

**Kansas Administrative Regulations
Agency 40. Insurance Department
Article 4. Accident and Health Insurance**

40-4-37p Long-term care insurance; advertisements; marketing.

(a) Every insurer, health care service plan or other entity providing long-term care insurance or benefits in this state shall provide a copy of any long-term care insurance advertisement intended for use in this state, whether through written, radio or television medium, to the commissioner of insurance of this state for review or approval by the commissioner to the extent it may be required under state law. In addition, all advertisements shall be retained by the insurer, health care service plan or other entity for at least three years from the date the advertisement was first used.

(b) The commissioner may exempt from these requirements any advertising form or material, when in the commissioner's opinion, this requirement may not be reasonably applied.

(c)(1) Every insurer, health care service plan or other entity marketing long-term care insurance coverage in this state, directly or through its producers, shall:

(A) Establish marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate;

(B) establish marketing procedures to assure excessive insurance is not sold or issued;

(C) 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;

(D) establish auditable procedures for verifying compliance with this subsection (1); and

(E) provide written notice to the prospective policyholder and certificateholder at solicitation that a senior insurance counselling, senior citizen seminars and other information services programs are available through the Kansas Department on Aging and Kansas Insurance Department and the address and telephone number of such agencies.

(2) In addition to the practices prohibited in K.S.A. 1991 Supp. 40-2404, the following acts and practices are prohibited:

(A) Twisting. Twisting is 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.

(B) High pressure tactics. High pressure tactics include 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 pressure to purchase or recommend the purchase of insurance.

(C) Cold lead advertising. Cold lead advertising is 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.

(Authorized by K.S.A. 40-103, K.S.A. 1991 Supp. 40-2228; implementing K.S.A. 1991 Supp. 40-2228; effective Jan. 4, 1993.)