



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

BULLETIN 2012-1

To: Life Insurers and Accident and Health Insurers

From: Sandy Praeger, Commissioner of Insurance

Subject: Reissuance of Bulletin 1991-4; Life and Accident and Health Insurance Advertising by Third-Party Marketing Entities

Date: February 24, 2012

Due to a growing problem with advertising practices by third-party marketing entities, the Department issued in January 1991 Bulletin 1991-4 in order to remind insurers authorized to transact life and/or accident and health insurance in Kansas of the applicability of K.A.R. 40-9-100 and K.A.R. 40-9-118 to the marketing activities conducted by third-party entities. Over the last couple of years the Department has experienced a similar increasing trend in the number of complaints regarding life and health insurance advertisements produced and distributed by third-party marketing firms. As a result, the Department has determined that reissuance of Bulletin 1991-4 is warranted at this time.

Despite what appears to be an assumption held by a number of advertising firms and the insurance producers subscribing to their services, the fact that these advertisements originate with third party, non-insurance entities does not create a “regulatory buffer” between the Department and insurance companies and/or their agents. Insurance companies and/or their agents are responsible for the content of advertisements distributed directly and on their behalf and are subject to potential regulatory action for the failure of any advertisements to comply with Kansas law.

Please acknowledge in writing both the receipt and understanding of this Bulletin and attached copy of Bulletin 1991-4. Also, please confirm that all appropriate company personnel and appointed agents licensed to sell your products in Kansas have been notified. Please direct your response to LeAnn Crow, Market Conduct Examiner, at the address indicated below.

Thank you in advance for your cooperation in this matter. If, however, you have any questions regarding this Bulletin, please contact Jennifer Sourk at the address indicated below, via telephone at 785-296-7809, or via email at jsourk@ksinsurance.org.

BULLETIN 1991-4

USE OF ASSOCIATIONS, ADVERTISING AGENCIES, GENERAL AGENTS AND OTHER RELATED ENTITIES IN THE MARKETING OF INSURANCE

January 15, 1991

The Department has encountered numerous complaints and become aware of too many instances where insurance companies and agents are utilizing associates, advertising agencies and other similar entities both real and fictitious to circumvent Kansas statutes and advertising regulations in the marketing of Accident and Health and Life insurance.

Most frequently, advertisements are distributed by these non-insurance related entities which fail to identify the name of the company(s) in the advertisement, and /or advise the consumer that an agent will call for the purpose of selling insurance. Less frequently but too often, the title or name of the organization purported to be disseminating the advertisements are typically designed to imply to the prospective insured that the organization in the advertisement is either a resource center to senior citizens or is a bona fide governmental or non-profit agency. All of these activities are clearly violations of the Kansas Unfair Trade Practices Act and advertising regulations. Accordingly, the Department has found the above practices to constitute unfair methods of competition or unfair or deceptive acts or practices in the business of insurance in violation of the Unfair Trade Practices Act. Cease and Desist Orders have been issued and appropriate monetary penalties have been assessed as a result of these violations.

The purpose of this bulletin is to remind all insurers authorized to transact life and/or health insurance in this state that Kansas advertising regulations, K.A.R. 40-9-100, Section 2-B and K.A.R. 40-9-118, Section III-2 provide:

“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 provided, shall be the responsibility of the insurer...*” (Emphasis Added)

Unfair, deceptive or otherwise improper sales practices will simply not be tolerated and this includes misleading advertising for which an insurer attempts to disclaim responsibility. This Department will continue to pursue and take administrative action under the above cited statutes and regulations against any company or agent believed to be utilizing associations, advertising agencies and other similar entities in an attempt to circumvent Kansas statutes and advertising regulations pertaining to advertisements of Accident and Health and Life insurance.

Please acknowledge receipt and understanding of this Bulletin in writing and advise the Department that your agents and other appropriate personnel have been notified.