



Midwest Forum Chapter  
AICP Education Day 2011  
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## Advertising Compliance

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### IMPORTANT NOTICE

The information presented is intended to provide general information and encourage discussion only. Nothing presented should be relied upon without independent research, application to specific facts, and/or consultation with legal counsel. Discussion will be encouraged, but opinions expressed do not necessarily represent the common agreement or position of the AICP or its members, First Consulting & Administration, Inc. or any specific individual.

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### What's going to be covered?

- Discussion of Model Laws, and applicability to Life/Annuity, Accident and Health, and P&C
- Issues that some states are watching
- Questions

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### Model Laws and Regulations

- Unfair Trade Practices Act
- Advertisements of Life and Annuities Model Regulation
- Advertisement of Accident and Sickness Insurance Model Regulation
- P&C - Not so much.

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### Major Provisions of Model Advertising Regulations

- **Applicability** – All advertisements, regardless of by whom written, created, designed or presented, are the responsibility of the insurer whose policies are advertised - *even if they don't know about them.*

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### Major Provisions of Model Advertising Regulations

- **Applicability** -
- **Definitions** – Both laws define “advertising” very broadly to include just about anything.

Note that the A&H model and some states distinguish three types of advertising

- Institutional Advertisement
- Invitation to Inquire
- Invitation to Contract

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**Major Provisions of Model Advertising Regulations**

- **Applicability** -
- **Definitions** -
- **Form and Content of Advertisements** - An advertisement shall be truthful and not misleading in fact or by implication.

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**Major Provisions of Model Advertising Regulations**

- **Applicability** -
- **Definitions** -
- **Form and Content of Advertisements** -
- **Disclosure Requirements** - Two Things
  1. Information required to be disclosed by the regulations shall not be minimized, rendered obscure, or presented in an ambiguous manner, so as to be confusing or misleading.
  2. The life/annuity and A&H regulations go into a lot of specific things you can and can't do pertaining to their specific lines. P&C can review to see how they address specific concerns on these lines.

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**Major Provisions of Model Advertising Regulations**

- **Applicability** -
- **Definitions** -
- **Form and Content of Advertisements** -
- **Disclosure Requirements** -
- **Identity of Insurer** - Name of Insurer on all advertisements pertaining to them or their products. Policy form numbers must also be disclosed in many cases.

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**Major Provisions of Model Advertising Regulations**

- **Applicability** -
- **Definitions** -
- **Form and Content of Advertisements** -
- **Disclosure Requirements** -
- **Identity of Insurer** -
- **Jurisdictional Licensing and Status of Insurer**-  
Must not give the impression of licensing in states where you are not license.

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**Major Provisions of Model Advertising Regulations**

- **Statements About an Insurer** - Do not make disparaging statements about another insurer or their products.

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**Major Provisions of Model Advertising Regulations**

- **Statements About an Insurer** -
- **Use of Statistics** - Must be recent and relevant, with source identified.

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**Major Provisions of Model Advertising Regulations**

- **Statements About an Insurer** -
- **Use of Statistics** -
- **Testimonials or Endorsements by Third Parties** - must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced.

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**Major Provisions of Model Advertising Regulations**

- **Statements About an Insurer** -
- **Use of Statistics** -
- **Testimonials or Endorsement by Third Parties**-
- **Enforcement Procedures** - Must maintain an advertising file.

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**Department Concerns**

- **Concerns that relate to the Model rules just discussed** -
  1. Failure to properly identify the type of product being advertised - Is it life insurance, an annuity, Medicare Supplement, and similar appropriate title for P&C lines.

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**Department Concerns**

- **Concerns that relate to the Model rules just discussed –**
  1. Failure to properly identify the type of product being advertised – Is it life insurance, an annuity, Medicare Supplement, and similar appropriate title for P&C lines.
  2. Lack of or inadequate identification of (current) sources for statistics and citations – sometimes exacerbated by attempting to use websites as a source.

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  1. Failure to properly identify the type of product being advertised – Is it life insurance, an annuity, Medicare Supplement, and similar appropriate title for P&C lines.
  2. Lack of or inadequate identification of (current) sources for statistics and citations – sometimes exacerbated by attempting to use websites as a source.
  3. Insurers using undefined shortened/substitute names (e.g., group names, service/trade mark names) in "invitation to inquire" or "invitation to contract" ads without first identifying the full name of the insurer the shortened name is intended to represent.

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**Department Concerns**

- **Additional Department Concerns**
  1. Failure to identify the fact that additional cost for endorsements/riders and, when a premium is referenced, the specific cost of such referenced endorsements/riders.

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  2. Offers of noncontractual benefits (typically considered an offer of a “rebate”; some exceptions re health insurance).

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  2. Offers of noncontractual benefits (typically considered an offer of a “rebate”; some exceptions re health insurance).
  3. Agents’ use of unregistered assumed names (DBA’s).

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**Virginia**

**Common Problems Identified During Life and Health Market Conduct Exams – Advertising**

- Source - [http://www.scc.virginia.gov/boi/co/mkt\\_conduct/lh\\_prob.pdf](http://www.scc.virginia.gov/boi/co/mkt_conduct/lh_prob.pdf)

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