

TITLE XXXVII INSURANCE

CHAPTER 408-B LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OF 1996

Section 408-B:19

408-B:19 Prohibited Advertisement of Insurance Guaranty Association Act in Insurance Sales; Notice to Policyholders. –

I. No person, including an insurer, agent or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation or inducement to purchase any form of insurance covered by the New Hampshire life and health insurance guaranty association act. Provided, however, that this paragraph shall not apply to the New Hampshire life and health insurance guaranty association or any other entity which does not sell or solicit insurance. The use of the protection afforded by this chapter, other than as provided by this paragraph, by any person in the sale, marketing, or advertising of insurance constitutes unfair competition and unfair practices under the New Hampshire unfair trade practices act, and is subject to sanctions imposed in that chapter.

II. Within 180 days after January 1, 1996, the association shall prepare a summary document describing the general purposes and current limitations of the chapter and complying with paragraph III. This document shall be submitted to the commissioner for approval. Unless paragraph IV applies, at the expiration of the 60th day after the date on which the commissioner approves the document, an insurer may not deliver a policy or contract covered by a guaranty fund to a policy or contract holder unless the summary document is delivered to the policy or contract holder prior to or at the time of delivery of the policy or contract. The document shall also be available upon request by a policyholder. The distribution, delivery or contents or interpretation of this document does not guarantee that either the policy or the contract or the holder of the policy or contract is covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to the chapter may require. Failure to receive this document does not give the policyholder, contract holder, certificate holder, or insured any greater rights than those stated in this chapter.

III. The document prepared under paragraph II shall contain a clear and conspicuous disclaimer on its face. The commissioner shall approve the disclaimer. The disclaimer shall:

- (a) State the name, address and telephone number of the life and health insurance guaranty association and insurance department.
- (b) Prominently warn the policy or contract holder that the life and health insurance guaranty association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state.
- (c) State the types of policies for which guaranty funds will provide coverage.
- (d) State that the insurer and its agents are prohibited by law from using the existence of the life and health insurance guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance.
- (e) State that the policy or contract holder should not rely on coverage under the life and health insurance guaranty association when selecting an insurer.
- (f) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this chapter.
- (g) Provide other information as directed by the commissioner, including but not limited to, sources for information about the financial condition of insurers provided that the information is not proprietary and is subject to disclosure under that state's public records law.

IV. No insurer or agent may deliver a policy or contract not covered by the association unless the insurer or agent, prior to or at the time of delivery, gives the policy or contract holder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the life and health insurance guaranty association. The commissioner shall approve the notice.

Source. 1995, 305:1. 1997, 167:4, 5, eff. Aug. 8, 1997.