

11 NCAC 12 .1018 STANDARDS FOR MARKETING

(a) Every insurer, health care service plan or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

- (1) Establish marketing procedures and agent training requirements to assure that:
 - (A) Any marketing activities, including any comparison of policies, by its agents or other producers will be fair and accurate; and
 - (B) Excessive insurance is not sold or issued.
- (2) Display prominently by type, stamp or other means, on the first page of the outline of coverage and policy the following:

"Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations."
- (3) Provide copies of the disclosure forms required in 11 NCAC 12 .1027(d) to the applicant.
- (4) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required.
- (5) Every insurer or entity marketing long-term care insurance shall establish auditable procedures for verifying compliance with this Rule.
- (6) Every insurer providing long-term care insurance in this State shall at the time of solicitation provide the address and toll-free telephone number of the North Carolina Seniors' Health Insurance Information Program (SHIIP).
- (7) For long-term care health insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to this Section.
- (8) Provide an explanation of contingent benefit upon lapse as provided for in 11 NCAC 12 .1026.

(b) In addition to the practices prohibited in G.S. 58, Article 63, the following acts and practices are prohibited:

- (1) Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.
- (2) 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 influence. As used in this Subparagraph, "undue influence" means a fraudulent influence over the mind and will of another to the extent that the professed action is not freely done but is in truth the act of the one who procures the result.
- (3) 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 or insurance company.
- (4) Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy.

(c) With respect to the obligations set forth in this Rule, the primary responsibility of an association, as defined in G.S. 58-55-20(3)(c), when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold. The insurer shall file with the Commissioner the following material:

- (1) The policy and certificate,
- (2) A corresponding outline of coverage, and
- (3) All advertisements requested by the Commissioner.

(d) The association shall disclose in any long-term care insurance solicitation:

- (1) The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and

- (2) A brief description of the process under which the policies and the insurer issuing the policies were selected.
 - (3) If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members.
 - (4) The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer.
- (e) The association shall also:
- (1) At the time of the association's decision to endorse, engage the services of a long term care insurance expert who is not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates and update the examination thereafter in the event of material change;
 - (2) Monitor the marketing efforts of the insurer and its agents; and
 - (3) Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates.
 - (4) Paragraphs (e)(1) through (e)(3) of this Rule shall not apply to qualified long-term care insurance contracts.
- (f) No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the Commissioner the information required in this Rule.
- (g) The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in this rule.
- (h) Failure to comply with the filing and certification requirements of this rule constitutes an unfair trade practice in violation of G.S. 58, Article 63.

History Note: Authority G.S. 58-2-40(1); 58-55-30(a); 58-63-15(9);
Eff. December 1, 1992;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.