

BULLETIN 97-5

To: All insurers authorized to do the business of insurance in Iowa, All banks and credit unions doing business in Iowa; All Iowa-licensed insurance producers

From: Therese M. Vaughan, Commissioner of Insurance

Re: Sales Practices and Advertising Trends

Date: October 1, 1997

Over the past twelve months, the Iowa Insurance Division has observed that many persons and business entities are testing the limits of acceptable sales and advertising practices. The purpose of this bulletin is to remind insurance marketers of their responsibilities under Iowa insurance laws and regulations. Although we are providing general guidelines here, each situation provides specific circumstances which may affect how Iowa law is applied.

A. New regulations.

First, let us remind you of two new sets of regulation regarding insurance marketing:

1. In January 1997, thoroughly revised insurance regulations governing advertising, sales practices and unfair trade practices were adopted; i.e. Iowa Administrative Code Chapter 191-15. These regulations give specific guidance as to acceptable advertising and marketing practices.
2. Also in January 1997, Iowa adopted the new NAIC model life insurance illustration disclosure regulation, Iowa Administrative Code Chapter 191-14. This regulation imposes new and specific requirements on persons or companies selling most life insurance products to Iowans. An NAIC working group is currently drafting a similar illustration model that will cover annuity products. Producers and insurers should be monitoring the development of the annuity illustration regulation and anticipating its eventual adoption in Iowa.

You may review either of these new sets of regulations at your local law library, or you may wish to contact your insurance company's legal

department. You can obtain a copy from the Iowa Insurance Division by sending us a written request along with a \$10.00 handling fee (for each set).

B. License Requirements.

Under Iowa law, an insurance producer license is required of all persons who directly or indirectly receive or procure applications for insurance or reinsurance. [Iowa Code § 522.1](#) (1997). The Division position regarding this requirement is, simply, that if a person is offering or explaining an insurance product, that person is required to have a license. This requirement does not include persons who work for an insurance company and who are explaining policy terms to an existing insured. This requirement includes persons offering credit insurance in connection with loans, or with credit card or installment purchases. The requirement also extends to persons who are salaried employees who are soliciting the public to purchase insurance products. The test is not whether a commission is paid but rather whether the person is offering or explaining an insurance product.

C. [Guidelines for Office Support Staff](#)

A number of questions have arisen as to what is appropriate conduct for insurance agency office support staff who do not have insurance licenses. The Division has prepared a [one-page summary](#) of guidelines, the full text of which is available by mail or FAX upon request from the Division. Generally, an unlicensed person may announce the availability of products by distributing approved marketing materials, but may not give advice or explain the specific characteristics of the insurance or annuity product. An unlicensed person may assist in completing applications by recording information, but may not sign applications or advise an applicant of the results of particular answers. An unlicensed person should not discuss rates or tax treatments of any insurance or annuity product.

D. Pre-Approval of Advertisements

Producers and insurers often request pre-approval by the Division of advertisements or letters that are to be sent to prospective purchasers. The Division does not require pre-approval of advertisements and does not have the resources to review all items submitted. Producers should consult with the legal departments of the insurers whose products are the subject of the advertisements. Advertisements which are general and do not refer to or imply a specific company or product are permissible if they are limited to a brief description of the loss for which benefits are payable and if there is no

reference made to the cost of the policy. For more specific guidance, producers should look to the advertising guidelines in Iowa Administrative Code section 191-15. Generally, advertisements must be truthful, not misrepresent the benefits or terms of any insurance product, and may not contain references to persons, products or companies that are not licensed or registered with the Division.

E. Internet Advertising

Under Iowa Administrative Code 191-15.2, an advertisement includes materials distributed to the public over computer networks. Insurers, producers and financial institutions should be aware that the Division considers all materials published on the Internet that advertise insurance products or solicit insurance business as subject to Iowa insurance laws and regulations.

F. Solicitation Letters to Targeted Groups.

General solicitation letters that announce to select groups of customers the availability of a particular insurance company's products may discuss rate information and explain policy terms only if the person signing the letter is a licensed producer. Offers of special rates or group discounts should not be announced as being available only to a select group of consumers unless that product or rate in fact is available only to that select group. For example, a letter mailed to customers of a bank which implies that special rates are available only to that bank's customers when that same product is available at the same prices to the insurer's general customers is improper.

G. Policyholder Endorsements.

Producers who wish to use letters of recommendation from current policyholders should be aware that Iowa Administrative Code section 191-15 contains guidelines on this sales practice. Endorsement letters must be genuine and contain the current views of the writer. Such letters should not be used without the consent of the writer.

H. Rebates and Gifts.

The Division receives many inquiries about the effects of the Iowa law that prohibits rebates. Under Iowa law, it is an unfair trade practice to offer a

prospective purchaser of a life, annuity, accident and health, or personal lines insurance policy a reduction in premium or any other item of value as an inducement to purchase the insurance unless the reduction of value is contained in the insurance contract. Iowa Code § 507B.4(8)(1997). There is no set dollar amount for how much "value" an item or offer must have to constitute a rebate, but -- generally -- it has to be something which would serve as an inducement to choose one policy over another similar policy, or would induce a person to come to a solicitation.

Notwithstanding the general rule above, producers and insurers may give gifts to policyholders or prospective policyholders if the gift is not contingent on the purchase of insurance. Generally, producers and insurers that give the same gift to all customers, regardless of whether they purchase or renew a product, will not be in violation of Iowa law.

I. Producer fees.

Producers may not charge fees in addition to commissions for services that are customarily associated with the solicitation of policies or with regular policy service. IAC § 191-15.8(3)(b). Producers may charge fees for other services as long as all fees are fully disclosed. *Id.*

J. Coercion of Debtors:

The Division has seen an increase in insurance sales promotions that refer to an affiliation with a particular financial institution. Such a statement, by itself, does not violate Iowa law since a financial institution is permitted to sell insurance products through its licensed producers. However; Iowa Code section 507B.5 specifically prohibits the following practices:

1. tying the extension of credit to the purchase of insurance from a particular insurer or producer;
2. requiring any borrower to pay additional fees or charges in connection with the handling of any insurance policy required as security for a loan; and
3. using or disclosing information obtained from a requirement that a borrower furnish insurance when the use of that information is to the advantage of the lender or to the disadvantage of the borrower or the producer that provided the information.

Generally, financial institutions and insurance producers should not share information about a customer without the customer's permission.

Any questions regarding this Bulletin should be directed in writing to Rosanne Mead, Assistant Insurance Commissioner.

October 7, 1997.