

## Chapter 9. Rule Number 12—Transmission of Forms and Documents

### §901. Transmission of Forms and Documents Filed with the Department of Insurance

A. All forms, documents, applications, filings, financial reports, and any and all other forms and types of documents required by law or voluntarily filed with the Commissioner of Insurance by any company regulated by the Office of the Commissioner shall be filed by depositing the same in the United States mail, postage prepaid, and/or electronic transmission. Payment of fees, including license fees, and premium taxes shall be exempt from this rule.

B. No document of any sort or kind described in §901.A will be accepted or received by the personnel of the department as filed with the department unless the same is transmitted to the department via the United States mail and/or electronic transmission.

C. Upon receipt of such documents mailed to the department, the employees of the department charged with the duty of receiving the same shall cause the envelope in which the document was mailed to the department to be attached to the document received in such a way that it shall remain permanently attached to the same, and no employee of the department may remove said envelope for any reason, except as provided for by law.

D. Transmission of documents by facsimile machine, private courier service, or hand delivery is permissible as long as the originals are mailed in the United States Postal Service and received by the Department of Insurance on or before the twentieth day after receipt of the facsimile transmission, private courier delivery, or hand delivery. A document received in accordance with §901 shall be deemed received on the date of the receipt of the original facsimile transmission, private courier delivery, or hand delivery. Any departmental approval shall be indicated on the initial facsimile transmission, private courier delivery, or hand delivery.

E. Notwithstanding §901.A through D, requests for public records shall be in accordance with procedures established for public records requests and record management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 17:1210 (December 1991), amended LR 18:620 (June 1992), amended by the Department of Insurance, Office of the Commissioner, LR 29:41 (January 2003).

## Chapter 11. Rule Number 1—Rules of Practice and Procedure before the Commissioner of Insurance

### §1101. Definitions

A. By reference, all of the definitions set forth and contained in R.S. 49:951 through R.S. 49:966, inclusive, and the Louisiana Insurance Code (Title 22, of the Louisiana Revised Statutes of 1950, as amended) are incorporated herein, and for the purpose of hearings to be held hereunder, the following definitions shall prevail.

*Applicant*—the applicant shall be the person, persons, firm, company, partnership, association, insurer or corporations, as well as the commissioner or department seeking relief before the Commissioner of Insurance. The term *applicant* may otherwise be styled *petitioner* or *complainant*.

*Commissioner*—when used herein shall mean the Commissioner of Insurance, or his deputy, examiner or hearing officer appointed by him.

*Department*—department shall, for all purposes herein, mean the Department of Insurance.

*Hearing*—any contested case or any formal proceeding before the commissioner brought pursuant to any law of the state of Louisiana or rule or regulation of the commissioner, whether or not the same is adversary in nature.

*Respondent*—the person, persons, firms, companies, partnerships, associations, insurers, or corporations, including the commissioner and the department against whom any proceeding or application for relief is brought.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### §1103. Commencement of Hearings

A. All hearings initiated by an applicant other than the commissioner and those initiated by the commissioner for the purpose of promulgating rules or regulations, shall be commenced by filing of a written petition or complaint with the commissioner. Hearings initiated by the commissioner, except for promulgating of a rule or regulation, shall be commenced by the issuance of an order to show cause directed to the respondent, wherein shall be alleged the acts or omissions of acts claimed in violation of the law, or of any of the lawful rules, regulations or orders promulgated by the commissioner thereunder and by authority thereof. Hearings initiated by the commissioner for the purpose of adoption, amendment or repeal of any rule shall be in accordance with the requirements of R.S. 49:953(A)(1). The commissioner will maintain a list of persons who have made requests, in writing, for advance notice of such hearings, and will give notice by certified mail to such persons in accordance with R.S. 49:953(A)(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1105. Petitions, Complaints or Orders**

A. The applicant desiring, or required by law, to institute a hearing shall prepare and file with the commissioner a petition, complaint or order to show cause setting forth:

1. the name and address of each respondent;
2. a statement, in ordinary and concise language, of the facts upon which the petition, complaint or order to show cause is based, together with supporting evidentiary material including, whenever applicable, particular reference to the statute or statutes, or rules, regulations, and orders that the applicant alleges have been violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1107. Notice**

A. Upon the filing of a petition, order or complaint, or where rules and regulations are proposed for adoption by the commissioner, he shall issue a notice in conformity with the provisions of R.S. 49:955 and R.S. 22:1354.C whenever applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1109. Service of Notice**

A. Notice may be served, personally or by certified or registered mail, return receipt requested. Service of orders to show cause by the commissioner shall be made upon any officer of corporate parties at their domicile or principal offices. Reasonable notice shall be construed to mean service of notice at least 20 days prior to the date of the hearing, except where notice is given in connection with a hearing to adopt rules or regulations, in which event the provisions of R.S. 22:1354.C shall govern. Service by mail shall be deemed complete at the date of mailing.

B. In addition to the notice above provided, the commissioner may, in his discretion, require additional notice to be given in such manner as he shall direct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1111. Proof of Service**

A. There shall appear on all documents required to be served an acknowledgment of service or the following certificate.

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to \_\_\_\_\_) (by mailing a copy thereof properly addressed, with postage prepaid, to \_\_\_\_\_). Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1113. Answer or Appearance**

A. A respondent may file his answer or other appearance on or before the date fixed for hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1115. Leave to Intervene Necessary**

A. Persons, other than the original parties to any proceeding, whose interests are to be directly and immediately affected by the proceeding, shall secure an order from the commissioner, or hearing officer appointed by him, granting leave to intervene before being allowed to participate; provided that the granting of leave to intervene in any matter or proceeding shall not be construed to be a finding or determination of the commissioner or the hearing officer for purposes of court review or appeal.

B. Petitions for leave to intervene must be in writing and must clearly identify the proceeding in which it is sought to intervene. Such petition must set forth the name and address of the petitioner and contain a clear and concise statement of the direct and immediate interest of the petitioner in such proceeding, stating the manner in which such petitioner will be affected by such proceeding, outlining the matters and things relied upon by such petitioner as a basis for his request to intervene in such cause, and if affirmative relief is sought, the petition must contain a clear and concise statement of relief sought and the basis thereof, together with a statement as to the nature and quantity of evidence petitioner will present if such petition is granted.

C. Petitions to intervene and proof of service of copies thereof on all other parties of record shall be filed not less than two days prior to the commencement of the hearing. Thereafter, such petition shall state a substantial reason for such delay. Otherwise, such petition will not be considered. If a petition to intervene shows direct and immediate interest in the subject matter of the proceeding or any part thereof and does not unduly broaden the issues, the commissioner may grant leave to intervene or otherwise appear in the proceeding with respect to the matters set out in the intervening petition, subject to such reasonable conditions as may be prescribed. If it appears during the course of a proceeding that an intervenor has no direct or immediate interest in the proceeding, and that the public interest does not require his participation therein, the commissioner may dismiss him from the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1117. Docket**

A. When a hearing is instituted, it shall be assigned a number and entered with the date of its filing on a separate page of docket provided for such purpose. The department shall establish a separate file for each such docketed case, in which shall be systematically placed all papers, pleadings, documents, transcripts, evidence and exhibits pertaining thereto, and all such items shall have noted thereon the docket number assigned, and the date of filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1119. Default in Answering or Appearing**

A. In the event of the failure of any respondent to answer or otherwise appear within the time allowed, and provided that the foregoing rules as to service have been complied with, the respondent or respondents so failing to answer or otherwise plead or to appear, shall be deemed to be in default, and the allegations of the complaint, petition, or order to show cause, as the case may be, together with the evidence to support the same, shall be entered into the record and may be taken as true and the order of the commissioner entered accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1121. Subpoenas**

A. As authorized by R.S. 49:956(5), and R.S. 22:1358.B, subpoenas for appearance and to produce books, papers, documents or exhibits will be issued by the commissioner upon written request of any party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1123. Prehearing Conference**

A. The commissioner or hearing officer may, upon his own motion or upon the motion of any party of record, by giving seven days' prior written notice of the time and place to all parties of record, hold a prehearing conference for the purpose of:

1. formulating or simplifying the issues;
2. obtaining admissions of fact and of documents which will avoid unnecessary proof;
3. arranging for the exchange of proposed exhibits or prepared expert testimony;
4. limiting the number of witnesses; and

5. considering such other matters which may expedite orderly conduct and disposition of the proceedings or settlement thereof.

B. The action taken at such conference and all the agreements, admissions or stipulations made thereat by the parties concerned shall be made a part of the record and shall be approved by such parties. When so approved, such action will control the course of subsequent proceedings, unless otherwise stipulated by all parties of record with the consent of the commissioner or hearing officer.

C. In any proceeding the commissioner or hearing officer may, in his discretion, call all parties together for a conference prior to the taking of testimony, or may recess the hearing for such conference. The commissioner or hearing officer shall state on the record the results of such conference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1125. Hearing**

A. At the date, time and place of the hearing as having been set down by the commissioner, and in accordance with the notice given, the commissioner or hearing officer shall hear all matters presented. All issues and matters enumerated and described in the pleadings given shall be presented by the applicant. The commissioner may be represented by any member of his staff and all other parties may be represented, personally or by counsel, provided that such counsel be duly authorized to practice law in the state of Louisiana or is otherwise associated at the hearing with one or more attorneys authorized to practice law in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1127. Order of Procedure at Hearing**

A. As nearly as may be, hearings shall be conducted in accordance with the following order of procedure.

1. The commissioner shall announce that the hearing is convened upon the call of the docket number and title of the matter and case to be heard, and thereupon the commissioner shall direct the reading into the record of the petition or formal notice given, together with appearances made by any respondent or respondents, and shall note, for the record, all subpoenas issued and the returns thereon and all appearances of record, including counsel of record.

2. The applicant shall thereupon proceed to present his evidence. Witnesses may be cross-examined by the respondent or respondents. All exhibits offered by and on behalf of the applicant shall be marked by letters of the alphabet beginning with "A".

3. The respondent or respondents shall, in the order of answers or appearances made, be heard in the same manner as the applicant's evidence, witnesses and exhibits have been

heard and presented. Each respondent's exhibits shall be marked separately so as to identify the respective respondent and numbered commencing with the number "1".

4. Opening statements may be permitted and rebuttal evidence presented at the discretion and order of the commissioner.

5. Closing statements, at the conclusion of the presentation of evidence, may be made by the applicant and by the respondent. The time for oral argument may be limited by the commissioner.

6. The commissioner or hearing officer may adjourn any hearing pursuant to R.S. 22:1356.

7. After all proceedings have been concluded, the commissioner shall dismiss and excuse all witnesses and declare the hearing closed. Any party who may wish or desire to tender written briefs of law to the commissioner may do so within reasonable time limits fixed by the commissioner or hearing officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1129. Witnesses to be Sworn**

A. All persons testifying at any hearing before the commissioner shall stand and be administered the following oath by the commissioner:

"Do you swear or affirm to tell the truth, the whole truth and nothing but the truth in this matter now being heard so help you God."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1131. Rules of Pleading and Evidence**

A. Formal rules of pleading or evidence need not be observed at the hearing.

B. On his own motion the commissioner or hearing officer may, and on request of a party he shall, order that the witnesses, other than parties, be excluded from the hearing or from a place where they can see or hear the proceedings, and refrain from discussing the facts of the case with anyone other than counsel in the case. In the interest of justice, he may exempt any witness from his order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1133. Attorneys**

A. The filing of an answer or other appearance by an attorney constitutes his appearance for the party for whom the pleading is filed. The commissioner shall be notified in writing of his withdrawal from any hearing. Any person appearing before the commissioner at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness unless such person shall be an

attorney licensed to practice law in the state of Louisiana, or a non-resident attorney associated with a Louisiana attorney qualified to practice law in the state of Louisiana. This rule shall not be construed to prohibit any person from representing himself in any hearing before the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1135. Stenographic Record of Hearing**

A. At the expense of and at the written request made not less than four days prior to the date set for the hearing by any person affected by the hearing the Commissioner of Insurance or the person designated by him to hold the hearing shall cause a full stenographic record of the proceedings to be made by a competent stenographic reporter, and if transcribed, such records shall be made a part of the record of the Commissioner of Insurance of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1137. Depositions**

A. In all contested cases coming before the commissioner, the taking of depositions and discovery shall be available to the parties in accordance with the provisions of R.S. 49:956 and C.C.P. Articles 1421 through 1515, inclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1139. Decision, Findings of Fact and Conclusions of Law and Order**

A. The commissioner shall within 30 days after termination of hearing, make and enter his written order thereon containing Findings of Fact and Conclusions of Law. Such decision and order shall be filed in his office and will, without further action, become the decision and order of the commissioner. Forthwith upon entry and filing, the department shall, subject to §1139.D, send a copy by prepaid mail to each party, or their attorneys of record, to whom notice of the hearing was given or required to be given.

B. The order shall contain:

1. a concise statement of the action taken;
2. the effective date of such action;
3. a designation of the provisions of the Louisiana Insurance Code pursuant to which the action is taken;
4. a concise statement of the findings of the Commissioner of Insurance in support of the action.

C. An order on hearing may confirm, modify or nullify actions taken under an existing order, or may constitute the taking of any new action coming within the scope of the notice of such hearing.

D. If notice of such hearing was given by publication as provided for in R.S. 22:1354, the Commissioner of Insurance may publish the order on hearing once each week for four successive weeks in the same newspapers in which such notice was published, the first such publication to be made as soon as possible after the date of the order. Such publication of the order on hearing shall be in lieu of the requirement that a copy of such order be given to each person as provided in §1139.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1141. Rehearings**

A. The commissioner may, upon motion therefor made within 10 days after service of a decision and order, order a rehearing upon such terms and conditions as he may deem just and proper if a petition for judicial review of the decision and order has not been filed. Such motion shall not be granted except upon a showing that there is additional evidence which is material and necessary and reasonably calculated to change the decision; that the decision or order is clearly contrary to the law and the evidence; that there is a showing that issues not previously considered ought to be examined in order to properly dispose of the matter; or there is other good ground for further consideration of the issues and the evidence in the public interest. The motion shall be supported by an affidavit of the moving party or his counsel showing with particularity the materiality and necessity of the additional evidence or other grounds above recited and the reason why such evidence was not introduced at the hearing or other grounds above recited. Upon rehearing, the commissioner may modify his decision and order as the additional evidence or other grounds relied upon may warrant. The commissioner shall grant or deny a motion for rehearing within 10 days from his receipt of same.

B. The petition of a party for rehearing, reconsideration, or review, and the order of the commissioner granting it, shall set forth the grounds which justify such action. Nothing in §1141 shall prevent rehearing, reopening or reconsideration of a matter of the commissioner in accordance with other statutory provisions applicable to such agency, or at any time, on the ground of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening, or rehearing, the matter may be heard by the commissioner or it may be referred to a subordinate deciding officer. The hearing shall be confined to those grounds upon which the reconsideration, reopening, or rehearing was ordered. If an application for rehearing shall be timely filed, the period within which judicial review, under the applicable statute must be sought, shall run from the final disposition of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1143. Appeals to the District Court**

A. Appeals to the Nineteenth Judicial District Court from decisions of the commissioner are governed by R.S. 49:963 and R.S. 49:964 and R.S. 22:1363-1365 inclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1145. Transcript in Case on Appeal**

A. In the case of an appeal to the district court as provided in §1143, the party appealing shall secure and file a complete transcript of the testimony and all other evidence offered at the hearing, which transcript must be verified by the oath of the reporter who took the testimony as true and correct transcript of the testimony and all other evidence in the case. The compensation of the reporter for making the transcript of the testimony shall be borne by the party prosecuting such appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1147. Amendment of Rules**

A. These rules may be amended and any such amendments shall become effective as provided by R.S. 49:953 and R.S. 49:954.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1149. Exclusions**

A. Nothing in these rules shall be construed to prohibit the commissioner from holding informal proceedings, hearings or conferences for the purpose of aiding the commissioner in ascertaining and determining facts necessary for the performance of his duties. Any person believing himself aggrieved by a determination made by the commissioner following an informal proceeding, hearing or conference, and who is otherwise entitled thereto, may, upon filing a petition or complaint pursuant to §1105 of these rules, obtain a full hearing or review upon the merits, which matter shall be heard and tried de novo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

#### **§1151. Declaratory Orders and Rulings, Judicial Review**

A. A person entitled to the same is granted the right to seek from the commissioner a declaratory order or ruling on the applicability of any statute or rule or order of the commissioner. Requests for such order or rule shall be in writing and shall disclose the necessity for such declaratory order or rule. The commissioner shall issue his order or rule within 30 days from his receipt of the request for the same. Pending the issuance of the commissioner's order, all further proceedings shall be stayed.

B. The validity or applicability of a rule may be determined by an action for declaratory judgment in the 19th Judicial District Court as provided in R.S. 49:962, R.S. 49:963 and R.S. 49:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1153. Forms**

A. No particular forms are prescribed, and formal rules of procedure are not required. All requests by any person for any action to be taken by the commissioner, including requests for repeal of the rules, shall be in writing. Whenever such request is for the promulgation or amendment of a rule, it shall be accompanied by a final draft of the proposed rule or amendment to a rule. Such requests may be transmitted through the mail or delivered in person to the commissioner or any member of his staff at his office in Baton Rouge, Louisiana.

B. All pleadings which are filed by or on behalf of any person shall be in writing and the person filing the same shall certify that a copy of the same has been furnished to all parties to the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

### **§1155. Supersedes All Prior Rules**

A. This Rule 1 supersedes any rules of procedure before the Commissioner of Insurance of the State of Louisiana previously promulgated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and R.S. 22:1351-1367.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, February 12, 1973.

## **Chapter 13. Rule Number 3—Advertisements of Accident and Sickness Insurance**

### **§1301. Purpose**

A. The purpose of these rules is to assure truthful and adequate disclosure of all material and relevant information in the advertising of accident and sickness insurance. This purpose is intended to be accomplished by the establishment of, and adherence to, certain minimum standards and guidelines of conduct in the advertising of accident and sickness insurance in a manner which prevents unfair competition among insurers and is conducive to the accurate presentation and description to the insurance buying public of a policy of such insurance offered through various advertising media.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, November 1, 1973.

### **§1303. Applicability**

A. These rules shall apply to any accident and sickness insurance *advertisement*, as that term is hereinafter defined, intended for presentation, distribution or dissemination in this state when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, agent, broker, or solicitor as those terms are defined in the Insurance Code of this state and these rules.

B. 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 whose policies are so advertised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, November 1, 1973.

### **§1305. Definitions**

*An Advertisement*—for the purpose of these rules shall include:

1. printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays; and

2. descriptive literature and sales aids of all kinds issued by an insurer, agent or broker for presentation to members of the insurance buying public including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, and form letters; and

3. prepared sales talks, presentations and material for use by agents, brokers and solicitors.

*Exception*—for the purpose of these rules shall mean any provision in a policy whereby coverage for a specified hazard is entirely eliminated. It is a statement of a risk not assumed under the policy.

*Insurer*—for the purpose of these rules shall include any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, and any other legal entity which is defined as an *insuree* in the *Insurance Code* of this state and is engaged in the advertisement of a policy as *policy* is herein defined.

*Limitation*—for the purpose of these rules shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

*Policy*—for the purpose of these rules shall include any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement which provides accident or sickness benefits, or medical, surgical or hospital expense benefits, whether on an indemnity, reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life, and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts.