OF POLICY.

An offer in an advertisement of free inspection of a policy or offer of a premium refund is not a cure for misleading or deceptive statements contained in such advertisement.

**Statutory Authority:** *MS s 72A.19*

### 2745.1000 IDENTIFICATION OF PLAN OR NUMBER OF POLICIES.

When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

When an advertisement refers to various benefits that may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.

**Statutory Authority:** *MS s 72A.19*

### 2745.1100 DISPARAGING COMPARISONS AND STATEMENTS.

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services, or business methods.

**Statutory Authority:** *MS s 72A.19*

### 2745.1200 JURISDICTIONAL LICENSING.

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

Such advertisements by only direct mail insurers shall indicate that the insurer is licensed in a specified state or states, or is not licensed in a specified state or states, by use of some language such as "This company is licensed in state A" or "This company is not licensed in state B."

**Statutory Authority:** *MS s 72A.19*

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### **2745.1300 IDENTITY OF INSURER.**

The identity of the insurer shall be made clear in all of its advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol, or other device that has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

**Statutory Authority:** *MS s 72A.19*

### **2745.1400 GROUP OR QUASI-GROUP IMPLICATIONS.**

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

**Statutory Authority:** *MS s 72A.19*

### **2745.1500 INTRODUCTORY, INITIAL, OR SPECIAL OFFERS.**

An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial, or special offer and that the applicant will receive advantages by accepting the offer, unless such is the fact.

**Statutory Authority:** *MS s 72A.19*

### **2745.1600 APPROVAL OR ENDORSEMENT BY THIRD PARTIES.**

An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless such is the fact.

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 organization, unless such is the fact.

**Statutory Authority:** *MS s 72A.19*

### **2745.1700 SERVICE FACILITIES.**

An advertisement shall not contain untrue statements with respect to the time within which claims are paid, or statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.

**Statutory Authority:** *MS s 72A.19*

### **2745.1800 STATEMENTS ABOUT AN INSURER.**

An advertisement shall not contain statements that are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age, or relative position in the insurance business.

**Statutory Authority:** *MS s 72A.19*

### **2745.1900 SPECIAL ENFORCEMENT PROCEDURES.**

**Subpart 1. Advertising file.** Each insurer shall maintain at its home or principal office a complete file containing every printed, published, or prepared advertisement of individual policies and typical printed, published, or prepared advertisements of blanket, franchise, and group policies hereafter disseminated in this or any other state, whether or not licensed in such other state, with a notation attached to each such advertisement that shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by this department. All such advertisements shall be maintained in said file for a period of not less than three years.

**Subp. 2. Certificate of compliance.** Each insurer required to file an annual statement, which is now or which hereafter becomes subject to the provisions of these rules, must file with this department together with its annual statement a certificate executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information, and belief, the advertisements that

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were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of the insurance laws of this state as implemented and interpreted by these rules. It is requested that the chief executive officer of each such insurer to which these rules are addressed acknowledge its receipt and indicate its intention to comply therewith.

**Statutory Authority:** *MS s 72A.19*