

**RULES  
OF  
THE DEPARTMENT OF INSURANCE  
DIVISION OF INSURANCE**

**CHAPTER 0780-1-33  
LIFE INSURANCE ADVERTISING**

**TABLE OF CONTENTS**

0780-1-33-.01	Purpose	0780-1-33-.08	Jurisdictional Licensing and Status of Insurer
0780-1-33-.02	Definitions	0780-1-33-.09	Statements about an Insurer
0780-1-33-.03	Applicability	0780-1-33-.10	Enforcement Procedures
0780-1-33-.04	Form and Content of Advertisements	0780-1-33-.11	Regulation 33 Rescinded
0780-1-33-.05	Disclosure Requirements	0780-1-33-.12	Conflict with other Regulations
0780-1-33-.06	Unfair Methods of Competition	0780-1-33-.13	Penalty
0780-1-33-.07	Identity of Insurer		

**0780-1-33-.01 PURPOSE.** The purpose of these rules 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.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

**0780-1-33-.02 DEFINITIONS.**

- (1) For the purpose of these rules:
- (a) "Policy" shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider, or endorsement which provides for life insurance or annuity benefits.
  - (b) "Insurer" shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, 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 annuity in this state and is engaged in the advertisement of a policy.
  - (c) An "advertisement" shall be material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate, or retain a policy including:
    - 1. printed and published material, audiovisual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio and television scripts, billboards, and similar displays;
    - 2. descriptive literature and sales aids of all kinds issued by an insurer or agent, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters;
    - 3. material used for the recruitment, training, and education of an insurer's sales personnel, agents, solicitors, and brokers which is designated to be used or is used to induce the public to purchase, increase, modify, reinstate, or retain a policy;
    - 4. prepared sales talks, presentations, and material for use by sales personnel, agents, solicitors, and brokers.
  - (d) "Advertisement" for the purpose of these rules shall not include:

(Rule 0780-1-33-.02, continued)

1. communications or materials used within an insurer's own organization and not intended for dissemination to the public;
2. communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate, or retain a policy;
3. 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.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

#### **0780-1-33-.03 APPLICABILITY.**

- (1) These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this state.
- (2) Every insurer 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.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

#### **0780-1-33-.04 FORM AND CONTENT OF ADVERTISEMENTS.**

- (1) Advertisements 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 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.

- (2) No advertisement shall use the terms "investment", "investment plan", "founder's plan", "charter plan", "expansion plan", "profit", "11 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.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

#### **0780-1-33-.05 DISCLOSURE REQUIREMENTS.**

- (1) The information required to be disclosed by these rules 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.

(Rule 0780-1-33-.05, continued)

- (2) 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 insured 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.
- (3) 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 in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions.
- (4) An advertisement shall not use as the name or title of a life insurance policy or an annuity any phrase which does not include the words “life insurance” or “annuity” unless accompanied by other language clearly indicating it is life insurance or an annuity.
- (5) An advertisement shall prominently describe the type of policy advertised.
- (6) An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no agent or commission 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 Commissioner prior to use.
- (7) 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.
- (8) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.
- (9) Dividends
  - (a) An advertisement shall not utilize or describe dividends in a manner which is misleading or has the capacity or a tendency to mislead.
  - (b) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends are illustrated, they must be based on the insurer’s current dividend scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of dividends to be paid in the future.
  - (c) An advertisement shall not state or imply that illustrated dividends under a participating policy and/or pure endowments will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains (1) what benefits or coverage would be provided at such time and (2) under what conditions this would occur.
- (10) 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.
- (11) Testimonials or Endorsements by Third Parties.
  - (a) Testimonials used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced. In using a

(Rule 0780-1-33-.05, continued)

testimonial, the insurer makes as its own all of the statements contained therein, and such statements are subject to all the provisions of these rules.

- (b) If the individual making a testimonial 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 disclosed in the advertisement.
  - (c) 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 for making such endorsement or testimonial, such fact shall be disclosed in the advertisement.
- (12) 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.
- (13) Introductory, Initial or Special Offers and Enrollment Periods.
- (a) An advertisement of an individual policy or combination of such policies 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.
  - (b) 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.
  - (c) 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 that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.
  - (d) 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 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 indicate the date by which the applicant must mail the application, which shall be not less than ten days and not more than forty days from the date that such enrollment period is advertised for the first time. This rule applies to all advertising media-i.e., mail, newspapers, radio, television, magazines, and periodicals-by any one insurer. The phrase “any one insurer” includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of 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

(Rule 0780-1-33-.05, continued)

otherwise would be eligible underspecific 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 insured by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each such sponsoring organization.

- (14) An advertisement of a particular policy shall not state or imply that prospective insurers 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.
- (15) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. An advertisement shall not falsely or unfairly describe other insurers, their policies, services, or methods of marketing.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

#### **0780-1-33-.06 UNFAIR METHODS OF COMPETITION.**

- (1) Making any statement relating to the growth of the life insurance industry or to the tax status of life insurance companies in a context which would reasonably be understood to interest a prospect in the purchase of shares of stock in an insurance company rather than in the purchase of a life insurance policy.
- (2) Making any statement which reasonably gives rise to the inference that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by virtue of purchasing the policy.
- (3) Providing a policyholder with any premium receipt book, policy jacket, return envelope, or other printed material containing references to the company's "Investment Department," "Insured Investment Department," or similar terminology, in such a manner as to imply that the policy was sold or issued or is serviced by the investment department of the insurance company.
- (4) Stating that each stockholder is given the right to purchase or allocate a specific number of policies.
- (5) Stating that policyholders who act as "centers of influence" for an insurance company in that capacity will share in the company's surplus earnings in some manner not available to other policyholders of the same class.
- (6) Stating or implying that the principal amounts payable under coupons represent interest, earnings, return on investment, or anything other than policy benefits, the cost of which is included in the total premium.
- (7) Describing premium payments in language which states the payment is a "deposit", unless:
  - (a) the payment establishes a debtor-creditor relationship between the insurance company and policyholder; or
  - (b) the term is used in conjunction with the word "premium" in such manner as to clearly indicate the true character of the payment.
- (8) Including in sales kits and prepared sales presentations proposed answers to a prospect's question as to whether life insurance is being sold, which are designed to avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation.

(Rule 0780-1-33-.06, continued)

- (9) Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without making an adequate explanation of the non-forfeiture benefits.
- (10) Using a dollar amount in printed material to be shown to a prospective policyholder unless accompanied by language in such material indicating the nature of the figure. This is intended to prohibit the use of dollar figures not in relation to guaranteed values and properly projected dividend figures. It is intended to prohibit the use of figures showing growth of stock values, or other values not a part of the life insurance contract.
- (11) Stating that a policy provides certain features which are not found in any other insurance policies, unless that in fact be true.
- (12) The making of any statement or implication in regard to an insurance policy that cannot be verified by reference to the policy contract itself, or a specimen copy of the policy being described, or to the company's officially published rate book and dividend illustrations.
- (13) Stating that life insurance is "loss proof" or "depression proof," but this shall not prohibit statements that life insurance benefits (other than dividends) are guaranteed by the company regardless of economic conditions.
- (14) Making any statement that a company makes a profit as a result of policy lapses or surrenders.
- (15) Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience of your company. This paragraph is intended to protect policyholders from being misled as to the probabilities of the policy being sold having the same results through presentations of experience of companies which successfully sold similar policies without a fair disclosure of the fact that many companies have had unfavorable experience

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

#### **0780-1-33-.07 IDENTITY OF INSURER.**

- (1) The name of the insurer shall be clearly identified, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name 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 any company other than the insurer would have any responsibility for the financial obligation under a policy.
- (2) No advertisement shall use any combination of words, symbols, or 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 governmental programs of agencies or otherwise appear to be of such a nature that it tends to mislead prospective insurers into believing that the solicitation is in some manner connected with any such governmental program or agency.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

#### **0780-1-33-.08 JURISDICTIONAL LICENSING AND STATUS OF INSURER.**

- (1) 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.

(Rule 0780-1-33-.08, continued)

- (2) An advertisement may state that an insurer is licensed in the state where the advertisement appears, provided it does not exaggerate such fact or suggest that competing insurers may not be so licensed.
- (3) 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 authorized its recommendation or endorsement to be used in an advertisement.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

**0780-1-33-.09 STATEMENTS ABOUT AN 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.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

**0780-1-33-.10 ENFORCEMENT PROCEDURES.**

- (1) 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 examination of the insurer, whichever is the longer period of time.
- (2) Each insurer subject to the provisions of these rules 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 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 these rules and the Insurance Laws of this state as implemented and interpreted by these rules.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

**0780-1-33-.11 REGULATION 33 RESCINDED.** Regulation 33, dated 29 June 1965, is hereby rescinded.

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

**0780-1-33-.12 CONFLICT WITH OTHER REGULATIONS.** It is not intended that these regulations conflict with or supersede any regulations 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 deceptive practices in the sale of life insurance and replacement of life insurance policies. Consequently, no disclosure required under any such regulations shall be deemed to be an advertisement within the meaning of these regulations.

(Rule 0780-1-33-.12, continued)

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.

**0780-1-33-.13 PENALTY.** Any insurer failing to comply with the requirements of this regulation shall be subject to the following penalty:

- (a) Upon the Commissioner's order, shall file for approval, prior to its use, any advertisement used in connection with the solicitation of a contract of insurance in the State of Tennessee. For the purpose of this section, "prior to its use" shall mean the filing of such advertising material at least thirty days prior to its use. Unless disapproved by the Commissioner prior to the expiration of the thirty day period the advertisement shall be deemed to be approved. The Commissioner may, in his discretion, upon proof satisfactory to him that the failure to comply has been corrected, rescind such order

**Authority:** T.C.A. §§.56-2-301. **Administrative History:** Original rule filed April 19, 1976; effective May 19, 1976.