

## Form Filing Checklist – Long-Term Care Advertisements

**Beginning January 1, 2009, all advertisements regarding long-term care insurance or benefits must be filed with the OCI.**

### DISCLAIMER

*The form filing checklists are intended only as guides for submitting various policy forms to the Office of the Commissioner of Insurance (OCI). The checklists are summaries, and are not intended as an OCI directive nor to interpret or address technical legal questions. Use of these checklists does not guarantee automatic approval of policy form submissions. Although efforts have been made to ensure that the checklists are current and accurate, information is subject to change on a regular basis without prior notice.*

The cites in the second column reference Wisconsin statutes unless they begin with “Ins”, which indicates an administrative code [regulation]

General Filing Requirements	Reference	Comments
Policy Form Transmittal Document	601.42 Ins 6.05(4)(a)1	For paper filings, submit a properly completed NAIC Life and Health transmittal document. Forms and instructions are available on the NAIC website at <a href="http://www.naic.org/industry_rates_forms_trans_docs.htm">http://www.naic.org/industry_rates_forms_trans_docs.htm</a>
Cover Letter (paper filing) Filing Description (SERFF)	Ins 6.05(4)(a)4	Include a brief explanation of use and intent of the form filing.
Certificate of Compliance	Ins 6.05	Submit certificate substantially identical to Appendix A, s. Ins 6.05, Wis. Adm. Code, signed by an officer of the insurer
Advertisement Form Number	Ins 3.27(26)	An advertisement that is an invitation to apply or an invitation to inquire and that is mass-produced shall be identified by a form number. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

Advertisement Filing Requirements	Reference	Comments
Filing Requirements for LTC Advertising	Ins 3.46(22)	Beginning January 1, 2009, 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 whether through written, radio or television medium to the commissioner as required by s. Ins 3.27.
Misrepresentations Prohibited	Ins 3.46(7)	No insurer or intermediary may use the term “long-term care” or similar terminology in an advertisement or offer of a policy, coverage or certificate unless the policy, coverage or certificate advertised or offered covers care in both institutional and community-based settings; and is approved as a long-term care policy or certificate covering care in both institutional and community settings and as appropriately using the term “long-term care” by the OCI.
Definition of Advertisement	Ins 3.27(5)(a)	Printed and published material, audio visual material and descriptive literature of an insurer used in newspapers, magazines, other periodicals, radio and TV scripts, the internet, web pages, electronic or computer presentations, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employees, agents or agencies Descriptive literature and sales aids of all kinds issued by an insurer or agent for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters.
Definition of Invitation to Apply	Ins 3.27(g)	An advertisement that is the direct or principal sales inducement and is designed to invite an offer to contract. Such an advertisement, which usually describes benefits in considerable detail, attempts to persuade the reader or listener to make application for the policy advertised. Such an advertisement

**Form Filing Checklist – Long-Term Care Advertisements**

		would indicate what coverage the purchaser would receive and what such coverage would cost.
Definition of Invitation to Inquire	Ins 3.27(h)	An advertisement that is designed to attract the reader's or listener's interest in the policy so that he or she will inquire for further information or details. Such an advertisement describes the policy broadly and withholds some information regarding the policy without which the reader or listener would not reasonably decide to apply for the policy.
Other General Definitions of Advertisements	Ins 3.27 (5)	Institutional Advertisement; Testimonial; Endorsement; Group Basis
Advertisements and Representations in General	Ins 3.27(6)	Advertisements and representations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy to which they apply. Words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used.
Outline of Coverage	Ins 3.27(8)	Every advertisement of a specific individual policy or policies which constitutes an invitation to apply shall include an outline of coverage. The requirement shall not apply to an advertisement or the taking of an application for an individual policy issued on a group basis or an individual conversion policy issued under a group or franchise insurance plan.
Deceptive Words, Phrases or Illustrations	Ins 3.27(9)	An advertisement shall not exaggerate a benefit or minimize cost by overstatement, understatement or incompleteness.
Exaggeration – Maximum Benefits	Ins 3.27(9)(e)	The maximum benefit available under a policy shall not be emphasized in a manner that exaggerates its relationship to any internal limits or other conditions of the policy.
Exaggeration – Aggregate Amounts or Monthly or Weekly Benefits	Ins 3.27(9)(f)	The aggregate amounts or the monthly or weekly benefits payable under coverages such as hospital or similar facility confinement indemnity or private duty nursing shall not be emphasized unless the actual amounts payable per day are disclosed with substantially equal prominence and in close conjunction with such statement. Any limit in the policy on the number of days of coverage provided shall be disclosed.
Exaggeration – Limitation or Non-Duplication	Ins 3.27(9)(r)	If a policy contains an other insurance exception, reduction, limitation or deductible provision or a coordination of benefits or non-duplication provision or similar provision, an advertisement referring to such policy shall not state that benefits are payable in addition to other insurance unless the statement contains an appropriate reference to the coverage excepted.
Exaggeration – Tax Free	Ins 3.27(9)(s)	An advertisement shall not state a policy's benefits are tax free unless an explanation of the rules applicable to the taxation of such types of accident and sickness benefits is clearly shown with equal prominence and in close conjunction with such statement.
Exaggeration – Cash or Income	Ins 3.27(9)(t)	An advertisement shall not use the expressions "extra cash", "cash income", "income", "cash" or similar words or phrases in such a way as to imply that the insured will receive benefits in excess of the expenses incurred while being sick, injured or hospitalized.
Exaggeration – Pre-existing Condition Waiting Periods	Ins 3.27(9)(y)	An advertisement shall not state that the policy contains no waiting period unless pre-existing conditions are covered immediately or unless the status of pre-existing conditions is disclosed with equal prominence and in close conjunction with such statement.
Exaggeration – Exceptions, Reductions or Limitations	Ins 3.27(9)(ze)	An advertisement shall not set out exceptions, reductions or limitations from a policy worded in a positive manner to imply that they are beneficial features. Words and phrases used to disclose exceptions, reductions or limitations shall fairly and accurately describe their negative features. The words "only" or "minimum" or similar words or phrases shall not be used to refer to exceptions, reductions or limitations.
Exceptions, Reductions and Limitations	Ins 3.27(10)	When an advertisement refers to any dollar amount of benefits payable, period of time for which any benefit is payable, cost of policy, specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions and limitations (including waiting, elimination, probationary or similar periods and pre-existing condition exceptions) affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive.

**Form Filing Checklist – Long-Term Care Advertisements**

Identity of Insurer	Ins 3.27 (12) (a), (b) & (e)	The identity of the insurer shall be made clear in all of its advertisements. An advertisement shall not use a trade name, an insurance group designation, the name of the parent company of the insurer, the name of a government agency or program, the name of a department or division of an insurer, the name of an agency, the name of any other organization, a service mark, a slogan, a symbol or any other device which has the capacity and tendency to mislead or deceive as to the identity of the insurer. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify such address and clearly disclose the actual city and state of domicile of the insurer.
Testimonials, Endorsements or Commendations by Third Parties	Ins 3.27(13)(a) & (c)	An advertisement shall not contain a testimonial, endorsement or other commendatory statement concerning the insurer, its policies or activities by any person who receives any pay or remuneration, directly or indirectly, from the insurer in connection with such testimonial, endorsement or statement. An insurer shall not use a testimonial or endorsement that is fictional, or for more than 2 years after the date on which it was originally given or 2 years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion, ,
Endorsements – Government Publications	Ins 3.27(13)(f)	An advertisement shall not state or imply that a government publication has commended or recommended the insurer or its policy.
Jurisdictional Licensing; Approval By Governmental Agency	Ins. 3.27(14)(b) & (c)	An advertisement shall not state or imply, or otherwise create the impression directly or indirectly, that the insurer, its financial condition or status, the payment of its claims, its policy forms or the merits or desirability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any agency of this state or the federal government. In any advertisement any reference to licensing shall contain an appropriate disclaimer that such reference is not to be construed as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.
Identification Of Plan Or Number Of Policies	Ins 3.27(19)	When an advertisement refers to a choice regarding benefit amounts, it shall disclose that the benefit amounts provided will depend upon the plan selected and that the premium will vary with the amount of the benefits.
Statements About An Insurer	Ins 3.27(22)	An advertisement shall not contain statements which are untrue in fact or are by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.
Disparaging Comparisons And Statements	Ins 3.27(23)	An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits and shall not falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.