

ADVERTISING BY NEWSPAPER

**A Comprehensive Guide
to Newspaper Advertising
Under Arizona Law**

**Arizona Newspapers Association
and
Steptoe & Johnson LLP**

*David J. Bodney
Sandra K. Sanders*

**201 E. Washington Street, 16th Floor
Phoenix, Arizona 85004
(602) 257-5200
dbodney@steptoe.com
ssanders@steptoe.com**

THIS MANUAL IS INTENDED TO SERVE AS A PRACTICAL AND UP-TO-DATE REFERENCE GUIDE FOR NEWSPAPERS AND THEIR PERSONNEL. HOWEVER, IT IS NOT INTENDED TO PROVIDE LEGAL ADVICE, OR SUBSTITUTE FOR THE ADVICE OF COUNSEL. BECAUSE THE LAW IS SUBJECT TO CHANGE AND DIFFERING INTERPRETATIONS, THE READER SHOULD CONTACT AN ATTORNEY DIRECTLY FOR LEGAL SERVICES.

INTRODUCTION TO 2006 EDITION

Nearly seven years have passed since the original publication of this compendium of Arizona laws addressing the advertising rights and duties of newspapers. In many respects, the laws have not changed, or have received only little revision by lawmakers. Over the past seven years, however, the legislature has spoken on three subjects affecting newspaper advertising that merit attention: Indian gaming, political campaigns and real estate brokers. In addition, the Arizona Supreme Court has amended its Rules of Professional Conduct in ways that alter substantially advertising by attorneys. This second edition of "Advertising By Newspaper" catalogues all these recent changes.

As before, this guidebook does not attempt to analyze the various constitutional and other legal challenges that could be raised against these state laws. Nor does it serve as a substitute for legal advice on particular questions of law. But it should function as a worthy map of Arizona's legal terrain for publishers who want to know what our laws say about their rights and duties to publish ads.

Finally, Sandra Sanders and I wish to thank Joseph M. Nathan, a Yale law student and summer associate of our firm, for his assistance with this compilation.

*David J. Bodney
July 2006*

INTRODUCTION

If money is the mother's milk of politics, then advertising is surely the lifeblood of a free and robust press. Newspapers depend on advertising to survive, and their ability to run ads without risk of violating the law is essential to their success.

This guidebook begins with an homage to a newspaper's freedom to regulate itself – generally, to run whatever advertisements it pleases. But this compendium does not dwell on a newspaper's rights and freedoms. Rather, it catalogues the many types of laws in Arizona that purport to limit a newspaper's ability to publish advertising.

Such statutes and regulations reflect the government's attempts to control "commercial speech." As such, they present interesting questions of constitutional law, for even commercial speech enjoys protection under the First Amendment. This guidebook, however, does not attempt to identify the myriad ways in which these statutes are subject to constitutional or other legal challenge. This collection singles out only a few such laws for their infirmities of draftsmanship.

Instead, what follows is a comprehensive list of Arizona laws – state statutes and agency regulations – that govern newspaper advertising. These laws are listed alphabetically and in their entirety. Each law is introduced by a brief summary of its provisions in what the editors hope to be "plain English." Of course, any conflict between plain English and "legalese" must be resolved in favor of the latter, and usually a judge (or a panel of judges) is required to pronounce the "plain meaning" of a statute.

A few general observations about these state laws merit note. First, many of them apply most directly to persons other than newspapers. For example, they focus on what accountants, lawyers and real estate developers may (or must) say in their ads. Second, the statutes often contain an exception for newspapers – so long as the publisher has no "knowledge of the intent, design or purpose of the advertiser," the newspaper is immune from liability. Third, the laws operate along a wide spectrum of possible penalties – some are criminal, others civil and some even act as a "prior restraint" on publication.

As with all things comprehensive, there are always exceptions. This adage is never more true than in the law, which is replete with exceptions and always changing. But this guidebook puts in one place the many provisions of Arizona law that regulate, or purport to govern, a newspaper's ability to run ads. It is by no means intended to be the final word on this subject. Rather, it is hoped to offer the reader a sense of the sprawling subject itself.

*David J. Bodney
October 1999*

TABLE OF CONTENTS

INTRODUCTION TO 2006 EDITION	I
INTRODUCTION	II
TABLE OF CONTENTS	I
SELF-REGULATION BY NEWSPAPERS	1
REGULATION BY ARIZONA LAW	3
ABORTION	3
AMBULANCES	3
ARIZONA’S DISTINCTIVE SYMBOLS	4
<i>Arizona Geographic Features</i>	<i>4</i>
<i>Arizona State Seal</i>	<i>4</i>
BATTERIES	4
CONTRACEPTION	5
COUNTERFEIT MARKS	5
DRIVER’S LICENSE TESTING	6
DRUG PARAPHERNALIA	6
EMPLOYMENT	8
<i>Employment Agencies</i>	<i>8</i>
<i>Unlawful Discrimination</i>	<i>10</i>
FALSE AND FRAUDULENT ADVERTISING	11
<i>Generally</i>	<i>11</i>
<i>Specific Prohibitions</i>	<i>12</i>
FINANCIAL INSTITUTIONS AND MATTERS	14
<i>Collection Agencies</i>	<i>14</i>
<i>Debt Management Companies</i>	<i>14</i>
<i>Mortgages</i>	<i>14</i>
<i>Savings & Loan Associations</i>	<i>16</i>
<i>Securities</i>	<i>16</i>
FLAGS	18
FOOD & BEVERAGES	19
<i>Alcohol</i>	<i>19</i>
Events.....	19
Out-Of-State Purchases	20
<i>Food</i>	<i>21</i>
Eggs	21
Kosher Food	21
Oleomargarine	22
Trade Products	22
FUEL AND OIL	22

Table of Contents, Continued

HEALTH CARE INSTITUTIONS	23
INDIAN RESERVATION GAMBLING	23
INSURANCE	23
<i>Generally.....</i>	<i>23</i>
<i>AHCCCS Children’s Health Insurance Program.....</i>	<i>24</i>
<i>AHCCCS Contractors and Marketing Representatives.....</i>	<i>24</i>
<i>Disability Insurance.....</i>	<i>25</i>
<i>Healthcare Group Plans</i>	<i>29</i>
<i>Life Insurance.....</i>	<i>29</i>
<i>Prepaid Dental Plans.....</i>	<i>32</i>
<i>Variable Insurance Policies</i>	<i>32</i>
OBSCENE MATERIAL	32
POLITICAL CAMPAIGNS	34
<i>Ballot Propositions</i>	<i>34</i>
<i>Candidate Advertisements.....</i>	<i>36</i>
PROFESSIONS	38
<i>Accountants</i>	<i>38</i>
<i>Aestheticians.....</i>	<i>38</i>
<i>Attorneys</i>	<i>39</i>
<i>Audiologists.....</i>	<i>41</i>
<i>Barbers.....</i>	<i>42</i>
<i>Chiropractors</i>	<i>43</i>
<i>Collection Agents.....</i>	<i>43</i>
<i>Contractors and Builders</i>	<i>44</i>
<i>Cosmetologists.....</i>	<i>44</i>
<i>Dentists</i>	<i>45</i>
<i>Generally</i>	<i>45</i>
<i>Denturists</i>	<i>45</i>
<i>Funeral Directors and Embalmers</i>	<i>46</i>
<i>Hearing Aid Dispensers</i>	<i>47</i>
<i>Homeopathic Doctors</i>	<i>48</i>
<i>Judges</i>	<i>48</i>
<i>Medical Assistants</i>	<i>49</i>
<i>Midwives</i>	<i>49</i>
<i>Nail Technicians.....</i>	<i>49</i>
<i>Notaries Public.....</i>	<i>50</i>
<i>Opticians.....</i>	<i>50</i>
<i>Optometrists</i>	<i>51</i>
<i>Optometrists</i>	<i>51</i>
<i>Qualified Out-of-State Contact Lens Dispensers</i>	<i>52</i>
<i>Pawnbrokers.....</i>	<i>52</i>
<i>Pest Control Agents</i>	<i>52</i>
<i>Pharmacists.....</i>	<i>53</i>
<i>Generally</i>	<i>53</i>
<i>Prescriptions for Soft Contact Lenses</i>	<i>53</i>
<i>Podiatrists.....</i>	<i>53</i>
<i>Private Investigators.....</i>	<i>53</i>
<i>Physical Therapists.....</i>	<i>54</i>
<i>Real Estate Agents</i>	<i>55</i>
<i>Advertisements by Real Estate Agents and Brokers</i>	<i>55</i>
<i>Exemption from Licensing Requirements for Newspapers</i>	<i>56</i>
<i>Promotions.....</i>	<i>57</i>

Table of Contents, Continued

Security Guards..... 57
Speech-Language Pathologists..... 58
Vehicle Dealers..... 59
Veterinarians..... 60

PROPERTY..... **60**

Cemeteries..... 60
Housing..... 61
 Discrimination on the Basis of Race, Color, Religion, Sex, Disability, Familial Status or
 National Origin In The Sale Or Rental Of Housing 61
 Mobile Homes 65
 Prohibition or Restriction Against Children 65
Membership Camping Contracts..... 65
Real Estate 66
 Real Estate Developments 66
 Subdivided Real Estate..... 69
 Unsubdivided Lands..... 70
Time Shares..... 70

PYRAMID PROMOTIONAL SCHEMES..... **71**

RACING..... **72**

RENTAL CARS..... **73**

RENTAL-PURCHASE AGREEMENTS **73**

SCHOOLS..... **74**

Barber Schools 74
Commercial Driving Schools..... 74
Private Post-Secondary Education 75
Real Estate Schools..... 75

TAXES..... **75**

TIRES..... **76**

UTILITIES..... **76**

Cable Television 76
Telephone Services 77
 Information Access Telephone Service 77
 Wireless Telephone Service..... 78

VEHICLES **78**

APPENDIX A
SAMPLE POLICY AND EXCERPT OF AGREEMENT..... **80**

APPENDIX B
LAW PROHIBITING FRAUDULENT AND MISLEADING ADVERTISING..... **109**

APPENDIX C
ARIZONA AND FEDERAL LAWS CONCERNING NEWSPAPER ADVERTISING IN
STATE, LOCAL, AND FEDERAL ELECTIONS..... **143**

SELF-REGULATION BY NEWSPAPERS

Often, the most restrictive limits placed upon newspaper advertising are not imposed by law, but by the internal policies of the newspaper itself. Newspapers have almost total freedom to regulate themselves and generally may deny particular advertisements for any reason, or no reason at all. Whether the advertisement is purely commercial or involves a noncommercial public issue, the First Amendment creates no obligation for a newspaper to publish every advertisement that is offered.

Nonetheless, the media is not entirely free to deny advertisements:

- 1. Newspapers are regulated by federal and state anti-discrimination laws that prohibit them from refusing an advertisement, or charging different rates for an advertisement, due to unlawful discrimination. For example, Fair Housing regulations promulgated by the Arizona Attorney General prohibit a newspaper from “refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, or national origin.” [See A.A.C. R10-2-112(B)(4)]*
- 2. Newspapers are also governed by statutory and common law principles prohibiting unfair competition in business. This situation generally arises when a newspaper holds a monopoly in a geographic area and denies advertising (a) to avoid competition in an area in which it has a financial interest, or (b) pursuant to an agreement with a competitor of the would-be advertiser. For example, in Home Placement Service, Inc. v. Providence Journal Co., 682 F.2d 274 (1st Cir. 1982), the court found that a newspaper violated federal antitrust law when it refused to accept classified advertisements from a rental referral business. The court held that the newspaper was a monopoly – the only metropolitan newspaper in Rhode Island – and Home Placement’s advertisements were denied because it was a competitor with the newspaper for real estate advertisements. At bottom, the court found that the newspaper’s refusal amounted to “the simplest form of attempted strangulation of a competitor by refusal to deal.”*
- 3. Even when a newspaper has the right to deny an advertisement, it must ensure that the manner in which the advertisement is denied does not give rise to liability. For example, if a newspaper agrees to publish an advertisement and subsequently denies it, the newspaper may be liable for breaching a contract with the would-be advertiser. Similarly, if the newspaper communicates its reason for denying an advertisement to anyone other than the advertiser and that reason is false and defamatory, the newspaper may be liable for defamation.*

Given the freedom to evaluate and limit the types of advertisements that are published, many newspapers go beyond the requirements of law and impose additional internal policies on the acceptance of advertisements. Such policies serve many purposes, including permitting the newspaper to control its own image by refusing advertisements that readers may regard as inappropriate and helping the newspaper avoid legal liability for particularly risky types of solicitation. An excerpt from a sample Advertising Agreement that may be provided to advertisers and a sample Standards of Acceptability policy regarding advertising is set forth as Appendix A.¹

¹ The sample policy and excerpt of agreement set forth in Appendix A were supplied by Western Newspapers, Inc. The editors appreciate WNI's willingness to share its policies for publication in this guidebook. The Arizona Newspapers Association, Steptoe & Johnson LLP and WNI do not guarantee or assume responsibility for the accuracy of any information set forth in the policy or agreement. The reader should research the issue independently and consult an attorney before adopting any specific policy or agreement, including the samples set forth here.

REGULATION BY ARIZONA LAW

Arizona law regulates numerous facets of advertising by newspapers, primarily by controlling the content of solicitations for specific products or by specific persons.² Summaries of the applicable law and the text of relevant statutes are set forth below.

ABORTION

Arizona statute prohibits advertisements for abortion services by any method or medication. However, that statute was held unconstitutional in 1973. As such, it is unenforceable as written.

§ 13-3605(A). Advertising to produce abortion or prevent conception; punishment

A person who willfully writes, composes or publishes a notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for prevention of conception, or who offers his services by a notice, advertisement or otherwise, to assist in the accomplishment of any such purposes, is guilty of a misdemeanor. See State v. New Times, Inc., 20 Ariz. App. 183, 511 P.2d 196 (Ct. App. 1973) (statute prohibiting publication of a notice or advertisement of abortion methods was unconstitutional); Nelson v. Planned Parenthood Center of Tucson, Inc., 19 Ariz. App. 142, 505 P.2d 580 (Ct. App. 1973) (same).

AMBULANCES

No ambulance company may advertise that it provides services outside the geographical area in which the company is licensed to operate. Nor may an ambulance company direct the circumvention of the use of 9-1-1 or another emergency telephone number.

R9-25-911. Ground Ambulance Service Advertising

A. A certificate holder shall not advertise that it provides a type or level of ground ambulance service or operates in a service area different from that granted in the certificate of necessity.

B. When advertising, a certificate holder shall not direct the circumvention of the use of 9-1-1 or another similarly designated emergency telephone number.

² In addition to the requirements of Arizona law addressed here, federal law imposes numerous regulations upon advertisers and publishers. Those federal mandates are beyond the scope of this guidebook. One should consult additional reference materials or legal counsel regarding issues of federal or constitutional law.

ARIZONA'S DISTINCTIVE SYMBOLS

ARIZONA GEOGRAPHIC FEATURES

No advertisement may attempt to name an unnamed geographic feature or modify the title given to a feature by local usage. While this statute directs the government to “curtail” such activity promptly, it identifies no legal consequences for violating its provisions. As written, it creates a “prior restraint” on publication and would face a serious constitutional hurdle to survive a legal challenge.

§ 41-835.06. Advertising or publishing a name without approval

No person may attempt to modify local usage or name an unnamed geographic feature in an advertisement or publication without first obtaining the approval of the board [on geographic and historic names]. If a person violates this section, the board shall promptly act to curtail such activity and shall adopt an official name for the feature if no recognized name is of record.

ARIZONA STATE SEAL

Only an Arizona state agency may use Arizona's State Seal in any advertisement to promote a commercial purpose. Moreover, no person may use the State Seal, even for a non-commercial purpose, without the approval of Arizona's Secretary of State. It is conceivable that the “prior restraint” aspect of this statute is likewise subject to constitutional challenge. In any event, criminal liability can occur only upon proof that a person “knowingly” violated this provision.

§ 41-130. Use of state seal restricted; violation; classification

A person may use, display or otherwise employ any facsimile, copy, likeness, imitation or other resemblance of the great seal of this state only after obtaining the approval of the secretary of state. The secretary of state may grant a certificate of approval upon application by any person showing good cause for the use of the great seal of this state for a proper purpose. The great seal of this state shall in no way be employed by anyone other than a state agency for the purpose of advertising or promoting the sale of any article of merchandise whatever within this state or for promoting any other commercial purpose. The secretary of state may promulgate rules for the use of the great seal of this state or any facsimile, copy, likeness, imitation or other resemblance of the great seal. Any person who knowingly violates this section is guilty of a class 3 misdemeanor.

BATTERIES

Any advertisement related to the sale of lead acid batteries must contain a notice in bold print that states: “A fee is imposed on the purchase of each new lead acid battery unless a used battery is returned where applicable.”

§ 44-1323(D)-(E). Sale of lead acid batteries; fee; notice

D. An advertisement or other printed promotional material related to the sale of lead acid batteries shall contain the following notice in bold print:

“A fee is imposed on the purchase of each new lead acid battery unless a used battery is returned where applicable.”

E. This section does not apply to a person whose sales of batteries are not in the ordinary course of business.

CONTRACEPTION

Arizona statute prohibits advertisements for abortion services by any method or medication. However, that statute was held unconstitutional in 1973. As such, it is unenforceable as written.

§ 13-3605(A). Advertising to produce abortion or prevent conception; punishment

A person who willfully writes, composes or publishes a notice or advertisement of any medicine or means for producing or facilitating a miscarriage or abortion, or for prevention of conception, or who offers his services by a notice, advertisement or otherwise, to assist in the accomplishment of any such purposes, is guilty of a misdemeanor. See State v. New Times, Inc., 20 Ariz. App. 183, 511 P.2d 196 (Ct. App. 1973) (statute prohibiting publication of a notice or advertisement of abortion methods was unconstitutional); Nelson v. Planned Parenthood Center of Tucson, Inc., 19 Ariz. App. 142, 505 P.2d 580 (Ct. App. 1973) (same).

COUNTERFEIT MARKS

Any person who knowingly uses an unauthorized reproduction of any trademark or other intellectual property in an advertisement is guilty of a class one misdemeanor.

§ 44-1453(A), (M). Counterfeit marks; violation; classification; presumption; seizure; forfeiture; remedies; definitions

A. Except as provided in subsections B and C³, a person who knowingly and with intent to sell or distribute uses, displays, advertises, distributes, offers for sale, sells or possesses any item that bears a counterfeit mark or any service that is identified by a counterfeit mark is guilty of a class 1 misdemeanor.

M. For the purposes of this section:

1. "Counterfeit mark" means:

(a) Any unauthorized reproduction or copy of intellectual property.

(b) Intellectual property that is affixed to any item that is knowingly sold, offered for sale, manufactured or distributed or to any identifying services offered or rendered without the authority of the intellectual property owner.

2. "Intellectual property" means any trademark, service mark, trade name, label, term, device, design or word that is adopted or used by a person to identify that person's goods or services.

³ Annotation to the statute indicates that subsection D also should be consulted.

DRIVER'S LICENSE TESTING

Under the Arizona Administrative Code, no person who is certified to administer commercial driver examinations may imply in any advertisement that the issuance of a certificate of competency by the examiner guarantees the issuance of a commercial driver's license, or that use of the testing service will result in influence with or preferential treatment from Arizona's Department of Motor Vehicles.

R17-5-701. Definitions

10. "Third-party tester" means a person who is certified by the [Motor Vehicle] Division [of the Arizona Department of Transportation] to conduct demonstration tests to drivers of commercial motor vehicles.

R17-5-702(E). Third-party tester/Contract agent

E. Enforcement.

4. The contract agent or third-party tester shall not use advertisements which imply:

a. A certificate of competency guarantees the issuance of a commercial driver's license.

b. The third-party tester program will influence the [Motor Vehicle] Division [of the Arizona Department of Transportation] in any manner in the issuance of a commercial driver's license.

c. Preferential or advantageous treatment from the Division.

DRUG PARAPHERNALIA

It is illegal for any person to place an advertisement that the person knows, or under the circumstances reasonably should know, is intended to promote the sale of objects designed or intended for use as drug paraphernalia. Drug paraphernalia can include a wide range of items, from kits used to cultivate drug plants to scales, blenders and balloons. The statute below specifies the items that may be considered drug paraphernalia.

§ 13-3415(C), (F). Possession, manufacture, delivery and advertisement of drug paraphernalia; definitions; violation; classification; civil forfeiture; factors

C. It is unlawful for a person to place in a newspaper, magazine, handbill or other publication any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a class 6 felony.

F. In this section, unless the context otherwise requires:

1. "Drug" means any narcotic drug, dangerous drug, marijuana or peyote.

2. "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,

concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a drug in violation of this chapter. It includes:

(a) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a drug or from which a drug can be derived.

(b) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing drugs.

(c) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a drug.

(d) Testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of drugs.

(e) Scales and balances used, intended for use or designed for use in weighing or measuring drugs.

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting drugs.

(g) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(h) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding drugs.

(i) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of drugs.

(j) Containers and other objects used, intended for use or designed for use in storing or concealing drugs.

(k) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting drugs into the human body.

(l) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, a narcotic drug, a dangerous drug, hashish or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

(ii) Water pipes.

(iii) Carburetion tubes and devices.

(iv) Smoking and carburetion masks.

(v) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

(vi) Miniature cocaine spoons and cocaine vials.

(vii) Chamber pipes.

(viii) Carburetor pipes.

(ix) Electric pipes.

(x) Air-driven pipes.

(xi) Chillums.

(xii) Bongs.

(xiii) Ice pipes or chillers.

EMPLOYMENT

EMPLOYMENT AGENCIES

With regard to advertising by an employment agency, Arizona regulations provide:

1. *All advertisements must state the name under which the agency is licensed to do business. The name may be abbreviated, except that it may not use only initials unless initials are part of the licensed name.*

2. *All advertisements must state that the service offered is an “applicant-paid service.” It may be abbreviated as “App-Pd Svc.”*

3. *If any specific position is advertised, the advertisement must be based upon an actual job order that is available at the time the advertisement is printed.*

4. *Advertisements must not limit the contact information to only a post office box number, a press box number, an associate name, an employer or counselor name, a telephone number, or any other “blind” address.*

5. *Advertisements must not state only the maximum pay for a specific position or use the word “open” or “\$\$\$” to indicate the salary available. The advertisement may state a salary range for the position or may state that an employee may earn “to a maximum of \$” or “to \$.”*

6. *If the employment position requires or may require travel 15 miles beyond the city in which the newspaper is published, the advertisement must state that the position is not local.*

7. *Advertisements must include job titles that are reasonably descriptive of the work to be performed.*

8. *If the agency is hiring employees for the agency, rather than filling a position for an outside employer, the advertisement must so indicate.*

9. *Advertisements must not state that the agency “guarantees a job,” that there are “guaranteed results,” or other similar words.*

10. *Advertisements must not state or imply that the employment agency has access to an “unpublished job market” or a “hidden job market.”*

In addition, a career counseling service advertisement must not state or imply that it has specific or general job openings or special contacts. The career counseling advertisement also must not state any “success rate” with its clients in terms of percentages, must not suggest any prospective increase in income as a result of utilizing the service, and must not state a number of job interviews or offers likely to be obtained as a result of using the service or how quickly a new position is likely to be found.

R-20-5-326. Advertising

In addition to the provisions of A.R.S. § 23-534, the [Labor] Department [of the Industrial Commission of Arizona] shall deem advertising [of an employment agency] false, misleading, or misrepresentative if the advertisement fails to conform to the following requirements:

1. An advertisement shall carry the name under which the agency is licensed to do business and shall state that the business is an applicant-paid service or includes an applicant-paid service. An agent may abbreviate in an advertisement "applicant-paid service" as "app-pd svc". An agent may abbreviate in an advertisement the name under which the agency is licensed to do business provided that an agent does not abbreviate its licensed name by using initials only unless initials are a part of the name under which the agent is licensed;

2. If an advertisement is for a specific position, it shall be based upon an actual bona fide job order with the licensee and available at the time the advertisement is printed;

3. An advertisement shall not use a post office box number, a press box number, an associate name, an employer or counselor name, a telephone number only, or any other "blind" address;

4. An advertisement shall be canceled when a position is known to be filled or when knowledge is available that the position is not available;

5. A position shall not be advertised at maximum pay only. A position may be advertised at a range from minimum to maximum, or by the words "to a maximum or \$" [sic] or "to \$". The word "open" or the symbol "\$" may not be used as a substitute for the salary of any position or positions in an advertisement;

6. An advertised position that requires or may require travel 50 miles beyond the city in which the newspaper or medium is published shall state that the position is not local;

7. A job title shall appear in an advertisement and shall be reasonably descriptive in accordance with the type of work to be performed;

8. An advertisement for a position within the agency itself shall indicate the agency is the employer;

9. An advertisement shall not state "guarantees a job", "guaranteed results," or words of similar import;

10. If the advertisement is a display or promotional advertisement and does not list a particular position, it shall carry the licensed name of the licensed employment agency;

11. An advertisement shall not state or imply that the licensed employment agency has access to an "an unpublished job market" or "hidden job market"; and

12. An advertisement for a career counseling service shall not state or imply the following:

- a. The existence of specific or general job openings;
- b. Special contacts;
- c. The success performance of clients in percentage terms;
- d. Prospective increase in income as a result of utilizing the career counseling service;
- e. The number of interviews or job offers likely to be obtained as a result of utilizing the career counseling service; and
- f. The time within which it is likely that a new position will be found.

UNLAWFUL DISCRIMINATION

No employer, labor organization, employment agency or joint labor-management committee controlling apprenticeship or other training or retraining program may advertise anything relating to employment in any way that discriminates based on race, color, religion, sex or national origin. The sole exception is that an advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex or national origin when it involves a necessary occupational qualification for employment.

§ 41-1464(B)-(C). Other unlawful employment practices; opposition to unlawful practices; filing of charges; participation in proceedings; notices and advertisements for employment

B. It is unlawful employment practice for an employer, labor organization, employment agency or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization or relating to any classification or referral for employment by such an employment agency or relating to admission or to employment in any program established to provide apprenticeship or other training by such a joint labor-management committee indicating any preference, limitation, specification or discrimination based on race, color, religion, sex or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex or national origin when religion, sex or national origin is a bona fide occupational qualification for employment.

C. It is unlawful for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by an employer or membership in or any classification or referral for employment by a labor organization or relating to any classification or referral for employment by a labor organization or relating to any classification or referral for employment by an employment agency, indicating any preference, limitation, specification or discrimination based on age, except such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on age when age is a bona fide occupational qualification for employment.

FALSE AND FRAUDULENT ADVERTISING

GENERALLY

Arizona law prohibits any person from knowingly or recklessly publishing an advertisement that contains any "false, fraudulent, deceptive or misleading representations" and is intended to sell any real or personal property or services to the public. The statute specifically prohibits the publication or dissemination of any statement concerning real estate that is known to be untrue or is intended to mislead. Importantly, a publisher who circulates fraudulent advertising is exempt from liability if the publisher does not act recklessly and "has no knowledge of the intent, design, or purpose of the advertiser."

§ 13-2203(A), (B). False advertising; classification

A. A person commits false advertising if, in connection with the promotion of the sale of property or services, such person recklessly causes to be made or makes a false or misleading statement in any advertisement.

B. False advertising is a class 1 misdemeanor.

§ 44-1481(A). Fraudulent advertising practices defined; violation; classification

A. A person is guilty of a class 3 misdemeanor who:

1. Knowingly and with the intent to sell to the public real or personal property or services, or to induce the public to acquire an interest therein, makes and publishes an advertisement, either printed or by public outcry or proclamation, or otherwise, containing any false, fraudulent, deceptive or misleading representations in respect to such property or services, or the manner of its sale or distribution.

2. Publishes, circulates or disseminates any statement or assertion of fact concerning real estate which is known by him to be untrue, and which is made or disseminated with the intention of misleading.

§ 44-1521. Definitions

In this article, unless the context otherwise requires:

1. "Advertisement" includes the attempt by publication, dissemination, solicitation or circulation, oral or written, to induce directly or indirectly any person to enter into any obligation or acquire any title or interest in any merchandise.

...

7. "Sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration, including sales, leases and rentals of any real estate subject to any form of deed restriction imposed as part of a previous sale.

§ 44-1522(A). Unlawful practices; intended interpretation of provisions

A. The act, use, or employment by any person of any deception, deceptive act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived, or damaged thereby, is declared to be an unlawful practice.

§ 44-1523. Exemptions

Nothing contained in this article shall apply to the owner or publisher of a newspaper, magazine, or other publication of printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design, or purpose of the advertiser. Further, nothing contained in this article shall apply to any advertisement which is subject to and complies with the rules and regulations of, and the statutes administered by the federal trade commission.

SPECIFIC PROHIBITIONS

*In addition to a general prohibition of fraudulent or false advertising, specific Arizona statutes prevent false or fraudulent advertising of or by the following:*⁴

AccountantsA.A.C. R4-1-455.03
Acupuncturists A.R.S. § 32-3901
Advanced Fee Loan Brokers A.R.S. § 6-1309
Aestheticians A.R.S. § 32-572
AHCCCS ContractorsA.A.C. R9-22-504
Attorneys Rule 42, Supreme Court Rules, ER 7.1
Audiologists A.R.S. § 36-1901
Automobile Dealers, Recyclers and Transporters..... A.R.S. § 28-4493
Boxing Matches A.R.S. § 5-235.01
Cemeteries A.R.S. § 32-2194.05
Chiropractors A.R.S. § 32-924; A.A.C. R4-7-901
Commodities..... A.R.S. § 41-2081
Consumer Lender Loans A.R.S. § 6-611
Contractors A.R.S. § 32-1154
Cosmetologists A.R.S. § 32-572
Credit Unions A.R.S. § 6-504
Debt Management Companies A.R.S. § 6-710
Dentists A.R.S. § 32-1201
Disability Insurance..... A.A.C. R20-6-201
Eggs A.R.S. § 3-733, A.A.C. R3-2-906
Embalmers A.R.S. § 32-1301
Employment Agents A.R.S. § 23-533
Equipment Dealers A.R.S. § 44-6703

⁴ See Appendix B for full text of statutes.

<i>Fertilizer</i>	A.R.S. § 3-281
<i>Food (but see exemption for unknowing publication by newspaper)</i>	A.R.S. §§ 36-902, 36-907, 36-914
<i>Funeral Directors</i>	A.R.S. § 32-1301; A.A.C. R4-12-302
<i>Healthcare Group Plans</i>	A.A.C. R9-27-503
<i>Healthcare Service Organizations</i>	A.R.S. § 20-1065
<i>Hearing Aid Dispensers</i>	A.R.S. § 36-1901
<i>Homeopathic Doctors</i>	A.R.S. § 32-2933
<i>Insurance Policies</i>	A.R.S. §§ 20-443, 20-443.01, 20-444
<i>Investment Advisors</i>	A.A.C. R14-6-208
<i>Life Insurance</i>	A.A.C. R20-6-202
<i>Medical Assistants</i>	A.R.S. § 32-2501
<i>Medical Doctors</i>	A.R.S. § 32-1401
<i>Membership Camping Contracts</i>	A.R.S. §§ 32-2161, 32-2198.08, 32-2198.10; A.A.C. R4-28-504
<i>Mortgages (Mortgage Brokers, Mortgage Bankers and Commercial Mortgage Bankers)</i>	A.R.S. §§ 6-909, 6-947, 6-984
<i>Nail Technologists</i>	A.R.S. § 32-572
<i>Native American Arts and Crafts</i>	A.R.S. § 44-1231.01
<i>Naturopathic Doctors</i>	A.R.S. § 32-1501
<i>Nurses</i>	A.A.C. R4-19-403
<i>Occupational Therapists</i>	A.A.C. R4-43-101
<i>Opticians</i>	A.R.S. § 32-1696
<i>Optometrists</i>	A.A.C. R4-21-302
<i>Osteopathic Doctors</i>	A.R.S. § 32-1854
<i>Pest Control Agents</i>	A.R.S. § 32-2321
<i>Podiatrists</i>	A.R.S. § 32-854.01
<i>Prepaid Dental Plans</i>	A.R.S. §§ 20-1007, 20-1007
<i>Private Investigators</i>	A.R.S. §§ 32-2454, 32-2457
<i>Private Post-Secondary Schools</i>	A.R.S. § 32-3051; A.A.C. R4-39-304
<i>Professionals Registered with the Board of Technical Registration</i>	A.A.C. R4-30-301
<i>Property Tax Agents</i>	A.A.C. R4-46-601
<i>Psychologists</i>	A.R.S. § 32-2061
<i>Real Estate Agents</i>	A.R.S. § 32-2153; A.A.C. R4-28-502
<i>Real Estate Schools</i>	A.R.S. § 32-2135
<i>Securities</i>	A.A.C. R14-4-103
<i>Seed</i>	A.R.S. § 3-242
<i>Speech Language Pathologists</i>	A.R.S. § 36-1901
<i>Subdivided Lands</i>	A.R.S. §§ 32-2161, 32-2183.01
<i>Timeshare Contracts</i>	A.R.S. § 32-2197.17
<i>Trade Products</i>	A.R.S. § 3-663
<i>Unsubdivided Lands</i>	A.R.S. § 32-2195.05
<i>Variable Life Insurance Policies</i>	A.R.S. § 20-2602

Veterinarians A.R.S. § 32-2232
Weights and Measures A.R.S. § 41-2081

FINANCIAL INSTITUTIONS AND MATTERS

COLLECTION AGENCIES

No collection agency may imply in its advertisements that it is “vouched for” or part of an Arizona state agency, or that it is authorized to practice law.

R20-4-1516. Advertising

No collection agency shall, by the use of any letterhead, advertisement, agreement, form, circular or other printed matter, or otherwise, convey the impression that it is vouched for or is the Superintendent of an agency or instrumentality of the state of Arizona, or that it is authorized to practice law.

DEBT MANAGEMENT COMPANIES

No advertisement by a debt management company may state or imply that the company consolidates debts or makes loans of money. In addition, the advertisement may not contain a schedule of payments in any form. The advertisement must contain the correct name of the debt management company as it appears on the company’s license, and a notice in at least 12 point bold type that the company is “NOT A LOAN COMPANY.”

R20-4-611(B)-(C). Advertising

B. A debt management company shall not use advertising, communication, or sales material that contains:

1. A false, misleading, or deceptive statement or representation about the debt management company’s services or charges. A statement is a violation of this Section if the person making the statement does not state a material fact necessary to make the statements true, in light of the circumstances under which it is made;
2. A claim, direct or implied, that the debt management company consolidates debts or makes loans; or
3. A schedule of payments in any form.

C. A debt management company’s advertising, communication, and sales material shall contain:

1. The name of the debt management company exactly as it appears on the current license; and
2. The following legend, conspicuously displayed in at least 12 point type and in bold print: "NOT A LOAN COMPANY."

MORTGAGES

All advertisements by mortgage brokers, mortgage bankers and commercial mortgage lenders must include the name and license number of the broker’s business license, except that the licensee may refer to a commonly-used name and trademark or service

mark of any affiliate. If the charges or rate of charge for a mortgage loan are stated, they must be described in a clear manner intended to prevent misunderstandings.

§ 6-903(M). Licensing of mortgage brokers required; qualifications; application; bond; fees; renewal

M. A licensee or an employee of the licensee shall not advertise for or solicit mortgage business in any manner without using the name and license number as issued on the mortgage broker's principal place of business license, except that a licensee may employ or refer to the commonly used name and any trademarks or service marks of any affiliate. If a license is issued in the name of a natural person, nothing in the advertising or solicitation may imply the license is in the name of another person or entity. For the purpose of this subsection, "advertise" does not include business cards, radio and television advertising directed at national or regional markets and promotional items except if those items contain rates or terms on which a mortgage loan may be obtained.

§ 6-909(C). Prohibited acts

C. A person engaged in the mortgage business shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner whatever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a mortgage loan. The charges or rates of charge, if stated, shall be set forth in such manner as to prevent misunderstanding by prospective borrowers.

§ 6-943(N). Licensing of mortgage bankers required; qualifications; application; bond; fees; renewal

N. A licensee or an employee of the licensee shall not advertise for or solicit mortgage banking business in any manner without using the name and license number as issued on the mortgage banker's principal place of business license, except that a licensee may also employ or refer to the commonly used name and any trademarks or service marks of any affiliate. If a license is issued in the name of a natural person, nothing in the advertising or solicitation may imply that the license is in the name of another person or entity. For the purpose of this subsection "advertise" does not include business cards, radio and television advertising directed at national or regional markets and promotional items except if those items contain rates or terms on which a mortgage loan or mortgage banking loan may be obtained.

§ 6-947(D). Prohibited acts

D. A person engaged in the mortgage banking business shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner whatever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a mortgage banking loan or mortgage loan. The charges or rates of charge, if stated, shall be set forth in a clear and concise manner.

§ 6-977(B). Displaying and using license number

B. A licensee or an employee of the licensee shall not advertise for or solicit commercial mortgage loans in any manner without using the name and license number as issued on the commercial mortgage banker's principal place of business license, except that a licensee may employ or refer to the commonly used name and any trademarks or service marks of any affiliate. If a license is issued in the name of a natural person, nothing in the advertising or solicitation may imply that the license is in the name of another person or entity. For the purposes of this subsection, "advertise" does not include business cards, radio and television advertising directed at national or regional markets and promotional items unless those items contain rates or terms on which a commercial mortgage loan may be obtained.

§ 6-984(D). Prohibited acts

D. A person engaged in commercial mortgage banking shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner whatever, a false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a commercial mortgage loan. The charges or rates of charge, if stated, shall be set forth in a clear and concise manner.

SAVINGS & LOAN ASSOCIATIONS

All advertising by savings and loan associations for subscriptions for shares of guaranty capital must state that such shares are not insured.

§ 6-427(A). Shares of guaranty capital; advertisement; sales; collection of subscription

A. All prospectae and advertising matter regarding the subscription for shares of guaranty capital shall include a statement to the effect that such shares of guaranty capital are not insured.

SECURITIES

Any advertisement for the sale of securities must include:

- 1. The name of the issuer of the securities and the person circulating or publishing them.*
- 2. A statement describing the relationship between the issuer or dealer and every person whose name is used in the advertisement or who is quoted in the advertisement.*
- 3. A statement indicating the source and authority of all statements used in the advertisement relating to production potential.*
- 4. The statement that "THIS IS NEITHER AN OFFER TO SELL NOR A SOLICITATION OF AN OFFER TO BUY THE SECURITIES DESCRIBED HEREIN. THE OFFERING IS MADE ONLY BY THE PROSPECTUS." Such statement must appear on the face of the advertisement in type as large as that "generally used in the body" of the advertisement.*

The advertisement must not contain:

- 1. Any statement or inference that the securities offered are without risk, that dividend returns are assured or that failure or loss is not possible.*
- 2. Any comparison with other situations, statistics or statements regarding the financial growth, condition or business success of other companies or securities.*

All advertisements must be in Roman type at least as large as 10-point modern type. However, financial statements, other statistical data and notes may be in Roman type at least as large as eight-point modern type. All type shall be leaded at least two points.

No securities advertisement may be published in the same issue of the newspaper on the same page or the opposite page as a separate advertisement concerning the securities issuer that is unrelated to the sale of goods or services but is related to the financial growth, condition or business success of the securities issuer. Finally, securities that are exempt from the registration requirements of A.R.S. § 44-1846 may not be advertised in any way.

The issuer of a security shall not advertise in connection with any securities offering or filing.

§ 44-1801. Definitions

In this chapter and chapter 13 of this title, unless the context otherwise requires:

26. "Security" means any note, stock, treasury stock, bond, commodity investment contract, commodity option, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical or life settlement investment, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, real property investment contract or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

R14-4-103(B)-(E). Advertising and Sales Literature

B. No advertising, communication, prospectus, or sales literature of any kind shall contain:

1. Any untrue statement of material fact nor any omission to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

2. Any statement or inference that the securities offered are without risk, that dividend returns are assured, or that failure or loss is not possible.

3. Any comparison with alleged analogous situations, nor statistics or statements relating to the financial condition, growth or business success of other companies or the appreciation of or returns from the securities of other companies except that a statutory prospectus meeting the requirements of A.R.S. § 44-1894 may contain financial and business information concerning subsidiaries or affiliates and statistics or statements concerning an issuer's competitive position in its industry.

C. Any advertising, communication, prospectus, or sales literature of any kind shall contain:

1. The name of the issuer and of the person circulating or publishing the same.

2. A statement showing the connection between the issuer or dealer and every person whose name is used or from whom quotations are made.

3. A statement clearly indicating the source and authority of all reports, statements, or claims used in whole or in part or in any manner referred to therein relating to oil, gas or mineral occurrence, or production potentials of any kind.

4. Other than in a statutory prospectus meeting the requirements of A.R.S. § 44-1894, substantially the following legend: "THIS IS NEITHER AN OFFER TO SELL NOR A SOLICITATION OF AN OFFER TO BUY THE SECURITIES DESCRIBED HEREIN. THE OFFERING IS MADE ONLY BY THE PROSPECTUS."

If printed, the legend shall appear on the face of the advertisement, communication, prospectus, or sales literature in type as large as that used generally in the body thereof.

D. The body of all printed advertisements, communications, prospectuses or sales literature shall be in Roman type at least as large as ten-point modern type. However, to the extent necessary for convenient presentation, financial statements and other statistical or tabular data and the notes thereto may be in Roman type at least as large as eight-point modern type. All type shall be leaded at least two points.

E. No advertising, communication, prospectus or sales literature of any kind shall be published in the same issue of a newspaper, magazine or other periodical on the same page as or on a page opposite to, nor be broadcast from or on the same radio station or television channel, immediately before or immediately after a separate advertisement or communication of or concerning the issuer that is unrelated to the sale of its goods or services but is related to the financial condition, growth or business success of the issuer or other companies.

R14-4-127(J). Guidelines for securities filings pursuant to A.R.S. § 44-1846

J. Prohibition against advertising and sales commission. The issuer shall not advertise in connection with any offering made under this Section. The issuer shall not pay, directly or indirectly, any remuneration for sales under this Section, other than transfer agent's fees, to any salesman, underwriter, officer, director, or employee of the issuer or to any other person.

FLAGS

By Arizona statute, any advertisement that includes a United States or Arizona flag and includes upon that flag any "word, figure, mark, picture, design, drawing or advertisement of any nature" that is "likely to provoke immediate physical retaliation" is prohibited. It is not illegal, however, for a newspaper to portray the flag in a manner that is disconnected from any commercial advertisement. Given the history of First Amendment litigation in speech cases involving the flag, and legislative history at the federal level, this statute is subject to constitutional challenge.

§ 13-3703(A)-(D). Abuse of venerated objects; classification

A. A person commits abuse of venerated objects by intentionally:

1. Desecrating any public monument, memorial or property of a public park; or

2. In any manner likely to provoke immediate physical retaliation:

(a) Exhibiting or displaying, placing or causing to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon a flag or exposing or causing to be exposed to public view a flag upon which there is printed, painted or otherwise produced or to which there is attached, appended or annexed any word, figure, mark, picture, design, drawing or advertisement; or

(b) Exposing to public view, manufacturing, selling, offering to sell, giving or having in possession for any purpose any article of merchandise or receptacle for holding or carrying merchandise upon or to which there is printed, painted, placed or attached any flag in order to advertise, call attention to, decorate, mark or distinguish the article or substance; or

(c) Casting contempt upon, mutilating, defacing, defiling, burning, trampling or otherwise dishonoring or causing to bring dishonor upon a flag.

B. The provisions of this section shall not apply to:

1. Any act permitted by a statute of the United States; or
2. Any act permitted by United States military regulations; or
3. Any act where the United States government has granted permission for the use of such flag; or
4. A newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant, commission of appointment to office, ornament, picture, badge or stationery on which shall be printed, painted or placed such flag and which is disconnected from any advertisement for the purpose of sale, barter or trade.

C. For the purposes of this section:

2. "Flag" means any emblem, banner or other symbol, of any size, composed of any substance or represented on any substance that evidently purports to be the flag of the United States or of this state.

D. Abuse of venerated objects is a class 2 misdemeanor.

FOOD & BEVERAGES

ALCOHOL

Events

No establishment licensed to sell alcohol for consumption may advertise "drinking contests," that the establishment will sell or deliver to a person an unlimited number of drinks during a fixed period of time for a fixed price, or that it will deliver more than 32 ounces of beer, one liter of wine, or four ounces of distilled spirits to one person at one time for that person's consumption.

§ 4-101. Definitions

In this title, unless the context otherwise requires:

...

3. "Beer" means any beverage obtained by the alcoholic fermentation, infusion or decoction of barley malt, hops, or other ingredients not drinkable, or any combination of them.

...

13. "Distilled spirits" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, fruits preserved in ardent spirits, and any alcoholic mixture or preparation, whether patented or otherwise, which may in sufficient quantities produce intoxication.

...

19. "Licensee" means a person who has been issued a license or an interim retail permit pursuant to the provisions of this title or a special event licensee.

...

22. "On-sale retailer" means any person operating an establishment where spirituous liquors are sold in the original container for consumption on or off the premises or in individual portions for consumption on the premises.

...

29. "Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor or malt beverage, absinthe, a compound or mixture of any of them or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, any liquid mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one per cent of alcohol by volume.

...

34. "Wine" means the product obtained by the fermentation of grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage fortified with grape brandy and containing not more than twenty-four per cent of alcohol by volume.

§ 4-244. Unlawful acts

It is unlawful:

...

23. For an on-sale retailer or employee to conduct drinking contests, to sell or deliver to a person an unlimited number of spirituous liquor beverages during any set period of time for a fixed price, to deliver more than thirty-two ounces of beer, one liter of wine or four ounces of distilled spirits in any spirituous liquor drink to one person at one time for that person's consumption or to advertise any practice prohibited by this paragraph.

Out-Of-State Purchases

No advertisement may solicit an order of spirituous liquors to be brought into Arizona from out of state contrary to Arizona law. The statute expressly does not prohibit newspapers from accepting institutional advertising from any distillery, brewery, winery, rectifier or distributor of alcohol.

R19-1-204(G)-(I). Interstate Shipping, Importation, Labeling, Solicitation, Advertising

G. No person shall send or cause to be sent into this state any letter, postcard, circular, dodger, pamphlet or publication, the purpose of which is the solicitation of an order for any spirituous liquor from and the shipment to any consumer or retail dealer within the state of Arizona.

H. No person shall issue or publish or cause to be issued or published in this state any letter, postcard, circular, pamphlet or publication containing any advertisement, the purpose or intent of which is the solicitation of an order for any spirituous liquors from any consumer or retailer, where such solicitation is contrary to the laws of this state and the rules of the Director which provide for the shipment of spirituous liquors into this state only when consigned to a duly licensed Arizona spirituous liquor wholesaler who is licensed to sell the particular liquor or liquors so advertised, and only when consigned and delivered to such spirituous liquor wholesaler at the address described and set forth in his license.

I. Nothing contained in subsections (G) or (H) shall be construed to prevent newspapers or other publications having circulation in Arizona from accepting institutional advertising from any distillery, brewery, winery, rectifier, or distributor.

FOOD

Eggs

In any advertisement for eggs, those eggs that are not classified by size and weight must be labeled "nest run." If the eggs are classified, the unabbreviated designation of the size and grade of eggs must be indicated or they must be identified as "nest run." Moreover, no advertisement for "fresh" eggs is permitted unless the eggs meet the requirements for grade A or better, and no eggs may be advertised as "local" unless they were produced in Arizona and meet the requirements for grade A or better.

§ 3-715(A), (C). Unlawful sales; unlawful designations

A. It is unlawful to sell to retailers or consumers nest run eggs except that a person may sell to retailers or consumers twenty-five cases of nest run eggs from the person's own production each calendar year. Retailers may sell nest run eggs to consumers only if when on hand, offered for sale or placed on sale, they are clearly marked "nest run". Each placard for cases, half-cases, cartons or containers of nest run eggs and all advertising, invoices and egg purchase tickets relating to nest run eggs shall likewise be clearly marked "nest run" as prescribed in this article. The total quantity of nest run eggs on hand or on sale at any time shall not exceed the total quantity of such eggs as shown on invoices or egg purchase tickets. Any person who sells nest run eggs shall keep an invoice or egg purchase ticket as prescribed in § 3-718.

C. It is unlawful for any person selling any portion of a daily production as graded eggs to sell any other portion as nest run eggs, except that any person may change the sales from graded to nest run by notifying the department in writing prior to such change.

§ 3-723. Price advertisements; designation of size and grade of eggs

Advertising by sign, placard or otherwise the price at which chicken eggs are offered for sale without marking the full, correct and unabbreviated designation of size and grade of the eggs, or nest run, according to the standards prescribed pursuant to this chapter on the advertisement is prohibited.

§ 3-724(A)-(B). Misrepresentation of quality

A. No person shall advertise or sell eggs as fresh eggs or represent them to be fresh eggs unless they meet the requirements for grade A or better.

B. No person shall advertise, represent or sell eggs as local eggs unless the eggs have been produced within this state and meet the requirements for grade A or better.

Kosher Food

No advertisement may falsely represent that any food is kosher when it is not.

§ 36-942(A). Sale of kosher food

A. It is unlawful, with intent to defraud:

1. To sell, offer or expose for sale, by any method or in any form, any meat or meat product, food or food product, whether raw or prepared for human consumption, which in any manner or by any device is falsely represented or held out to be kosher or composed exclusively of kosher products.

Oleomargarine

No advertisement for oleomargarine or any other butter substitute may use the words "butterine," "creamery" or "dairy" in any advertisement. The advertisements also may not incorporate a representation of a cow or any breed of dairy cattle or otherwise imply that the substance being sold is a product of milk or cream.

§ 3-629(D). Oleomargarine; sale; representation as butter or milk product prohibited

D. No person shall use in any manner in connection or association with the sale or advertisement of oleomargarine or other substance designed to be used as a substitute for butter, the word "butterine," "creamery" or "dairy," or the representation of a cow or of any breed of dairy cattle, or any combination of the words and representations, or any other word or symbol designed to convey the impression that the substance is a product of milk or cream.

Trade Products

No advertisement by any food establishment may represent that it serves a real product when, in fact, it serves or uses a trade product. A trade product is an imitation product designed to appear, taste, smell and feel like a real product.

§ 3-661. Definitions

In this article, unless the context otherwise requires:

...

5. "Trade product" means a product which has the appearance, taste, smell, texture or color of, but is not, a real product; which, taken as a whole, bears resemblance to or is in imitation of a real product, or could be mistaken for a real product.

R3-2-804(B). Trade Products

B. Advertising, display, and sale:

...

3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.

FUEL AND OIL

No advertisement of fuel or oil may misrepresent the identity of the manufacturer, refiner, producer or importer of the fuel or oil.

§ 44-1241(A). Fraudulent sales

A. It is unlawful for any person to sell, attempt to sell, offer for sale or participate or assist in the sale of any gasoline, liquefied petroleum gas, distillate, kerosene or other motor fuel or lubricating oil or motor oil of any kind or quality whatever for use in internal combustion engines when the petroleum product is at the time it is sold, offered for sale, caused or attempted to be sold, falsely represented to the purchaser or intended purchaser thereof either verbally or by advertising labels, signs or literature as the product of any manufacturer, refiner, producer or importer other than the true manufacturer, refiner, producer or importer.

HEALTH CARE INSTITUTIONS

No healthcare institution may advertise that it is authorized to perform services that it is not licensed to perform.

§ 36-401(A). Definitions; adult foster care

A. In this chapter, unless the context otherwise requires:

...

23. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, that provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and that includes home health agencies as defined in § 36-151 and hospice service agencies.

§ 36-407(B). Prohibited acts

B. The [health care institution] licensee shall not imply by advertising, directory listing or otherwise that the licensee is authorized to perform services more specialized or of a higher degree of care than is authorized by this chapter and the underlying rules for the particular class or subclass of health care institution within which the licensee is licensed.

INDIAN RESERVATION GAMBLING

No operator of an Indian Reservation gaming operation may advertise or market gaming activities in a manner that specifically appeals to minors.

§ 5-601.02(I)(6)(x)(2). New standard form of tribal-state gaming compact; effects

x. Advertising

...

2. Prohibition on advertising directed to minors. The gaming facility operator shall not advertise or market gaming activities in a manner that specifically appeals to minors.

INSURANCE

GENERALLY

When advertising insurance, no entity that is not an insurer shall state or imply that it is an insurer. In addition, it is improper for any advertisement to be "false or maliciously critical" or derogatory to the financial condition of an insurer, or to be calculated to injure any insurance business or the business of any domestic corporation being formed as an insurance business. Arizona law specifically exempts newspapers engaged in news dissemination from the prohibition against derogatory statements towards insurers.

§ 20-444(B). False or deceptive advertising of insurance or status as insurer

B. No person that is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

§ 20-445. Defamation

No person shall make, publish, disseminate or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article, sales material or literature which is false or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance, or any domestic corporation or group being formed pursuant to this code for the purpose of becoming an insurer. This provision shall not be deemed to restrict the right, lawfully exercised, of newspapers, magazines, radio and television stations, and similar public media for news dissemination, objectively to publish and disseminate news.

AHCCCS CHILDREN’S HEALTH INSURANCE PROGRAM

No AHCCCS Children’s Health Insurance Program contractor or marketing representative may advertise in a manner that offers any form of compensation or reward to induce enrollment. No such advertising shall discriminate against a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability or health status. Indeed, any advertisement must specify that the AHCCCS contractor is an equal opportunity employer.

R9-31-504(A), (C). Marketing; Prohibition against Inducements; Misrepresentations; Discrimination; Sanctions

A. [An AHCCCS] contractor or...any person acting as the contractor's marketing representative [for the Children’s Health Insurance Program] shall not offer or give any form of compensation or reward, or engage in any behavior or activity that may be reasonably construed as coercive, to induce or procure Title XXI enrollment. A contractor may make program applications available, but shall not assist with the completion of an application or suggest that an applicant enroll with [a] particular contractor. Any marketing solicitation offering a benefit, good, or service, in excess of the covered services in 9 A.A.C. 31, Article 2 shall be deemed an inducement.

C. Any person or entity acting as the contractor’s marketing agent shall not engage in any marketing or pre-enrollment practice that discriminates against a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.

R9-31-514. Equal Opportunity

[An AHCCCS] contractor [for the Children’s Health Insurance Program] shall, in all solicitations or advertisements for employees placed by, or, on behalf of the contractor:

1. Specify that it is an equal opportunity employer[.]

AHCCCS CONTRACTORS AND MARKETING REPRESENTATIVES

No AHCCCS contractor or marketing representative shall advertise in a manner that offers any form of compensation or reward to procure AHCCCS enrollment. In addition, no such advertising may discriminate against an eligible person because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability or health status. Indeed, any advertisements must specify that the contractor is an equal opportunity employer.

R9-22-504(A), (C). Marketing; Prohibition against Inducements; Misrepresentations; Discrimination; Sanctions

A. A contractor [with the Arizona Health Care Cost Containment System (“AHCCCS”) Administration] or the contractor's marketing representative shall not offer or give any form of compensation or reward, or engage in any behavior or activity that may be reasonably construed as coercive, to induce or procure AHCCCS enrollment. Any marketing solicitation offering a benefit, good, or service, in excess of the covered services in Article 2 shall be deemed an inducement.

...

C. A marketing representative shall not engage in any marketing or pre-enrollment practice that discriminates against an eligible person or a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.

R9-22-514. Equal Opportunity

[An AHCCCS] contractor shall, in all solicitations or advertisements for employees placed by, or, on behalf of the contractor:

1. Specify that it is an equal opportunity employer[.]

DISABILITY INSURANCE

In all advertisements for disability insurance policies:

1. *The words “all,” “full,” “complete,” “comprehensive,” “unlimited,” “up to,” “as high as,” “this policy will pay your hospital and surgical bills” or “this policy will replace your income” or similar words must not exaggerate any benefit beyond the terms of the policy, but must be fairly used.*

2. *A policy that pays varying amounts for a loss occurring under different conditions or requires certain conditions for payment must disclose those limiting conditions in any advertisement.*

3. *Phrases such as “this policy pays \$1,800 for hospital room and board expenses” may not be used without indicating the maximum daily benefit and maximum time limit for hospital room and board expenses.*

4. *Any reference to a dollar amount, period of time for which any benefit is payable, cost of policy or specific policy benefits must also disclose the exceptions, reductions and limitations on those benefits and the effect that a pre-existing condition has on them. If a pre-existing condition impacts benefits under the policy, phrases such as “no medical examination required” and other words that imply that the insured’s physical condition or medical history will not impact the policy or benefits are prohibited.*

5. *Any testimonials must be genuine, represent the current opinion of the author, relate to the policy advertised and be accurately reproduced.*

6. *The advertisement must not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely discourage competitors, their policies, services or business methods.*

7. *The identity of the insurer shall be made clear.*

R20-6-201(A)-(Q). Advertisements of Disability Insurance

A. Definitions

1. "An advertisement" for the purpose of these rules shall include:

a. Printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, billboards and similar displays[.]

B. Advertisements in general. Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used.

C. Advertisements of benefits payable, losses covered or premiums payable

1. Deceptive words, phrases or illustrations -- Words, phrases or illustrations shall not be used in a manner which misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered or premium payable. An advertisement relating to any policy benefit payable, loss covered or premium payable shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to deceive.

a. Explanation:

i. The words and phrases "all", "full", "complete", "comprehensive", "unlimited", "up to", "as high as", "this policy will pay your hospital and surgical bills" or "this policy will replace your income", or similar words and phrases shall not be used so as to exaggerate any benefit beyond the terms of the policy but may be used only in such manner as fairly to describe such benefit.

ii. A policy covering only one disease or a list of specified diseases shall not be advertised so as to imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

iii. The benefits of a policy which pays varying amounts for the same loss occurring under different conditions or which pays benefits only when a loss occurs under certain conditions shall not be advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

iv. Phrases such as "this policy pays \$1,800 for hospital room and board expenses" are incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

2. Exceptions, reductions and limitations -- When an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy

without which the advertisement would have the capacity and tendency to mislead or deceive.

a. Explanation:

i. The term "exception" 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.

ii. The term "reduction" shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

iii. The term "limitation" shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

iv. Waiting, elimination, probationary or similar periods -- When a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement covered by (C)(2) shall disclose the existence of such periods.

3. Pre-existing conditions

a. An advertisement covered by (C)(2) shall disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy.

b. When a policy does not cover losses traceable to preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This limits the use of the phrase "no medical examination required" and phrases of similar import.

D. Necessity for disclosing policy provisions relating to renewability, cancellability and termination -- An advertisement which refers to renewability, cancellation or termination of a policy, or which states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

E. Method of disclosure of required information -- All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

F. Testimonials -- Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement including such statements is subject to all of the provisions of these rules.

G. Use of statistics -- An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact.

H. Inspection of policy -- An offer in an advertisement of free inspection of a policy or offer of a premium refund is not a cure for misleading or deceptive statements contained in such advertisement.

I. Identification of plan or number of policies

1. When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

2. When an advertisement refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.

J. Disparaging comparisons and statements -- An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services or business methods.

K. Jurisdictional licensing

1. An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

2. Such advertisements by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of some language such as "This Company is licensed only in State A" or "This Company is not licensed in State B".

L. Identity of insurer -- The identity of the insurer shall be made clear in all of its advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol or other device which has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

M. Group or quasi-group implications -- An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges, unless such is the fact.

N. Introductory, initial or special offers -- An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages by accepting the offer, unless such is the fact.

O. Approval or endorsement by third parties

1. An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless such is the fact.

2. An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact.

P. Service facilities -- An advertisement shall not contain untrue statements with respect to the time within which claims are paid or statements which imply that claim settlements will be liberal or generous beyond the terms of the policy.

Q. Statements about an insurer -- An advertisement shall not contain statements which are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age or relative position in the insurance business.

HEALTHCARE GROUP PLANS

Arizona's administrative regulations addressing the marketing of healthcare group plans, which were referenced in the 1999 edition of this publication, have been repealed.

LIFE INSURANCE

No advertisement for life insurance may use the words "investment," "investment plan," "founders plan," "charter plan," "expansion plan," "profit," "profits" or "profit sharing" to mislead a purchaser to believe he or she will receive something other than a life insurance policy. Such advertisements also may be unlawfully misleading if they use any phrase in the name or title of the life insurance policy that does not include the words "life insurance," unless the company by other language clearly indicates that the contract is a life insurance policy.

Advertisements must not:

- 1. Make any statement related to the growth or earnings of the life insurance industry or the tax status of life insurance companies that would suggest the sale of shares of stock in the insurance company rather than the purchase of a policy.*
- 2. State that each stockholder is given the right to purchase or allocate a specific number of insurance policies.*
- 3. Suggest that future dividends are guaranteed, including using the words "dividend," "cash dividend," "surplus" or similar phrases to imply that payment of dividends is certain to occur.*
- 4. State that a purchaser will share in a portion of the earnings of the company.*
- 5. Make any statement or implication with regard to the insurance policy that cannot be verified by reference to the policy itself or the company's materials regarding that policy.*
- 6. Make any statement that a company makes a profit as a result of policy lapses or surrenders.*
- 7. Make comparisons to the past experience of other life insurance companies as a means of projecting possible experience for the company issuing the life insurance policy.*
- 8. State that some policyholders act as "centers of influence" and will share in the company's surplus earnings in a manner not available to all policyholders.*

R20-6-202(D). Advertising, Solicitation, and Transaction of Life Insurance

D. Prohibited acts and practices

1. References to profits and investments -- In accordance with the authority, applicability and policy set out in subsections (A) through (C) above, the following is declared to be a violation of this rule: The use of the word or words "investment", "investment plan", "founders plan", "charter plan", "expansion plan", "profit", "profits", or "profit sharing" in a context or under such circumstances or conditions as to have the capacity and tendency to mislead a purchaser or prospective purchaser to believe that he will receive something other than a life insurance policy, some benefit not provided in the policy, or some benefit not available to other persons of the same class and equal expectation of life. This is not intended to prohibit appropriate presentation of the investment elements of a life insurance policy.

2. Other limitations -- In accordance with subsections (A) through (C) above, the acts and practices set out in the following paragraphs are declared to be a violation of this rule in the sale of life insurance when used in a context or done under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser to believe that he will receive, or that it is probable he will receive, something other than a life insurance policy, some benefit not provided in the policy, or some benefit not available to other persons of the same class and equal expectation of life. Each of said paragraphs will, therefore, be construed and applied in accordance with the provisions of this Section.

a. Using any phrase as the name or title of a life insurance policy which does not include the words "life insurance", unless accompanied by other language in the same document clearly indicating that the contract referred to is a life insurance policy.

b. Making any statement relating to the growth or earnings of the life insurance industry or to the tax status of life insurance companies in a context which would reasonably be understood to interest a prospect in the purchase of shares of stock in the insurance company rather than in the purchase of a life insurance policy.

c. Making any statement which reasonably gives rise to the belief that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by virtue of the purchase of the policy, unless such statement is made with reference to policies of domestic life insurers engaged in a program as set forth in the provisions of A.R.S. § 20-453.

d. Providing a policyholder with any premium receipt book, policy jacket, return envelope, or other printed material containing references to the company's "investment department", "insured investment department", or similar terminology in such a manner as to imply that the policy is sold or issued or is serviced by the investment department of an insurance company.

3. Referenced to special benefits

a. Making any statement which reasonably tends to imply that, by purchasing a policy, the purchaser or prospective purchaser will become a member of a limited group of persons who may receive the payment of dividends, special advantages, benefits, or favored treatment unless such is specifically provided in the insurance contract. This paragraph has no relation or applicability to policies under which insured persons of one class of risk may receive dividends of a higher rate than persons of another class of risk.

b. Stating that each stockholder is given the right to purchase or allocate a specific number of policies.

c. Stating or implying that only a limited number of persons or limited class of persons will be eligible to buy a particular kind of policy, unless such limitation is related to recognized underwriting practices, or unless such limitation is specifically stated in the policy or rider therefore.

d. Stating that the policyholders who are to act as "centers of influence" for an insurance company in that capacity will share in the company's surplus earnings in some manner not available to other policyholders of the same class.

...

5. References to dividends

a. Providing any illustration or projection of future dividends which is not based on the actual scale being used by the company for the payment of current dividends. Furthermore, such projection or illustration must clearly indicate that the dividends are not guarantees.

b. Using the words "dividends", "cash dividends", "surplus", or similar phrases in such a manner as to state or imply that the payment of dividends is guaranteed or certain to occur.

c. Stating, without qualification, that a purchaser of a policy will share in a stated percentage or portion of the earnings of the company.

d. Making any statement that projected dividends under a participating policy will be or can be sufficient at any future time to assure the receipt of benefits such as a paid-up policy without further payment of premiums unless the statement is accompanied by an adequate explanation as to:

i. What benefits or coverage would be provided at such time; and

ii. Under which conditions this would occur.

6. Miscellaneous

a. Describing a life insurance policy or premium payments therefor in terms of "units of participation", unless accompanied by other language clearly indicating the references are to a life insurance policy or to premium payments, as the case may be.

b. Using the words "contract", "contract plan", or "plan" in describing a life insurance policy, unless accompanied by other language in the same document clearly indicating the reference is to a life insurance policy.

c. Including in sales kits and prepared sales presentations proposed answers to a prospect's question as to whether life insurance is being sold, which are designed to avoid a clear and unequivocal statement that LIFE INSURANCE IS THE SUBJECT MATTER OF THE SOLICITATION.

d. Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without making an explanation of the non-forfeiture benefits.

e. Using a dollar amount in printed material to be shown to a prospective policyholder unless accompanied by language in such material indicating the nature of the figure. (This is intended to prohibit the use of dollar figures not in relation to guaranteed values and properly projected dividend figures. It is intended to prohibit the use of figures showing growth of stock values, or other values not a part of the life insurance contract.)

f. Stating that a policy provides certain features which are not found in any other insurance policies, unless that in fact be true.

g. The making of any statement or implication in regard to an insurance policy that cannot be verified by reference to the policy contract itself, or a specimen copy of the policy being described, or to the company's officially published rate book and dividend illustrations.

h. Stating that life insurance is "loss proof" or "depression proof", but this shall not prohibit statements that life insurance benefits (other than dividends) are guaranteed by the company regardless of economic conditions.

i. Making any statement that a company makes a profit as a result of policy lapses or surrenders.

j. Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience of your company. This is intended to protect policyholders from being misled through presentations as to the probabilities of the policy being sold having the same results as that of other companies which successfully sold similar policies, without a fair disclosure of the fact that many companies have had unfavorable experience.

PREPAID DENTAL PLANS

Arizona's statute addressing advertisements for prepaid dental plans, which was referenced in the 1999 edition of this publication, has been repealed.

VARIABLE INSURANCE POLICIES

Arizona's administrative regulation addressing advertisements for variable life insurance policies, which was referenced in the 1999 edition of this publication, has been repealed.

OBSCENE MATERIAL

No advertisement available to minors may depict nudity or sexual activity if, according to contemporary Arizona standards with regard to what is suitable for minors, it appeals to

the prurient interest, portrays the subject matter in a patently offensive way and, taken as a whole, does not have serious literary, artistic, political or scientific value for minors.

§ 13-3501. Definitions

In this chapter, unless the context otherwise requires:

1. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual activity, sexual conduct, sexual excitement, or sadomasochistic abuse, when both:

(a) To the average adult applying contemporary state standards with respect to what is suitable for minors, it both:

(i) Appeals to the prurient interest, when taken as a whole. In order for an item as a whole to be found or intended to have an appeal to the prurient interest, it is not necessary that the item be successful in arousing or exciting any particular form of prurient interest either in the hypothetical average person, in a member of its intended and probable recipient group or in the trier of fact.

(ii) Portrays the description or representation in a patently offensive way.

(b) Taken as a whole does not have serious literary, artistic, political, or scientific value for minors.

2. "Item" means any material or performance which depicts or describes sexual activity and includes any book, leaflet, pamphlet, magazine, booklet, picture, drawing, photograph, film, negative, slide, motion picture, figure, object, article, novelty device, recording, transcription, live or recorded telephone message or other similar items whether tangible or intangible and including any performance, exhibition, transmission or dissemination of any of the above. An item also includes a live performance or exhibition which depicts sexual activity to the public or an audience of one or more persons. An item is obscene within the meaning of this chapter when all of the following apply:

(a) The average person, applying contemporary state standards, would find that the item, taken as a whole, appeals to the prurient interest. In order for an item as a whole to be found or intended to have an appeal to the prurient interest, it is not necessary that the item be successful in arousing or exciting any particular form of prurient interest either in the hypothetical average person, in a member of its intended and probable recipient group or in the trier of fact.

(b) The average person, applying contemporary state standards, would find that the item depicts or describes, in a patently offensive way, sexual activity as that term is described in this section.

(c) The item, taken as a whole, lacks serious literary, artistic, political or scientific value.

3. "Knowledge of the character" means having general knowledge or awareness, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of that which is reasonably susceptible to examination by the defendant both:

(a) That the item contains, depicts or describes nudity, sexual activity, sexual conduct, sexual excitement or sadomasochistic abuse, whichever is applicable, whether or not there is actual knowledge of the specific contents thereof. This knowledge can be proven by direct or circumstantial evidence, or both.

(b) If relevant to a prosecution for violating § 13-3506, 13-3506.01 or 13-3507, the age of the minor, provided that an honest mistake shall constitute an excuse

from liability under this chapter if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

4. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

5. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed, for the purpose or in the context of sexual gratification or abuse.

6. "Sexual activity" means:

(a) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.

(b) Patently offensive representations or descriptions of masturbation, excretory functions, sadomasochistic abuse and lewd exhibition of the genitals.

7. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.

8. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

9. "Ultimate sexual acts" means sexual intercourse, vaginal or anal, fellatio, cunnilingus, bestiality or sodomy. A sexual act is simulated when it depicts explicit sexual activity which gives the appearance of consummation of ultimate sexual acts.

§ 13-3506(A)-(B). Furnishing obscene or harmful items to minors; classification

A. It is unlawful for any person, with knowledge of the character of the item involved, to recklessly furnish, present, provide, make available, give, lend, show, advertise or distribute to minors any item that is harmful to minors.

B. This section does not apply to the transmission or sending of items over the internet.

C. A violation of this section is a class 4 felony.

POLITICAL CAMPAIGNS

(Please see Appendix C, "Arizona and Federal Law Concerning Newspaper Advertising in State, Local, and Federal Elections," for additional information regarding election advertisement rules.)

BALLOT PROPOSITIONS

A political committee that advertises to support or oppose a ballot proposition must disclose in the advertisement the four largest of its major funding sources as of the time the advertisement is printed. If it has less than four major funding sources, it shall disclose all major funding sources. If one of the disclosed major funding sources is located outside of Arizona, the advertisement must identify the source as out-of-state.

The disclosure statement must be printed clearly and legibly in a conspicuous manner in type as least as large as the majority of the printed text. This requirement applies only to advertisements that are more than 50% devoted to one or more ballot propositions or proposed measures on the same subject.

§ 16-912.01(A)-(J). Ballot measure committees; campaign literature and advertising funding; identification; disclosure; civil penalty; definition

A. A political committee that makes an expenditure in connection with any literature or advertisement to support or oppose a ballot proposition shall disclose in such literature or advertisement the four largest of its major funding sources as of the time the literature or advertisement is printed, recorded or otherwise produced for dissemination. If a political committee has fewer than four major funding sources, the committee shall disclose all major funding sources.

B. For purposes of this section, a major funding source of a political committee is any contributor that is not an individual person and that has made cumulative contributions of either:

1. Ten thousand dollars or more for an expenditure in support of or opposition to a statewide ballot proposition or a ballot proposition of a political subdivision with a population of one hundred thousand persons or more.

2. Five thousand dollars or more for an expenditure in support of or opposition to a ballot proposition of a political subdivision with a population of less than one hundred thousand persons.

C. If an out-of-state contributor or group of out-of-state contributors is a major funding source to a political committee disclosed pursuant to subsection A, the political committee shall state the contributor is an out-of-state contributor on its literature or advertisement in support of or in opposition to a ballot proposition.

D. Contributors that make contributions to more than one political committee that supports or opposes the same ballot proposition shall notify each political committee of the cumulative total of these contributions. Cumulative totals must be disclosed by each political committee that received contributions from the same contributor if the cumulative totals qualify as a major funding source to be disclosed pursuant to subsection A.

E. Any disclosure statement required by this section shall be printed clearly and legibly in a conspicuous manner in type at least as large as the majority of the printed text. If the communication is broadcast on radio, the information shall be spoken at the end of the communication. If the communication is broadcast on a telecommunications system, the information shall be both written and spoken at the end of the communication, except that if the disclosure statement is written for at least five seconds of a thirty second advertisement broadcast or ten seconds of a sixty second advertisement broadcast, a spoken disclosure statement is not required. If the communication is broadcast on a telecommunications system, the written disclosure statement shall be printed in letters equal to or larger than four per cent of the vertical picture height.

F. Subsection A does not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A cannot be conveniently printed or to a communication by an organization solely to its members.

G. A committee shall change future literature and advertisements to reflect any change in funding sources that must be disclosed pursuant to subsection A.

H. This section only applies to advertisements the contents of which are more than fifty per cent devoted to one or more ballot propositions or proposed measures on the same subject.

I. Any committee that violates this section is liable in a civil action brought by the attorney general, county attorney or city or town attorney, as appropriate, or by any other person for a civil penalty of three times the total cost of the advertisement. A donor who does not accurately disclose its contributions is liable for a civil penalty of three times the amount donated.

J. For purposes of this section "advertisement" means general public advertising through the print and electronic media, signs, billboards and direct mail.

CANDIDATE ADVERTISEMENTS

Any advertisement by a candidate or political committee that advocates the election or defeat of any candidate or solicits contributions to a political committee shall state that it was paid for by the candidate or the candidate's campaign committee, if that statement is accurate, or shall state the name of the political committee that paid for the advertisement, identify the chairman of the political committee and provide a telephone number for that individual.

If the literature or advertisement is not authorized by any candidate or candidate's campaign, the advertisement shall so state. If the advertisement is an independent expenditure (i.e., an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation or at the request or suggestion of any candidate or committee or agent of the candidate) by a political committee, the advertisement shall also state the names and telephone numbers of the three political committees making the largest contributions to the political committee that paid for the advertisement. If an acronym is used to identify any political committee, the name of any sponsoring organization of the political committee must also be identified.

The required disclosures must be printed clearly and legibly in a conspicuous manner in the advertisement.

§ 16-901. Definitions

In this chapter, unless the context otherwise requires:

...

14. "Independent expenditure" means an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of section 16-917 which requires a copy of campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement. An expenditure is not an independent expenditure if any of the following applies:

(a) Any officer, member, employee or agent of the political committee making the expenditure is also an officer, member, employee or agent of the committee of the candidate whose election or whose opponent's defeat is being advocated by the expenditure or an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure.

(b) There is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure, including any officer, director, employee or agent of that person.

(c) In the same election the person making the expenditure, including any officer, director, employee or agent of that person, is or has been:

(i) Authorized to raise or expend monies on behalf of the candidate or the candidate's authorized committees.

(ii) Receiving any form of compensation or reimbursement from the candidate, the candidate's committees or the candidate's agent.

(d) The expenditure is based on information about the candidate's plans, projects or needs, or those of his campaign committee, provided to the expending person by the candidate or by the candidate's agents or any officer, member or employee of the candidate's campaign committee with a view toward having the expenditure made.

...

19. "Political committee" means a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will become a candidate for election in this state or in any county, city, town, district or precinct in this state, that engages in political activity in behalf of or against a candidate for election or retention or in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number and circulates petitions and, in the case of a candidate for public office except those exempt pursuant to section 16-903, that receives contributions or makes expenditures in connection therewith, notwithstanding that the association or combination of persons may be part of a larger association, combination of persons or sponsoring organization not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state.

§ 16-912(A)-(E). Candidates and independent expenditures; campaign literature and advertisement sponsors; identification; civil penalty

A. A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat of any candidate or that make any solicitation of contributions to any political committee shall be registered pursuant to this chapter at the time of distribution, placement or solicitation and shall include on the literature or advertisement the words "paid for by" followed by the name of the committee that appears on its statement of organization or five hundred dollar exemption statement.

B. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, the political committee, in addition to the disclosures required by subsection A of this section, shall include on the literature or advertisement the names and telephone numbers of the three political committees making the largest contributions to the political committee making the independent expenditure. If an acronym is used to name any political committee outlined in this section, the name of any sponsoring organization of the political committee shall also be printed or spoken. For purposes of determining the three contributors to be disclosed, the contributions of each political committee making the independent expenditure during the one year period before the election being affected are aggregated.

C. The provisions of subsection A of this section do not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A of this section cannot be conveniently printed or to signs paid for by a candidate with campaign monies or by a candidate's campaign committee or to a solicitation of contributions by a separate segregated fund from those persons it may solicit pursuant to §§ 16-920 and 16-921.

D. The disclosures required pursuant to this section shall be printed clearly and legibly in a conspicuous manner or, if the advertisement is broadcast on a telecommunications system, the disclosure shall be spoken.

E. A person who violates this section is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement. This civil penalty shall be imposed as prescribed in § 16-924.

PROFESSIONS

ACCOUNTANTS

No certified public accountant or public accountant shall use a professional or firm name that is misleading about the legal form of the firm, partnership or company. No advertisement may refer to such a company as “& Company,” “& Associates,” or “& Consultants” unless the name also refers to additional full-time certified public accountants that are not otherwise mentioned in the firm name.

R4-1-455.03(B), (D). Professional Conduct: Other Responsibilities and Practices

B. Advertising practices: Certified public accountants, public accountants, or firms have violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising of public accounting services through any media, if those accountants willfully engage in any of the following conduct:

1. Employ any device, scheme, or artifice to defraud;
2. Make any untrue statement of material fact or fail to state any material fact necessary to make the statements made not misleading;
3. Engage in any advertising which would operate as a fraud or deceit;
4. Violate A.R.S. § 44-1522 and a court finds the violation willful;
5. Engage in fraudulent or misleading practices in the advertising of public accounting services which leads to a conviction pursuant to A.R.S. § 44-1481; or
6. Engage in fraudulent practices in the advertising of public accounting services which leads to a conviction for a violation of any other state or federal law.

D. Form of practice and name

...

2. A certified public accountant or public accountant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company", "& Associates", or "& Consultants" unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.

AESTHETICIANS

No person shall advertise as an aesthetician unless licensed to perform that service. The name of the aesthetician's establishment in any advertisement must be the same as the name on the license obtained by that establishment.

§ 32-574(A), (C). Unlawful acts; violation; classification

A. A person shall not:

...

3. Display a sign or in any way advertise or hold oneself out as a cosmetologist, aesthetician or nail technician or as being engaged in the practice or business of cosmetology, aesthetics or nail technology without being licensed pursuant to this chapter.

C. A person who violates this section is guilty of a class 1 misdemeanor.

R4-10-111(A). Display of Licenses and Signs

A. The name on [a cosmetologist's aesthetician's and/or nail technician's] establishment's exterior sign, advertising, or publication shall be the same as the name on the establishment license issued by the Board.

ATTORNEYS

Attorney advertising is governed principally by the Arizona Rules of Professional Conduct, which delineate lawyers' ethical duties. Under those rules, all advertisements concerning a lawyer's services shall be predominately informational, meaning that, in quantity and quality, the advertisement primarily provides factual information related to the need for and selection of an attorney. Such advertisements must include the name and office address of at least one lawyer or law firm responsible for its content.

Advertisements and written solicitations indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall disclose that the client will be liable for expenses regardless of outcome unless the repayment of such is contingent upon the outcome of the matter and whether the percentage fee will be computed before expenses are deducted from the recovery.

A range of fees or hourly rates for services may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the total fee within the range which will be charged or the total hours to be devoted will vary depending upon that particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged.

Fixed fees for specific routine legal services, the description of which would not be misunderstood or deceptive, may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the quoted fee will be available only to clients whose matters fall within the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged.

Advertisement on electronic media may contain the same information as permitted in advertisement in the print media. If a law firm advertises on electronic media and a person appears purporting to be a lawyer, such person shall in fact be a lawyer employed full-time at the advertising law firm. If a law firm advertises a particular legal service on electronic media, and a lawyer appears as the person purporting to render the service, the lawyer appearing shall be the lawyer who will actually perform the service advertised

unless the advertisement discloses that the service may be performed by other lawyers in the firm.

Communications authorized above must be “clear and conspicuous” – of such size, color, contrast, location, duration, cadence, and audibility that an ordinary person can readily notice, read, hear, and understand it.

ER 7.1. Communications Concerning a Lawyer's Services

A lawyer shall not make false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

ER 7.2. Advertising

(a) Subject to the requirements of ERs 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority; and

(3) pay for a law practice in accordance with ER 1.17.

(c) Any communication made pursuant to this Rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

(d) Every advertisement (including advertisement by written solicitation) that contains information about the lawyer's fees shall be subject to the following requirements:

(1) advertisements and written solicitations indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall disclose (A) that the client will be liable for expenses regardless of outcome unless the repayment of such is contingent upon the outcome of the matter and (B) whether the percentage fee will be computed before expenses are deducted from the recovery;

(2) range of fees or hourly rates for services may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the total fee within the range which will be charged or the total hours to be devoted will vary depending upon that particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged;

(3) fixed fees for specific routine legal services, the description of which would not be misunderstood or be deceptive, may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the quoted fee will be available only to clients whose matters fall within the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged;

(4) a lawyer who advertises a specific fee, range of fees or hourly rate for a particular service shall honor the advertised fee, or range of fees, for at least ninety (90) days unless the advertisement specifies a shorter period; provided, for advertisements in the yellow pages of telephone directories or other media not published more frequently

than annually, the advertised fee or range of fees shall be honored for no less than one year following publication.

(e) Advertisements on the electronic media may contain the same information as permitted in advertisement in the print media. If a law firm advertises on electronic media and a person appears purporting to be a lawyer, such person shall in fact be a lawyer employed full-time at the advertising law firm. If a law firm advertises a particular legal service on electronic media, and a lawyer appears as the person purporting to render the service, the lawyer appearing shall be the lawyer who will actually perform the service advertised unless the advertisement discloses that the service may be performed by other lawyers in the firm.

(f) Communications required by paragraphs (c) and (d) shall be clear and conspicuous. To be "clear and conspicuous" a communication just be of such size, color, contrast, location, duration, cadence, and audibility that an ordinary person can readily notice, read, hear, and understand it.

ER 7.4(a)-(c). Communication of Fields of Practice

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is a specialist except as follows:

(1) a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "patent attorney" or a substantially similar designation;

(2) a lawyer engaged in admiralty practice may use the designation "admiralty," "proctor in admiralty" or a substantially similar designation; and

(3) a lawyer certified by the Arizona Board of Legal Specialization or by a national entity that has standards for certification substantially the same as those established by the board may state the area or areas of specialization in which the lawyer is certified. Prior to stating that the lawyer is a specialist certified by a national entity, the entity must be recognized by the board as having standards for certification substantially the same as those established by the board. If the national entity has not been recognized by the board, it may make application for recognition by completing an application form provided by the board.

AUDIOLOGISTS

Audiologists may not:

1. *Advertise for sale a particular model or kind of product when purchasers responding to the advertisement cannot purchase that product or are dissuaded from purchasing the advertised product, if the purpose of the advertisement is to obtain prospects for the sale of a different type of product.*

2. *Quote prices of competitive products without disclosing that those prices are not current.*

3. *Show, demonstrate or represent competitive models as being current models when they are not.*

4. *Defame competitors with false allegations of dishonorable conduct, inability to perform contracts, questionable credit standing or other matters.*

5. *Disparage the products or business methods, selling prices, values, credit terms, policies or services of competitors.*

6. *Advertise his or her services unless he or she is currently licensed to perform those services.*

§ 36-1901. Definitions

In this chapter, unless the context otherwise requires:

...

20. "Unprofessional conduct" means:

...

(d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind where the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.

...

(f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.

...

(i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.

§ 36-1907(A). Practicing without a license; prohibition

A. A person shall not engage in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology or display a sign or in any other way advertise or claim to be a hearing aid dispenser, an audiologist or a speech-language pathologist unless the person holds a current, unsuspended, unrevoked [hearing aid dispenser] license issued by the director as provided in this chapter.

BARBERS

Barbers may not advertise under any trade name other than the one under which they are licensed to operate.

§ 32-353. Grounds for refusal to issue or renew a license or disciplinary action

The board [of barbers] may take disciplinary action or refuse to issue or renew a license for any of the following causes:

4. Advertising, practicing or attempting to practice under a trade name other than the one in which the license is issued.

CHIROPRACTORS

Chiropractors may not advertise services, appliances, tests, equipment, x-ray examinations or other procedures for a specified price without also identifying the services, procedures or items included in the price. Advertisements also must not offer items for “free” without disclosing what items are included. Finally, chiropractors must not advertise a specialty or procedure that requires a separate examination or a certificate of specialty unless those requirements are met.

§ 32-924(A)-(B). Grounds for sanction; hearing; definition

A. The following are grounds for disciplinary action, regardless of where they occur:

...

13. Advertising in a false, deceptive or misleading manner.

...

24. Advertising chiropractic services, appliances, tests, equipment, x-ray examinations or other procedures for a specified price without also specifying the services, procedures or items included in the advertised price.

25. Advertising chiropractic services, appliances, tests, equipment, x-ray examinations or other procedures as free without also disclosing what services or items are included in the advertised service or item.

...

27. Advertising a specialty or procedure that requires a separate examination or certificate of specialty, unless the licensee has satisfied the applicable requirements of this chapter.

COLLECTION AGENTS

No collection agency may advertise its services unless it is properly licensed and must not in any way convey the impression that it is “vouched for” or is an instrumentality of the State of Arizona.

§ 32-1051. Duties of licensees

An individual, firm, partnership, association or corporation to whom a license is to be issued under this chapter shall:

7. Not by the use of any letterhead, advertisement, agreement, form, circular or other printed matter, or otherwise, convey the impression that the individual, firm, partnership, association or corporation is vouched for or is an instrumentality of the state, or a political subdivision of the state, or of the department.

§ 32-1055(A). Unlawful acts

A. It is unlawful for a person to conduct a collection agency in this state without having first applied for and obtained a license under this chapter.

CONTRACTORS AND BUILDERS

No contractor may advertise as a licensed contractor unless he or she is licensed. Any advertisement by a licensed contractor shall include the contractor's license number.

§ 32-1124(A)-(B). Issuance and display of license; suspension

A. Upon receipt by the registrar of the fee required by this chapter and an application furnishing complete information as required by the registrar, the registrar shall notify the applicant within sixty days from the date of the filing of a complete application of the action taken on the application, and if the registrar determines that the applicant is qualified to hold a license in accordance with the provisions of this chapter, the registrar shall issue a license to the applicant permitting the applicant to engage in business as a contractor under the terms of this chapter.

B. [Contractor's and Builder's] Licenses issued under this chapter and any renewals shall be signed by the registrar or the registrar's designated representative and by the licensee. . . . The license number appearing on any licenses held by the licensee shall be preceded by the acronym "ROC" and shall be posted in a conspicuous place on premises where any work is being performed, shall be placed on all written bids submitted by the licensee and shall be placed on all advertising, letterheads and other documents used by the licensee in the conduct of business regulated by this chapter. A violation of this subsection relating to posting and placement of license numbers shall be, at the discretion of the registrar [of contractors], grounds for disciplinary action . . . but not grounds for preventing the award of a contract, voiding an awarded contract, or any other claim or defense against the licensee. For the purposes of this subsection, advertising does not include a trade association directory listing that is distributed solely to the members of the association and not to the general public.

§ 32-1165. Advertising; effect of; classification

[I]t is a class 1 misdemeanor for any person to advertise that he is able to perform any service or contract for compensation subject to regulation by the registrar under the terms of this chapter unless a license under the terms of this chapter is first obtained regardless of whether his operations as a contractor are otherwise exempt.

COSMETOLOGISTS

No person shall advertise as an cosmetologist unless licensed to perform that service. The name of the cosmetologist's establishment in any advertisement must be the same as the name on the license obtained by that establishment.

§ 32-574(A), (C). Unlawful acts; violation; classification

A. A person shall not:

. . .

3. Display a sign or in any way advertise or hold oneself out as a cosmetologist, aesthetician or nail technician or as being engaged in the practice or business of cosmetology, aesthetics or nail technology without being licensed pursuant to this chapter.

C. A person who violates this section is guilty of a class 1 misdemeanor.

R4-10-111(A). Display of Licenses and Signs

A. The name on [a cosmetologist's aesthetician's and/or nail technician's] establishment's exterior sign, advertising, or publication shall be the same as the name on the establishment license issued by the Board.

DENTISTS

Generally

No dentist shall advertise his or her services unless licensed by the State of Arizona. Generally, no dentist may advertise as a specialist except in the areas of endodontics, oral and maxillofacial surgery, orthodontics, and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, dental public health, or oral pathology, and only then if certified as a specialist in that area. A dentist, dental hygienist or denturist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase, "Services provided by an Arizona [licensed general dentist, licensed dental hygienist, or certified denturist]."

§ 32-1201. Definitions

In this chapter, unless the context otherwise requires:

...

8. "Dentistry," "dentist" and "dental" means the general practice of dentistry and all specialties or restricted practices of dentistry.

9. "Denturist" means a person practicing denture technology pursuant to article 5 of this chapter.

§ 32-1261. Practicing without license; classification

Except as otherwise provided a person is guilty of a class 6 felony who, without a valid [dentistry] license as prescribed by this chapter:

1. Practices dentistry or any branch thereof.
2. In any manner or by any means, direct or indirect, advertises, represents or holds himself out as engaged or ready and willing to forthwith engage in such practice.
3. Manages, maintains or carries on, in any capacity or by any arrangement, a practice, business, office or institution for the practice of dentistry, or which is advertised, represented or held out to the public as such.

R4-11-1101 Advertising

A dentist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase "services provided by an Arizona licensed general dentist." A dental hygienist may advertise specific dental hygiene services only if the advertisement includes the phrase "services provided by an Arizona licensed dental hygienist." A denturist may advertise specific denture services only if the advertisement includes the phrase "services provided by an Arizona certified denturist."

Denturists

Any advertisement by a denturist must include the name of the dentist responsible for overseeing that denturist.

§ 32-1294(G). Supervision by dentist; definitions; mouth preparation by dentist; liability; business association

G. Any sign, advertisement or other notice displaying the name of the [denturists] office must include the name of the responsible dentist.

FUNERAL DIRECTORS AND EMBALMERS

No person may advertise the services of a funeral director, embalmer or crematory without being properly licensed. In addition, it is unlawful for any funeral establishment or funeral director to advertise under any name that sufficiently resembles the name of another licensed funeral establishment or director as to cause confusion or misunderstanding.

§ 32-1321(A). License or registration requirement; persons not required to be licensed or registered; nontransferability; display

A. A person shall not advertise or engage in funeral directing or embalming without having a valid license or registration issued by the board [of funeral directors and embalmers].

§ 32-1363(B). Use of funeral director title; unlawful use

B. It is unlawful for a person who is not licensed as a funeral director under article 2 of this chapter to practice funeral directing or to advertise in a manner or assume any title that would imply that the person is engaged in the business of funeral directing.

§ 32-1365(A). Violations; classification

A. It is unlawful:

...

7. For any funeral establishment or funeral director to advertise under any name that tends to mislead the public or that sufficiently resembles the professional or business name of another licensed funeral director or establishment as to cause confusion or misunderstanding.

§ 32-1381. License requirement

A person shall not advertise or operate for compensation a funeral establishment without first obtaining a funeral establishment license or an interim permit issued by the board.

§ 32-1393(A). License requirement

A. A person shall not advertise or operate a crematory, unless the person has received a certificate of authority from the state real estate department, without first obtaining a crematory license issued by the board.

R4-12-621(G)-(H). Cremation requirements; prohibited practices

G. A funeral establishment shall not advertise as a crematory unless the funeral establishment is a registered crematory authority.

H. Any funeral establishment may offer and advertise cremation services.

HEARING AID DISPENSERS

Hearing aid dispensers may not:

1. *Advertise for sale a particular model or kind of product when purchasers responding to the advertisement cannot purchase that product or are dissuaded from purchasing the advertised product, if the purpose of the advertisement is to obtain prospects for the sale of a different type of product.*
2. *Quote prices of competitive products without disclosing that those prices are not current.*
3. *Show, demonstrate or represent competitive models as being current models when they are not.*
4. *Defame competitors with false allegations of dishonorable conduct, inability to perform contracts, questionable credit standing or other matters.*
5. *Disparage the products or business methods, selling prices, values, credit terms, policies or services of competitors.*
6. *Advertise his or her services unless he or she is currently licensed to perform those services.*

§ 36-1901. Definitions

In this chapter, unless the context otherwise requires:

...

20. "Unprofessional conduct" means:

...

(d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind where the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.

...

(f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.

...

(i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.

§ 36-1907(A). Practicing without a license; prohibition

A. A person shall not engage in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology or display a sign or in any other way advertise or claim to be a hearing aid dispenser, an audiologist or a speech-language pathologist unless the person holds a current, unsuspended, unrevoked [hearing aid dispenser] license issued by the director as provided in this chapter.

HOMEOPATHIC DOCTORS

Advertising by a homeopathic doctor must not use the designations "M.D." or "D.O." to indicate that the homeopathic doctor is so licensed if it is not true.

§ 32-2901. Definitions

In this chapter, unless the context otherwise requires:

...

11. "Homeopathy" means a system of medicine that employs homeopathic medication in accordance with the principle that a substance that produces symptoms in a healthy person can cure those symptoms in an ill person.

§ 32-2933. Definition of unprofessional conduct

"Unprofessional conduct" [by a homeopathic doctor] includes the following acts, whether occurring in this state or elsewhere:

...

29. Use of the designation "M.D." or "D.O." in a way that would lead the public to believe that a person is licensed by the Arizona medical board or the board of osteopathic examiners in medicine and surgery in this state if this is not the case.

JUDGES

A judge shall not advertise his or her availability to perform wedding ceremonies.

Canon 4(J). A Judge Shall So Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict With Judicial Obligations

J. Wedding Ceremonies.

(1) The performance of wedding ceremonies by a judge is a discretionary function rather than a mandatory function of the court.

(2) A judge shall not interrupt or delay any regularly scheduled or pending court proceeding in order to perform a wedding ceremony.

(3) A judge shall not advertise his or her availability for performing wedding ceremonies.

(4) A judge shall not charge or accept a fee, honorarium, gratuity or contribution for performing a wedding ceremony during court hours.

(5) A judge may charge a reasonable fee or honorarium to perform a wedding ceremony during non-court hours, whether the ceremony is performed in the court or away from the court.

MEDICAL ASSISTANTS

No licensed physician assistant may advertise by using the term "doctor" or the abbreviation "Dr." in a way that implies that the physician assistant is a licensed physician in Arizona.

§ 32-2501. Definitions

In this chapter, unless the context otherwise requires:

...

12. "Physician assistant" means a person who is licensed pursuant to this chapter and who performs health care tasks pursuant to a dependent relationship with a physician.

...

18. "Unprofessional conduct" includes the following acts by a physician assistant that occur in this state or elsewhere:

...

(z) Using the term "doctor" or the abbreviation "Dr." on a name tag or in a way that leads the public to believe that the physician assistant is licensed to practice as an allopathic or an osteopathic physician in this state.

MIDWIVES

No person may advertise as a midwife without being licensed by the State.

§ 36-752(A). Licensure; exceptions

A. Except as provided in subsection B of this section, no person may act as a midwife without being licensed pursuant to this article.

NAIL TECHNICIANS

No person shall advertise as a nail technician unless licensed to perform that service. The name of the nail technician's establishment in any advertisement must be the same as the name on the license obtained by that establishment.

§ 32-574(A), (C). Unlawful acts; violation; classification

A. A person shall not:

...

3. Display a sign or in any way advertise or hold oneself out as a cosmetologist, aesthetician or nail technician or as being engaged in the practice or business of cosmetology, aesthetics or nail technology without being licensed pursuant to this chapter.

C. A person who violates this section is guilty of a class 1 misdemeanor.

R4-10-111(A). Display of Licenses and Signs

A. The name on [a cosmetologist's aesthetician's and/or nail technician's] establishment's exterior sign, advertising, or publication shall be the same as the name on the establishment license issued by the Board.

NOTARIES PUBLIC

Non-attorney notaries public who advertise, beyond a single desk plaque, in a language other than English must include with the advertisement, in a conspicuous size, the statement, in English and the other language: "I am not an attorney and cannot give legal advice about immigration or other legal matters."

§ 41-329(A). Notary public title; foreign language; violation; classification

A. Every notary public who is not an attorney who advertises, by any written or verbal means, the services of a notary public in a language other than English, with the exception of a single desk plaque, shall post or otherwise include with the advertisement a notice in English and the other language. The notice shall be of conspicuous size, if in writing, and shall state: "I am not an attorney and cannot give legal advice about immigration or other legal matters."

OPTICIANS

No dispensing optician who dispenses eyeglass lenses, contact lenses, frames, artificial eyes or optical devices pursuant to a written prescription from a licensed physician or optometrist may provide any examination or treatment of the eye or advertise eye examinations without the disclaimer "by independent doctor of optometry," "by independent doctor of ophthalmology" or "by independent physician licensed pursuant to title 32, chapter 13 or 17, Arizona Revised Statutes." Dispensing opticians also must not make any advertising statement indicating superiority of a particular system or type of eyesight examination or treatment over that provided by other licensed practitioners.

§ 32-1671. Definitions

In this chapter, unless the context otherwise requires:

...

3. "Dispensing optician" means any person, except as provided in § 32-1691, who dispenses lenses, contact lenses, frames, artificial eyes, optical devices, appurtenances thereto or parts thereof to the intended wearer on written prescription from a duly licensed physician or optometrist, and in accordance with such prescription interprets, measures, adapts, fits or adjusts the same for the aid or correction of visual or ocular anomalies of the human eye or who duplicates, replaces, reproduces or repeats the same without prescription when there is no change in refractive value, provided that contact lenses shall never be dispensed without a written contact lens prescription being on file in any optical establishment, office of an optometrist or office of a physician or verbal confirmation of that written prescription. The dispensing optician shall advise the intended wearer at the time that contact lenses are delivered to return to the prescribing physician or optometrist for evaluation and follow-up care.

§ 32-1696(A). Unlawful acts; grounds for disciplinary action; classification

A. It is unlawful [for a dispensing optician] to:

...

5. Provide any examination or treatment of the eye or advertise eye examinations without the disclaimer “by independent doctor of optometry”, “by independent doctor of ophthalmology” or “by independent physician licensed pursuant to title 32, chapter 13 or 17, Arizona Revised Statutes.”

...

7. Make use of any advertising statement of a character tending to indicate to the public superiority of any particular system or type of eyesight examination or treatment over that provided by other licensed ocular practitioners.

OPTOMETRISTS

Optometrists

An optometrist may advertise as a specialist only if certified by the American Academy of Optometry as a diplomat in that specialty or a fellow in the College of Optometrists in Vision Development. An advertisement offering optometric goods or services shall indicate, within the advertisement, if the spectacle lenses or contact lenses are single vision, multi-focal, or other; whether the price includes the frame and lenses for spectacles; whether the price includes an eye examination; whether the price for contact lenses includes all dispensing fees, follow up care, a contact lens accessory kit and the specific features of that kit; if delivery time is advertised, whether restrictions are imposed upon delivery; the applicable refund policy if refunds are advertised; and a statement that other restrictions apply, if applicable.

R4-21-302(B)-(C). False Advertising

B. A licensee shall only advertise as a specialist if the licensee has been certified by the American Academy of Optometry as a diplomate in that specialty or as a fellow in the College of Optometrists in Vision Development. A licensee may advertise that the optometrist has a practice limited in some way, if the licensee does not use the term “specialist” or any derivative of that term.

C. A licensee shall have knowledge of and be professionally responsible for the contents of any advertisement or directory that includes the name and address of the licensee.

R4-21-303(A). Affirmative Disclosures in Advertising and Practice; Warranties, Service, or Ophthalmic Goods Replacement Agreements

A. An advertisement for or by a licensee offering optometric goods or services shall clearly indicate within the advertisement:

1. Spectacle lenses or contact lenses whether they are single vision, multifocal, or other;
2. Whether the price includes the frame and lenses for spectacles;
3. Whether the price includes an eye examination;
4. Whether the price for contact lenses includes all dispensing fees, follow-up care, a contact lens accessory kit, and, if an accessory kit is included, the specific features of the kit;

5. Whether restrictions are imposed upon delivery, if delivery time is advertised;
6. The applicable refund policy if refunds are advertised; and
7. If applicable, a statement that other restrictions apply.

Qualified Out-of-State Contact Lens Dispensers

Any advertisement by an out-of-state person licensed to dispense replacement contact lenses in Arizona must include all fees, charges and costs associated with such a purchase.

§ 32-1774(E). Dispensing replacement soft contact lenses by qualified dispensers; prescriptions; filling

E. Any advertisement by [an out-of-state person licensed to dispense replacement contact lenses in Arizona] for replacement soft contact lenses shall include all fees, charges and costs associated with the purchase of replacement soft contact lenses from the [person].

PAWNBROKERS

No person may advertise as a “pawn shop” or “pawnbroker” or use the word “pawn” unless properly licensed by the State.

§ 44-1627(J). Licensing; requirements

J. A person shall not use the word “pawn”, “pawnshop” or “pawnbroker” in its business name, on any sign or in any advertisement unless the person is licensed as a pawnbroker pursuant to this article.

PEST CONTROL AGENTS

Advertisements by all pest control agents shall prominently display the name of the business as registered with the State.

R4-29-207(B). Display and Use of License Name and Number

B. A [structural pest control agent] licensee shall do business under the name in which the license was issued. In addition to the actual name of the licensed business, a company may use slogans, marks and other names in its business. However, the actual name as registered with the Commission shall be prominently displayed on all written material used in the business and on all advertising, whether written or oral.

R4-29-209(C). Branch Office

C. All oral and written representations relating to any branch office [of a Structural Pest Control Licensee] shall prominently bear the registered business name. Representations shall include, but not be limited to, service vehicle markings, statements, receipts, inspection reports, bids, contracts, and written or oral advertisement.

PHARMACISTS

Generally

A pharmacist may not opine in any advertisement that any drug or device meets the requirements of Arizona law. In addition, it is unlawful for any person to advertise a pharmacy without placing a licensed pharmacist in active personal charge at each place of business

§ 32-1965. Prohibited acts

The following acts or the causing of any thereof, in addition to any others so specified in this chapter, are prohibited [for pharmacists]:

...

5. The using, on the labeling of any drug or device, or in any advertisement, relating to such drug or device, of any representation or suggestion that such drug or device complies with the provisions of this chapter.

§ 32-1961(B). Limitation on manufacture and sale of drugs

B. It is unlawful for any person, without placing a pharmacist in active personal charge at each place of business, to:

1. Open, advertise or conduct a pharmacy.

Prescriptions for Soft Contact Lenses

Any advertisement by a pharmacy or pharmacist for replacement soft contact lenses must identify all charges associated with the purchase.

§ 32-1976(D). Dispensing replacement soft contact lenses; prescription

D. Any advertisement by a pharmacy or pharmacist for replacement soft contact lenses shall include all charges associated with the purchase of replacement soft contact lenses from the pharmacy or pharmacist.

PODIATRISTS

No person may advertise a podiatrist's services unless licensed by the State to do so.

§ 32-855(A). Violations; classification; injunctive relief

A. A person is guilty of a class 2 misdemeanor who:

1. Practices or advertises or holds himself out as practicing or entitled to practice podiatry, or who in a sign or advertisement uses the term chiropodist, foot specialist, podiatrist, practapedist or other term or letter indicating or implying that he practices podiatry or foot correction, without having at the time a valid unrevoked license to practice podiatry.

PRIVATE INVESTIGATORS

All advertising by a private investigator shall be done in the business name under which the entity is licensed. In addition, the business name and license number shall appear in all advertisements. No private investigator may state or imply in any advertisement that

he or she is an instrumentality of the federal government, a state or any political subdivision of a state. Accordingly, no private investigator business shall have "United States," "U.S.," "Federal," "State of Arizona," or any other governmental designation in the name of its business.

§ 32-2454. Advertising

All display or broadcast media advertising by a [private investigator] licensee soliciting business shall contain the licensee's name and license number as they appear in the records of the department [of public safety]. The licensee shall not use any advertising that is false, deceptive or misleading.

§ 32-2457(A). Grounds for disciplinary action; emergency summary suspension; judicial review

A. The following constitute grounds for which disciplinary action . . . may be taken against a licensee, or registrant or, if the licensee is other than an individual, against the licensee's qualifying party or any of its associates, directors or managers:

. . .

2. Using any letterhead, advertisement or other printed matter in any manner or representing that the licensee, associate, registrant or employee of the licensee is an instrumentality of the federal government, a state or any political subdivision of a state.

R13-2-12(A), (C). Business and employee names

A. The Department [of Public Safety] shall not grant a license to an agency with a name that includes "United States", "U.S.", "Federal", or "State of Arizona", or a name that associates the business with any other governmental agency or law enforcement agency. The Department shall not grant a license to an individual or partnership that has a name with the word "corporation", "corp.", "incorporated", "Inc.", or "L.L.C." unless corporation papers have been filed with the Corporation Commission. The Department shall not approve a new business name that is similar to a business name of a currently licensed firm.

C. An agency licensee shall do all business and present themselves under the name that is on file with the Department and noted on the license. The licensee shall include its name and license number on all letterhead and business cards, advertising, contracts entered into with clients, and agency correspondence.

PHYSICAL THERAPISTS

Unless licensed as a physical therapist, no person nor business may advertise, bill or otherwise promote a person as being a physical therapist or offering physical therapy services.

§ 32-2042(D). Use of titles; restrictions; violation; classification

D. A person or business entity shall not advertise, bill or otherwise promote a person who is not licensed pursuant to this chapter as being a physical therapist or offering physical therapy services.

REAL ESTATE AGENTS

Advertisements by Real Estate Agents and Brokers

A licensed real estate agent shall not advertise any property in a manner which implies that no agent is involved with the sale, lease or exchange.

Where an advertisement involves a service that requires a licensed real estate agent, the advertisement shall include the name of the employing real estate broker as well as the salesperson. Where the advertisement is for the salesperson's or broker's own property, the words "owner/agent" must be placed in the advertisement. All advertising must include the name in which the employing broker's license is held or the dba name contained on the real estate license.

A salesperson or broker who advertises property that is the subject of another person's real estate employment agreement shall clearly and prominently display the name of the listing broker.

The term "acre" may not be used unless referring to an area of land representing 43,560 square feet.

R4-28-502. Advertising by a licensee

A. A salesperson or broker acting as an agent shall not advertise property in a manner that implies that no salesperson or broker is taking part in the offer for sale, lease, or exchange.

B. Any salesperson or broker advertising the salesperson's or broker's own property for sale, lease, or exchange shall disclose the salesperson's or broker's status as a salesperson or broker, and as the property owner by placing the words "owner/agent" in the advertisement.

C. A salesperson or broker shall ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. A salesperson or broker shall not misrepresent the facts or create misleading impressions.

...

E. A salesperson or broker shall ensure that all advertising identifies in a clear and prominent manner the employing broker's legal name or the dba name contained on the employing broker's license certificate.

F. A licensee who advertises property that is the subject of another person's real estate employment agreement shall display the name of the listing broker in a clear and prominent manner.

G. The designated broker shall supervise all advertising, for real estate, cemetery, or membership camping brokerage services.

H. A licensee shall not use the term "'acre," either alone or modified, unless referring to an area of land representing 43,560 square feet.

...

J. The provisions of subsections (E) and (G) do not apply to advertising that does not refer to specific property.

...

L. The use of an electronic medium, such as the Internet or web site technology, that targets residents of this state with the offering of a property interest or real estate brokerage services pertaining to property located in this state constitutes the dissemination of advertising as defined in A.R.S. § 32-2101(2).

Exemption from Licensing Requirements for Newspapers

Media outlets, including newspapers, are not required to be licensed as real estate agents, even if they publish newspaper sections intended to aid in real estate transactions, if the newspaper does not compile or represent that they compile information about specific purchasers or tenants except general demographic and marketing information. In addition, the newspaper must not make representations to prospective real estate property sellers or landlords or their representatives about specific prospective purchasers or tenants or specific sales or leasing leads. Instead, the advertisements in the newspaper must provide for direct contact between a seller or landlord and the prospective buyers or tenants or for contact through a licensed real estate broker or property management firm. The newspaper shall not act as an intermediary except to provide additional information about advertised properties upon request. Finally, the fee charged by the newspaper for advertising must be based solely upon the advertising services provided.

§ 32-2121(A). Applicability of article; exemption

A. The provisions of this article [requiring that a real estate agent or broker be licensed] do not apply to:

...

11. Communications media or their representatives that are primarily engaged in advertising real estate and that perform no other acts requiring a real estate license, if:

(a) The communications media or their representatives do not, directly or indirectly, compile or represent that they compile information about specific prospective purchasers or tenants, except that general information about prospective purchasers or tenants, such as demographic and marketing information, may be compiled.

(b) The communications media or their representatives do not make representations to prospective real property sellers or landlords, or their representatives, concerning specific prospective purchasers or tenants or specific sales or leasing leads.

(c) The fee charged for advertising is based solely on the advertising services provided.

(d) The advertisements provide for direct contact between the seller or landlord and the prospective buyers or tenants, or for contact through a licensed real estate broker or property management firm. The communications media or their representatives shall not act as intermediaries or assist in any intermediary action between prospective parties to a real estate transaction, except that additional information about advertised properties may be provided to prospects upon request.

Promotions

In an advertisement by a real estate agent or broker for a real estate sales promotion, the terms “award,” “prize” or similar terms may not be used to describe an offered premium. Any item that is offered shall be clearly described, including the terms, costs, conditions, restrictions, and expiration date. Unless otherwise allowed, a person shall not solicit, sell, or offer to sell a development interest by conducting a lottery contest, drawing, or game of chance.

R4-28-503(A)-(C). Promotional activities

- A. A licensee shall not describe a premium offered at no cost or reduced cost to promote sales or leasing as an “award,” or “prize,” or use a similar term.
- B. A licensee shall clearly disclose to a person in writing the terms, costs, conditions, restrictions, and expiration date of an offer of a premium before the person participates in the offer.
- C. Unless otherwise provided by law, a person shall not solicit, sell, or offer to sell an interest in a development by conducting a lottery contest, drawing, or game of chance.

SECURITY GUARDS

All advertising by a security guard shall be done in the business name under which the entity is licensed. In addition, the business name and license number must appear in all advertisements. No security guard may state or imply in any advertisement that he or she is an instrumentality of the federal government, a state or any political subdivision of a state. Accordingly, no security guard business shall have “United States,” “U.S.,” “Federal,” “State of Arizona,” or any other governmental designation in the name of its business.

§ 32-2636(A). Grounds for disciplinary actions; emergency summary suspension; judicial review

- A. The director may suspend or revoke a license or registration certificate issued pursuant to this chapter for one or more of the following acts committed by [a security guard] licensee or registrant, or if the licensee is other than an individual, by its qualifying party or any of its resident officers, directors, partners or managers:
 - 1. Using any letterhead, advertisement or other printed matter to represent, or in any other manner representing, that the licensee, registrant, qualifying party or resident officer, director, partner or manager is an instrumentality of the federal government, or any state or political subdivision thereof.
 - 2. Using a name different from that under which the licensee, registrant, qualifying party or resident officer, director, partner or manager is currently licensed or registered for any advertisement, solicitation or contract to secure business under this chapter.

R13-6-14(A), (E). Use of name

- A. The name of the licensed agency shall not include, "United States", "U.S.", "Federal", "State of Arizona", or any name to associate the business with any other governmental agency or law enforcement agency.

E. The licensed business shall do all business under the name and address which is on file with the Director and which is noted on the license. No letterhead other than the licensed name shall be used on any stationery, any advertising, formal contracts entered into with clients, payroll, and reports to clients.

SPEECH-LANGUAGE PATHOLOGISTS

Speech-Language Pathologists may not:

1. *Advertise for sale a particular model or kind of product when purchasers responding to the advertisement cannot purchase that product or are dissuaded from purchasing the advertised product, if the purpose of the advertisement is to obtain prospects for the sale of a different type of product.*

2. *Quote prices of competitive products without disclosing that those prices are not current.*

3. *Show, demonstrate or represent competitive models as being current models when they are not.*

4. *Defame competitors with false allegations of dishonorable conduct, inability to perform contracts, questionable credit standing or other matters.*

5. *Disparage the products or business methods, selling prices, values, credit terms, policies or services of competitors.*

6. *Advertise his or her services unless he or she is currently licensed to perform those services.*

§ 36-1901. Definitions

In this chapter, unless the context otherwise requires:

...

20. "Unprofessional conduct" means:

...

(d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind where the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.

...

(f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.

- ...
- (i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.

§ 36-1907(A). Practicing without a license; prohibition

A. A person shall not engage in the practice of fitting and dispensing hearing aids, audiology or speech-language pathology or display a sign or in any other way advertise or claim to be a hearing aid dispenser, an audiologist or a speech-language pathologist unless the person holds a current, unsuspended, unrevoked [hearing aid dispenser] license issued by the director as provided in this chapter.

VEHICLE DEALERS

A broker may not offer for sale or exchange any specific motor vehicle. A motor vehicle dealer may offer to sell or exchange a specific vehicle if the vehicle is for sale and located at the dealer's established place of business, if the dealer's advertisement discloses the street address and hours where a consumer may inspect the vehicle, or if the vehicle is available to the dealer directly from the manufacturer or distributor at the time of the advertisement.

A broker or motor vehicle dealer may advertise service in arranging or assisting in effecting the purchase of a new motor vehicle from a new vehicle dealer and may specify the line makes and models of that vehicle.

A broker may not advertise the price or payment terms for any motor vehicle. The advertisement must disclose that the advertiser is a broker and must "clearly and conspicuously" state: "All motor vehicles arranged for sale are subject to price and availability from the selling motor vehicle dealer."

§ 28-4415. Advertising

A. A broker shall not advertise or offer for sale or exchange any specific motor vehicle.

B. A motor vehicle dealer shall not advertise or offer for sale or exchange any specific motor vehicle unless one of the following applies:

1. The motor vehicle is for sale and located at the motor vehicle dealer's established place of business.
2. The motor vehicle dealer discloses in the advertisement the specific street address and business hours where the motor vehicle may be inspected by a retail consumer.
3. The motor vehicle is available to the motor vehicle dealer directly from the manufacturer or distributor of the motor vehicle at the time of the advertisement or offer.

C. A broker or motor vehicle dealer may advertise the broker's or motor vehicle dealer's service of arranging or assisting in effecting the purchase of a new motor vehicle from a new motor vehicle dealer and specify the line makes and models of the new vehicle.

D. A broker may not advertise the price of or payment terms for any motor vehicle. A broker shall disclose that the advertiser is a broker and shall clearly and conspicuously state the following: All motor vehicles arranged for sale are subject to price and availability from the selling motor vehicle dealer.

VETERINARIANS

No person may advertise veterinary services unless properly licensed to do so.

§ 32-2238(A). Violations; classification

A. A person is guilty of a class 1 misdemeanor who:

...

5. Unlawfully assumes or advertises a veterinary title conveying the impression that the person is a lawful practitioner.

PROPERTY

CEMETERIES

Any statement, representation or pictorial presentation of proposed improvements or non-existent scenes at a cemetery must be accompanied by a clear statement that the improvements are proposed and the scenes do not exist. The statute specifically exempts the owner or publisher of a newspaper from liability for an unlawful advertisement if that owner or publisher has no knowledge of the intent, design or purpose of the advertiser.

No cemetery may advertise "perpetual or endowed care" unless a trust fund for care of the cemetery has been established.

§ 32-2194.05(B), (G). Advertising material; contents; order prohibiting use; costs of investigation

B. No advertising, communication or sales literature of any kind, including oral statements by salespersons or other persons, may contain:

1. Any untrue statement of material fact or any omission of material fact which would make the statement misleading in light of the circumstances under which the statement was made.

2. Any statement, representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

...

G. Nothing in this section applies to the owner or publisher of a newspaper, magazine or other publication of printed matter in which such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement if the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2194.25. Trust fund to be established before existing cemetery can advertise as endowed-care cemetery

[N]o owner of a cemetery in existence at the effective date of this article, who previous to such date has not sold or contracted to sell lots in such cemetery with a provision for perpetual or endowed care, shall thereafter advertise or otherwise hold out to the public that such cemetery or any individual lot therein is entitled to perpetual or endowed care unless and until the owner shall have established a trust fund for the care of the cemetery, as provided by this article.

HOUSING

Discrimination on the Basis of Race, Color, Religion, Sex, Disability, Familial Status or National Origin In The Sale Or Rental Of Housing

It is unlawful for any seller to discriminate upon the basis of race, color, religion, sex, disability, familial status or national origin in the sale of residential housing. Discriminatory includes "words, phrases, photographs, illustrations, symbols or forms that suggest that homes are not available to a particular group of persons," expressing a preference or limitation on any purchaser because of their race, color, religion, sex, handicap, familial status, or national origin, selecting media or locations for advertising which deny information to particular segments of the housing market and refusing to publish advertising or demanding different terms for advertising based upon some unlawful factor.

Advertisements may, however, state that housing is available to persons of only one sex and not the other if the housing involves shared living areas. In addition, the statute does not prevent a housing advertisement from stating that a home is wheelchair accessible or making other such comments about accessibility. The statutory prohibitions also do not apply to dwellings that meet the criteria of and are designated as "housing for older persons." Finally, the statute does not prevent advertising aimed at certain segments of the population when done pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination.

Evidence that an advertisement is not discriminatory includes the use of the "Equal Housing Opportunity" symbol, statement or slogan, or a publisher's notice at the beginning of a real estate advertising section that references state or federal law prohibiting discrimination in the sale, rental or financing of homes.

These non-discrimination requirements do not apply to the sale or rental of rooms or units that contain living quarters for no more than four families when the owner maintains and occupies one of those living quarters as his or her residence.

§ 41-1491.15. Publication of sales or rentals

A person may not make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, disability, familial status or national origin or an intention to make such a preference, limitation or discrimination.

§ 41-1491.01. Discrimination due to familial status

In this article, a discriminatory act is committed because of familial status if the act is committed because the person who is the subject of discrimination is:

1. Pregnant.
2. Domiciled with an individual younger than eighteen years of age in regard to whom the person either:
 - (a) Is the parent or legal custodian.
 - (b) Has the written permission of the parent or legal custodian for domicile with that person.
3. In the process of obtaining legal custody of an individual younger than eighteen years of age.

R10-2-112(A)-(G). Discrimination in Advertising

A. The prohibitions in this Section apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards, or any other documents used with respect to the sale or rental of a dwelling.

B. Discriminatory notices, statements, and advertisements include:

1. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, or national origin;
2. Expressing to agents, brokers, employees, prospective sellers or renters, or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status, or national origin of such persons;
3. Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, handicap, familial status, or national origin;
4. Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, or national origin.

C. The Attorney General shall review the following criteria in evaluating complaints alleging discriminatory housing practices involving advertising and in determining whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur:

1. Use of words, phrases, symbols, and forms in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations as set forth at 24 CFR 109.20 (1993), and 24 CFR 109.25 (1993) with no further amendments or additions, and which are on file with the Office of the Secretary of State and at the Offices of the Attorney General, Civil Rights Division;
2. Use of symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status, or national origin;
3. Use of colloquialisms, including words or phrases used regionally or locally, which imply or suggest race, color, religion, sex, handicap, familial status, or national origin;

4. Use of maps or written instructions directing potential purchasers or renters to real estate for sale or rent which imply a discriminatory preference, limitation, or exclusion; and

5. Reference to area (location) description by use of names of facilities that cater to a particular racial, national origin, or religious group, including country club or private school designations, or by names of facilities which are used exclusively by one sex.

D. Nothing in this rule restricts advertisements of dwellings from stating or implying that the housing being advertised is available to persons of only one sex and not the other, where the sharing of living areas is involved, such as dwellings used exclusively for living quarters by educational institutions.

E. Nothing in this rule restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.

F. Nothing in this rule restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute "housing for older persons" as defined in A.R.S. § 41-1491.04.

G. Nothing in this Section shall be construed to restrict advertising efforts designed to attract persons to dwellings who would not ordinarily be expected to apply when such efforts are pursuant to an affirmative marketing program or undertaken to remedy the effects of prior discrimination in connection with the advertising or marketing of dwellings.

R10-2-113. Selective Use of Advertising Media or Content

The selective use of advertising media or content in particular combinations used exclusively for a housing development or site which leads to discriminatory results is a violation of the Act. In determining whether a media advertising campaign is violative of the Fair Housing Act, the Attorney General shall consider the following factors:

1. The use of English media alone or the exclusive use of media catering to the majority population in an area when, in the area, there are also available non-English or other minority media; and

2. The selective use of human models which primarily cater to one racial, sexual, or national origin segment of the population without a complementary advertising campaign that is directed at other groups.

R10-2-114. Fair Housing Policy and Practices

In the investigation of complaints, the Attorney General shall consider the following as evidence of compliance with the prohibitions against discrimination in advertising under the Act.

1. Use of Equal Housing Opportunity logotype, statement, or slogan. All advertising of residential real estate for sale, rent, or financing shall contain an equal housing opportunity logotype, statement, or slogan as a means of educating the home-seeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, or national origin.

2. Use of human models. Human models in photographs, drawings, or other graphic techniques shall not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, or national origin. If models are used in display advertising campaigns, the models shall be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes, and, when appropriate, families with children. Models, if used, shall portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, or national origin, and is not for the exclusive use of one such group;

3. Coverage of local laws. Whether the advertisement includes a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental, or financing of dwellings; and

4. Notification of fair housing policy.

a. Employees. Whether the publisher of the advertisement, the advertising agency, and the firm engaged in the sale, rental, or financing of real estate provided a printed copy of their nondiscrimination policy to each employee and officer.

b. Clients. Whether the publishers of the advertisement and the advertising agency posted a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and have copies available for all firms and persons using its advertising services.

c. Publishers' notice. Whether the publisher published at the beginning of the real estate advertising section a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental, or financing of dwellings.

§ 41-1491.02(A)-(B). Exempt sales and rentals

A. Except as provided in subsection B of this section, §§ 41-1491.14 through 41-1491.21 do not apply to:

1. The sale or rental of a single family house sold or rented by an owner if:

(a) The owner does not:

(i) Own more than three single family houses at any one time.

(ii) Own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single family houses at any one time.

(b) The house was sold or rented without either:

(i) The use of the sales or rental facilities or services of a real estate broker, agent or salesman licensed under title 32, chapter 20 or the use of an employee or agent of a licensed broker, agent or salesman or the facilities or services of the owner of a dwelling designed or intended for occupancy by five or more families.

(ii) The publication, posting or mailing of a notice, statement or advertisement prohibited by § 41-1491.15.

2. The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

B. The exemption in subsection A, paragraph 1 of this section applies to only one sale or rental in a twenty-four month period if the owner was not the most recent resident of the house at the time of the sale or rental.

Mobile Homes

A person may not advertise a mobile home for sale unless it meets the requirements of state law and displays the proper state insignia.

§ 41-2195(D). Violation; classification; penalty

D. A person shall not advertise or offer for sale a mobile home which has been brought into this state unless it meets the standards adopted pursuant to this chapter and displays the proper state insignia.

Prohibition or Restriction Against Children

Generally, a person may not advertise any dwelling for rent and include a restriction against children.

§ 33-303(A). Discrimination by landlord or lessor against tenant with children prohibited; penalty; exceptions

A. A person who knowingly refuses to rent to any other person a place to be used for a dwelling for the reason that the other person has a child or children, or who advertises in connection with the rental a restriction against children, either by the display of a sign, placard, written or printed notice, or by publication thereof in a newspaper of general circulation, is guilty of a petty offense.

§ 33-381. Limitation

This chapter shall apply to all landlord-tenant relationships except for landlord-tenant relationships arising out of the rental of dwelling units which shall be governed by chapter 10 or 11 of this title.

§ 33-1304. Applicability of chapter

This chapter shall apply to the rental of dwelling units. Any conflict between the provisions of chapter 3 and chapter 7 of this title with the provisions of this chapter shall be governed by the provisions of this chapter.

§ 33-1317(A). Discrimination by landlord or lessor against tenant with children prohibited; classification; exceptions; civil remedy; applicability

A. A person who knowingly refuses to rent to any other person a place to be used for a dwelling for the reason that the other person has a child or children, or who advertises in connection with the rental a restriction against children, either by the display of a sign, placard or written or printed notice, or by publication thereof in a newspaper of general circulation, is guilty of a petty offense.

MEMBERSHIP CAMPING CONTRACTS

Advertisements regarding membership camping contracts may not contain any statement or implication that the membership camping contracts are offered without risk or that loss is impossible. Any statement, representation or pictorial presentation of proposed improvements or non-existent scenes must be accompanied by a clear statement that the improvements are proposed and the scenes do not exist. In addition, no campground facility may be advertised in a way that appears to guarantee the unimpeded use of or access to campground properties if a blanket encumbrance exists on the property, unless a non-disturbance or other acceptable agreement has been recorded, filed and accepted by the Arizona Real Estate Department.

The statute specifically exempts the owner or publisher of a newspaper from liability for an unlawful advertisement if that owner or publisher has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2198.10(A)-(E). Advertising plans; disclosures; lotteries and drawings

A. Any advertising, communication or sales literature [regarding membership camping contracts], including oral statements by salespersons or any other person, shall not contain:

...

2. Any statement or representation that the membership camping contracts are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

...

C. This section does not apply to the owner or publisher of a newspaper or magazine or to any other publication of printed matter in which an advertisement appears or to the owner or operator of a radio or television station which disseminates an advertisement if the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

...

E. No campground facility may be advertised or promoted in any way that appears to guarantee the unimpeded use of or access to campground properties, if a blanket encumbrance exists on the properties, unless a nondisturbance or other acceptable agreement has been recorded, filed and accepted by the department pursuant to § 32-2198.14.

§ 32-2198.14(A). Advertising availability of campgrounds to campground members; blanket encumbrances

A. No membership campground may be advertised or promoted in any way that guarantees the unimpeded use of or access to the campground's properties unless the membership camping operator applies for and receives approval by filing information satisfactory to the department guaranteeing that the purchasers of membership camping contracts cannot be denied access to and use of campground properties pursuant to the membership camping contracts. The department may require the applicant to pay for any costs of experts hired by the department to evaluate the application, nondisturbance clause or financial condition of the applicant. No lien or encumbrance may be construed to deny access and use.

REAL ESTATE

Real Estate Developments

If a developer obtains a conditional sales exemption or registers a notice of intent to accept lot reservations with the Real Estate Department, all advertising shall disclose that only reservations or conditional sales contracts will be taken until the Real Estate Commissioner issues its public report.

Only a developer or the developer's authorized representative may file advertising for a development with the Real Estate Department.

Any advertisement of specific properties in a development must include the name of the development as registered with the Arizona Real Estate Department. In addition, any advertisement of a monthly payment, total price or interest rate not available to all prospective purchasers is prohibited unless it is a lack of availability restriction or the restriction is “conspicuously disclosed” in the advertisement.

No advertisement may refer to proposed or uncompleted private facilities within or outside the development unless the advertisement includes the estimated date of completion of the facilities or, if there is no estimated date of completion, includes a prominent disclosure that the improvement is proposed only and that no warranty is given or implied that the improvement will be completed. If the advertisement refers to a proposed public facility that purports to affect the value of the development, the advertisement must disclose the existing status of the proposed facility according to the responsible public agency or authority.

When an advertisement includes an illustrative depiction other than an unmodified photograph, the advertisement must include a “prominent” disclosure identifying the nature of the depiction (such as an artist’s conception) on the legend identifying the improvements depicted which are not then in existence. If a photograph is used that depicts a scene not on the property, a statement within the advertisement shall “prominently” disclose the distance from the advertised property. If a map or diagram shows the development in relation to other facilities, it must include an indication of actual road miles from each facility to the development.

Any advertisement that references facilities that may be used by purchasers of lots or interests shall not state or imply exclusive use to those facilities if a public right of access or public use exists. Any reference to availability of private clubs or facilities is prohibited if a purchaser will not acquire a proprietary interest in those facilities, unless the lack of proprietary interest is disclosed in the advertisement.

When an advertisement describes a standing body of water as a feature of the development, all advertisements must indicate the average surface area of the body of water. If the body is not permanent or fluctuates substantially in size or volume, such facts must be disclosed.

If an advertisement offers trips to visit the property or another location for a sales presentation, it must disclose all conditions or limitations on making the trip.

Advertising by a developer shall not include testimonials or endorsements that a salesperson or broker could not make legally on their own behalf.

R4-28-504(A)-(S). Development Advertising

A. If a developer obtains a conditional sales exemption, under R4-28-B1202, or registers a notice of intent with the Department to accept lot reservations under A.R.S. § 32-2181.03, the developer shall disclose on all advertising that only reservations or conditional sales contracts will be taken until the public report has been issued.

B. Only a developer or the developer's authorized representative shall file advertising for a development under A.R.S. §§ 32-2183.01(A), 32-2194.05(A), 32-2195.05(A), 32-2197.17(A) or 21-2198.01(A)(6) with the Department.

C. A developer shall ensure that advertisement of property in a development includes the name of the development as registered with the Department. The Commissioner may waive application of this subsection if the Commissioner determines that the public interest is not affected.

D. A developer shall not advertise a monthly payment, total price, or interest rate that is not available to all prospective purchasers or is restricted, unless the lack of availability or the restriction is conspicuously disclosed to all prospective purchasers within the advertisement.

E. A developer shall not advertise proposed or incomplete improvements unless the following requirements are met:

1. The estimated date of completion is specified or, if there is no estimated date of completion, the developer includes a prominent disclosure in the advertisement that the improvement is proposed only and no warranty is given or implied that the improvement will be completed; and

2. If a completion date is specified, the developer has submitted to the Department evidence to satisfactorily demonstrate to the Department that the completion and operation of the facilities are assured and that completion will be within the time represented in the advertisement or promotional material.

F. The developer shall not reference a proposed public facility or project that purports to effect the value or utility of an interest in a development without disclosing in writing the existing status of the proposed facility. The developer shall base the disclosure upon information supplied or verified by the authority responsible for the public facility or project and shall forward the information to the Department.

G. Pictorial or illustrative depictions, other than unmodified photographs of the property being offered, shall bear a prominent disclosure identifying the nature of the depiction, such as an artist's conception, and shall identify those improvements that are proposed and not in existence.

H. When a pictorial representation is used in an advertisement for a specific development and is not an actual or accurate representation of the property, a statement within the advertisement shall prominently disclose the distance of the pictorial representation from the advertised property.

I. If a map or diagram is used to show the location of the development in relation to other facilities, actual road miles from each facility to the development shall be shown on the map or diagram.

J. A developer shall not expressly state or imply that a facility is available for the exclusive use of purchasers of lots or interests if a public right of access or public use of the facility exists.

K. A developer shall not refer to availability for use of private clubs or facilities in which the owner will not acquire a proprietary interest through purchase of an interest in the development unless a disclosure is made in the advertisement. The disclosure shall affirmatively state the existence of the facilities and that availability for use by owners of an interest in the development is at the pleasure of the owners of the facility.

L. When a standing body of water is described as a feature of a development, all advertising shall indicate the average surface area of the body of water. If a standing body of water or a flowing waterway described as a feature of a development is not permanent, or fluctuates substantially in size or volume, the developer shall disclose this fact in all advertisements describing the feature.

M. At the time an incentive is offered to visit any place where a sales presentation for a development is to be made and before the recipient of the incentive makes the trip, the developer shall disclose in writing all conditions, limitations, or recipient qualifications that will be applied.

N. A developer shall not include in advertising testimonials or endorsements that contain statements that a salesperson or broker would be precluded by law from making on the salesperson's or broker's behalf.

Subdivided Real Estate

No advertisement regarding subdivided real estate may contain any statement or representation that the lots or parcels are offered without risk or that loss is impossible. In addition, any statement, representation or pictorial presentation of proposed improvements or non-existent scenes must clearly indicate that the improvements are proposed and the scenes do not exist. Any statement or representation that the lots or parcels are suitable as homesites or building lots is prohibited unless potable water and a sewer system is available from a certified public utility or municipal corporation or an individual sewage disposal system will operate. If no such utilities are available, the advertisement must clearly and conspicuously indicate so.

The statute regarding advertisements of subdivided land specifically exempts the owner or publisher of a newspaper from liability for an unlawful advertisement when the owner or publisher has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2183.01(B), (G). Advertising material; contents; order prohibiting use; costs of investigation; drawings or contests

B. No advertising, communication or sales literature of any kind [regarding the sale of subdivided real estate], including oral statements by salespersons or other persons, shall contain:

...

2. Any statement or representation that the lot or parcels are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial representation of proposed improvements or nonexistent scenes without clearly indicating the improvements are proposed and the scenes do not exist.

4. Any statement or representation that the lot or parcels are suitable as homesites or building lots unless either of the following is true:

(a) Potable water is available from a certificated public utility or a municipal corporation and either an individual sewage disposal system will operate or a sewer system is available from a certified public utility or a municipal corporation.

(b) Facts to the contrary are clearly and conspicuously included in each advertisement pertaining to the property.

...G. Nothing contained in this section shall apply to the owner or publisher of a newspaper or magazine or to any other publication of printed matter wherein such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

Unsubdivided Lands

No advertisement regarding unsubdivided real estate may contain any statement or representation that the lots or parcels are offered without risk or that loss is impossible. In addition, any statement or representation or pictorial presentation of proposed improvements or non-existent scenes must clearly indicate that the improvements are proposed and the scenes do not exist. Any statement or representation that the lots or parcels are suitable as homesites or building lots is prohibited unless potable water and a sewer system is available from a certified public utility or municipal corporation or an individual sewage disposal system will operate. If no such utilities are available, the advertisement must clearly and conspicuously indicate so.

The statute regarding advertisements of unsubdivided land specifically exempts the owner or publisher of a newspaper from liability for an unlawful advertisement when the owner or publisher has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2195.05(B), (G). Advertising material; contents; order prohibiting use; costs of investigation

B. No advertising, communication or sales literature of any kind [regarding unsubdivided lands], including oral statements by salespersons or other persons, shall contain:

...

2. Any statement or representation that the land is offered without risk or that loss is impossible.

3. Any statement or representation or pictorial representation of proposed improvements or nonexistent scenes without clearly indicating the improvements are proposed and the scenes do not exist.

4. Any statement or representation that the lot or parcels are suitable as homesites or building lots unless either of the following is true:

(a) Potable water is available from a certificated public utility or a municipal corporation and either an individual sewage disposal system will operate or a sewer system is available from a certified public utility or a municipal corporation.

(b) Facts to the contrary are clearly and conspicuously included in each advertisement pertaining to the property.

...

G. Nothing contained in this section shall apply to the owner or publisher of a newspaper, magazine or other publication of printed matter wherein such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

TIME SHARES

No advertisement concerning time share opportunities may contain any statement or representation that the time share intervals are offered without risk or that loss is impossible. Any statement, representation or pictorial presentation of proposed improvements or non-existent scenes must be accompanied by a clear statement that the

improvements are proposed and the scenes do not exist. In addition, all advertisements referring to redemption certificates shall clearly and conspicuously set forth any terms, conditions, restrictions or limitations on the use of those certificates.

The statute specifically exempts the owner or publisher of a newspaper from liability for an unlawful advertisement if that owner or publisher has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2197.17(B), (G). Advertising and promotional requirements; telemarketing and promotional employees; presentations and tours, drawings and contests; commissioner's authority; disclosures

B. Any advertising, communication or sales literature of any kind [regarding time shares], including oral statements by salespeople or any other person, shall not contain:

...

2. Any statement or representation that the timeshare interests are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

...

G. This section does not apply to the owner or publisher of a newspaper or magazine or to any other publication of printed matter in which such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement if the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

...

K. A developer or representative of a developer conducting timeshare presentations or tours may offer a timeshare prospect a redemption certificate in return for participation in a presentation or tour if all of the following requirements are met:

...

2. All advertising and offers referring to redemption certificates shall clearly and conspicuously set forth any terms, conditions, restrictions or limitations governing the use of the certificates.

PYRAMID PROMOTIONAL SCHEMES

Advertisements may not be used to promote a pyramid promotional scheme. A pyramid promotional scheme is any system in which a participant gives something of value, generally money, for the opportunity to receive compensation that is derived primarily from another person's introduction into the group, rather than from the sale of goods, services or intangible property.

§ 44-1731. Definitions

In this article, unless the context otherwise requires:

1. "Compensation" includes a payment based on a sale or distribution made to a person who either is a participant in a pyramid promotional scheme or has the right to become a participant upon payment.

2. "Consideration" means the payment of cash or the purchase of goods, services or intangible property but does not include:

(a) The purchase of goods or services furnished at cost to be used in making sales and not for resale.

(b) Time and effort spent in pursuit of sales or recruiting activities.

3. "Pyramid promotional scheme" means any plan or operation by which a participant gives consideration for the opportunity to receive compensation which is derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods, services or intangible property by the participant or other persons introduced into the plan or operation.

§ 44-1735(A). Pyramid promotional scheme; prohibition; defenses excluded

A. A person shall not establish, operate, advertise or promote a pyramid promotional scheme.

RACING

No person may advertise that he or she has predicted the outcome of any horse race, harness race or dog race in Arizona for the purpose of selling or offering to sell future predictions on races unless that person has notified the Arizona Department of Racing in writing at least three hours prior to the race being predicted. The statute's prohibitions do not apply to a daily newspaper of general circulation that carries complete past performances of horses or dogs entered in races.

§ 5-115(A). Violation; classification; civil penalties

A. At any racing meeting conducted under the provisions of this article, a person is guilty of a class 4 felony, if he:

...

5. For the purpose of selling or offering to sell predictions on horse races, harness races or dog races, advertises that he has predicted the outcome of any race which has been run in this state, unless such person has notified in writing the [Arizona Department of Racing] or a representative of the department of his predictions at least three hours prior to the race involved on forms prescribed by the department. No person shall advertise the fact that he has notified the department or use the name of the department in any way whatsoever to promote the activities described in this section. For the purposes of this paragraph, "advertise" means the use of any newspaper, magazine or other publication, book, notice, circular, pamphlet, letter, handbill, tip sheet, poster, bill, sign, placard, card, label, tag window display, store sign, radio or television announcement, or other means or methods now or hereafter employed to bring to the attention of the public information concerning the outcome of horse or dog races. Nothing contained in this paragraph shall apply to any daily newspaper of general circulation which is regularly entered in the United States mail, or any other daily publication carrying complete past performances of horses or dogs entered in races, or to any regularly published magazine or periodical devoted to racing news, which magazine or periodical has been published for at least two years.

RENTAL CARS

No rental car agent shall advertise in a manner that presents it or its employees as licensed insurers, insurance agents or insurance brokers.

§ 20-331(H). Rental car agents; definitions

G. A rental car agent shall not:

...

2. Advertise, represent or otherwise portray itself or any of its employees or agents as licensed insurers or insurance producers.

RENTAL-PURCHASE AGREEMENTS

If an advertisement for a rental-purchase agreement refers to or states the dollar amount of any periodic payment and the right to acquire ownership of a specific item, the advertisement must also state that the transaction advertised is a rental-purchase agreement, must disclose the total number and total amount of periodic payments necessary to purchase the item, and must state that the consumer acquires no ownership rights unless and until the total amount necessary to purchase is paid.

§ 44-6801. Definitions

In this chapter, unless the context otherwise requires:

1. "Advertisement" means a commercial message in any medium that solicits a consumer to enter a rental-purchase agreement.

...

8. "Rental-purchase agreement" means an agreement that is for the use of personal property by an individual for personal, family or household purposes, that is for an initial period of four months or less, that is automatically renewable with each payment after the initial period and that permits the consumer to become the owner of the property but that does not obligate or require the consumer to continue leasing or using the property beyond the initial period.

§ 44-6802(A), (F). Applicability

A. This chapter does not apply to the following:

1. Rental-purchase agreements primarily for business, commercial or agricultural purposes.

2. Rental-purchase agreements with governmental agencies or instrumentalities or with organizations.

3. A lease of a safe deposit box.

4. A lease or bailment of personal property that is incidental to the lease of real property and that provides that the consumer has no option to purchase the leased property.

5. A lease of a motor vehicle, manufactured home, mobile home, factory built building or recreational vehicle.

F. This chapter does not apply to:

1. The owner or publisher of any newspaper, magazine or other publication of printed matter in which an advertisement appears or to the owner or operator of a radio or television station or computer information service that disseminates the advertisement if the owner, publisher or operator does not have knowledge of the intent, design or purpose of the advertiser.

§ 44-6810(A). Advertising

A. If an advertisement for a rental-purchase agreement refers to or states the dollar amount of any periodic payment and the right to acquire ownership of a specific item, the advertisement shall also clearly and conspicuously state the following, as applicable:

1. That the transaction advertised is a rental-purchase agreement.
2. The total number and total amount of periodic payments necessary to acquire ownership of the item.
3. That the consumer acquires no ownership rights unless the total amount necessary to acquire ownership is paid.

SCHOOLS

BARBER SCHOOLS

If an advertisement identifies a barber school as “accredited” or “approved,” or uses similar descriptive terms, the organization that approves or accredits the school must be identified.

R4-5-403. Use of "Accredited", "Approved", or Similar Terms

If “accredited”, “approved”, or similar term appears in a [barber] school catalog or advertisement, the school’s owner shall ensure that the catalog or advertisement includes the name of the accrediting or approving organization.

COMMERCIAL DRIVING SCHOOLS

A training school for commercial drivers must state in any advertisement the name under which it is licensed by the State. Moreover, no such license name may include the word “State.” Schools that are licensed by Arizona’s Motor Vehicle Division may state that they are “LICENSED,” but may not imply that the school is approved, sanctioned or endorsed by the MVD or that the school can obtain preferential treatment or guarantee the issuance of a commercial driver’s license from the MVD.

R17-5-302(H). Commercial driving schools and instruction licensing

H. Advertising:

1. A [driver training] school shall not use any name other than its licensed name for advertising or publicity purposes. Nor shall the school use the word "State" in any part of the school name. A licensed school which advertises, solicits patrons, or conducts the business regulated by A.R.S. § 32-2351 et seq., by the use of or under a name other than the name by which the school was licensed, must apply for and obtain an original license for such school before it may lawfully operate.

2. No driving school advertisement shall indicate in any way that a school can issue or guarantee the issuance of a driver's license, or imply that the school can in any way influence the [Motor Vehicle] Division [of the Arizona Department of Transportation] in the issuance of a driver's license or imply that preferential or advantageous treatment from the division can be obtained.

3. Schools that are in fact licensed by the Division may in their advertising state they are "LICENSED" but shall not indicate that a school is approved, sanctioned, or in any other way endorsed by the Division.

PRIVATE POST-SECONDARY EDUCATION

Advertisements for a private post-secondary school must not solicit students in the "help wanted" classified advertising section of a newspaper or use the words "guarantee" or "free." All advertisements must include the name, telephone number and address of the school.

R4-39-304(A)-(E). Advertising

A. Advertising shall be truthful and shall not include any false or misleading statements about the institution, personnel, courses, services, or occupational opportunities for a graduate.

B. The Board [for Private Postsecondary Education] may institute disciplinary proceedings against a non-accredited private vocational or degree-granting institution or an instructional representative for false or misleading advertising.

C. A non-accredited private vocational or degree-granting institution shall not solicit students in the "help wanted" section of a newspaper, magazine, or other similar publication.

D. A non-accredited private vocational or degree-granting institution shall not use the words "guarantee" or "free" in solicitations or advertising in any brochure, catalog, bulletin, leaflet, or any other media.

E. All printed advertising shall include the name, phone number, and address of the institution.

REAL ESTATE SCHOOLS

Any advertisement for Arizona Real Estate Department-approved courses must include the school name, address and telephone number.

R4-28-502(D). Advertising by a licensee

D. A school shall include its name, address and telephone number in all advertising of [State Real Estate] Department-approved courses. The school owner, director, or administrator shall supervise all advertising. The school owner shall ensure that the school's advertising is accurate.

TAXES

No retailer may advertise that any use tax imposed by state law will be assumed or absorbed by the retailer, that it will not be added to the selling price of the items sold or that it will be refunded to the purchaser.

§ 42-5165. Retailer; advertising absorption of tax prohibited; penalty

It is unlawful for any retailer to advertise or hold out or state to the public or to any customer or purchaser, directly or indirectly, that the tax or any part of the tax imposed by this article will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added any part thereof will be refunded.

TIRES

An advertisement for the retail sale of tires must include the following notice in bold print: “State or local taxes or surcharges for environmental protection will be an extra charge.”

§ 44-1302(K)-(N). Sale of new tires; fees; acceptance of waste tires; notice; definition

K. An advertisement or other printed promotional material related to the retail sale of tires shall contain the following notice in bold print:

"State or local taxes or surcharges for environmental protection will be an extra charge."

...

M. This section does not apply to a person whose retail sales of new motor vehicle tires are not in the ordinary course of business.

N. For purposes of this section, "retail seller of new motor vehicle tires" and "wholesale seller of new motor vehicle tires" includes those persons who sell or lease new motor vehicles to others in the ordinary course of business.

UTILITIES

CABLE TELEVISION

No person may advertise any device that the person intends to be used by another person to obtain cable television services fraudulently without payment for those services.

§ 9-505. Definitions

In this article, unless the context otherwise requires:

...

3. “Cable television system” means any facility: consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. Cable television system does not include:

(a) A facility that serves fewer than fifty subscribers.

(b) A facility that serves subscribers without using any public street, road or alley.

(c) A facility that serves only to retransmit the television signals of one or more television broadcast stations.

(d) A facility of a common carrier that is subject, in whole or in part, to 47 United States code sections 201 through 276, except that the facility is considered a cable television system, other than for purposes of 47 United States code section 541(c), to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of the use is solely to provide interactive on-demand services.

(e) An open video system that complies with 47 United States code section 573.

(f) A facility of an electric utility that is used solely for operating its electric utility system.

§ 13-3709(B)-(F). Obtaining cable television services fraudulently; manufacturing, distributing and selling unauthorized decoding devices; classification; definition

B. Any person who manufactures, distributes, sells, rents, lends, offers or advertises for sale, rental or use any device that the person intends to be used by another person to obtain services that are provided over or by a licensed cable television system without payment of the charge for those services is guilty of a class 6 felony.

C. For the purposes of subsection B of this section it is a rebuttable presumption that the person intended that the device would be used by another person to obtain services that are provided over or by a licensed cable television system without payment of the charge for those services if, while advertising, selling, renting or lending the device, the person states that the device will enable the person who receives the device to obtain cable television or other services without payment of the charge for those services.

...

F. As used in this section "device" includes any component or combination of components capable of converting a scrambled or coded cable television signal to a signal usable on a standard television receiver.

TELEPHONE SERVICES

Information Access Telephone Service

Any advertisement for an information access telephone service must clearly and conspicuously display the price for each call or for each minute of the call.

§ 13-2920(A)-(G). Advertisements and required preamble message for telephone information services; telecommunications corporation compensation; definitions; classification

A. An information access telephone service provider shall not provide or sponsor an advertisement, publication or other communication regarding information access telephone service that does not clearly and conspicuously display the price for each call or for each minute of the call or provide or sponsor a television or radio advertisement that does not include a clearly audible voice announcement of the price for each call or for each minute of the call.

...

F. In this section:

1. "Information access telephone service" means telephone service and facilities which provide access to a provider-sponsored prerecorded or live announcement or program and which is commonly referred to as "976 service" or "676 service".

2. "Provider" means a person, partnership, corporation or organization that contracts with a telecommunications corporation to transport telephone calls, bill customers or collect charges for a prerecorded or live announcement or program.

G. A person who violates this section is guilty of a class 3 misdemeanor.

Wireless Telephone Service

No person may advertise a device that the person intends to be used by another person to obtain wireless telecommunication services fraudulently without payment for those services.

§ 13-3719(B)-(F). Obtaining wireless telecommunications services or wireless telecommunications devices fraudulently; manufacturing, distributing and selling unauthorized decoding devices; classification; definitions

B. A person who manufactures, distributes, sells, rents, lends, offers or advertises for sale, rental or use any device that the person intends to be used by another person to obtain services that are provided over or by a wireless telecommunications service or wireless telecommunications device without payment of the charge for those services is guilty of a class 6 felony.

C. For the purposes of subsection B it is a rebuttable presumption that the person intended that the device would be used by another person to obtain services that are provided over or by a wireless telecommunications service or wireless telecommunications device without payment of the charge for those services if, while advertising, selling, renting or lending the device, the person states that the device will enable the person who receives the device to obtain wireless telecommunications services or wireless telecommunications devices without payment of the charge for those services.

...

F. For the purposes of this section:

1. "Wireless telecommunications device" means an instrument, device, machine or equipment that is capable of transmitting or receiving telephonic, electronic or radio communications or any part of an instrument, device, machine or equipment. Wireless telecommunications device includes computer circuits, computer chips, electronic mechanisms or other components that are capable of facilitating the transmission or reception of telephonic, electronic or radio communications.

2. "Wireless telecommunications service" includes any service that is provided for a charge or compensation to facilitate the origination, transmission, emission or reception of signs, signals, data, writings, images and sounds or intelligence of any nature by wireless telephone equipment, including cellular telephone, wire, radio electromagnetic, photoelectronic or photo-optical system.

VEHICLES

No person may advertise any device that causes the odometer of a motor vehicle to register miles other than the true mileage driven.

§ 44-1223(A). Fraudulent practices relating to motor vehicle odometers; classification

A. It is unlawful for any person to:

1. Advertise for sale, sell, use or install any device which causes the odometer of a motor vehicle to register mileage other than the true mileage driven. For

the purposes of this paragraph the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

APPENDIX A

Sample Policy and Excerpt of Agreement

Table of Contents

ADVERTISING AGREEMENT RATES AND POLICIES	82
<i>Contract and Copy Regulations.....</i>	82
[WESTERN NEWSPAPERS INC. (“WNI”)] STANDARDS OF ACCEPTABILITY.....	83
<i>Your Right to Refuse Ads.....</i>	83
<i>Abbreviations</i>	85
<i>Amusements.....</i>	85
<i>Announcements/Notices</i>	86
<i>Appliance and TV Advertising.....</i>	86
<i>Asterisked References, Etc.</i>	86
<i>Automobiles.....</i>	86
<i>Bait Advertising and Selling.....</i>	88
<i>Box Numbers</i>	89
<i>Business Opportunities</i>	89
<i>Claimed Results.....</i>	89
<i>Company Name or Trade Styles</i>	89
<i>Comparisons – Disparagement</i>	90
<i>Comparative Price and Savings Claims.....</i>	90
<i>Construction/Home Improvements</i>	92
<i>Complaints</i>	93
<i>Contests and Games of Chance</i>	93
<i>Credit.....</i>	93
<i>Drug Advertising</i>	94
<i>Employment.....</i>	95
<i>Extra Charges</i>	97
<i>Food Products.....</i>	97
<i>Fraudulent Advertising</i>	97
<i>“Free”</i>	97
<i>Illustrations</i>	98
<i>Insurance Advertising</i>	98
<i>Investment Advertising.....</i>	99
<i>Jewelry.....</i>	99
<i>Layout and Illustrations.....</i>	99
<i>Libel.....</i>	100
<i>Liquor</i>	100
<i>Lost and Found.....</i>	100
<i>Lottery.....</i>	100
<i>Mail Order Advertising.....</i>	101
<i>Merchandise Advertising</i>	101
<i>Money Wanted – Money to Lend</i>	102
<i>Motor Home Rentals.....</i>	102

APPENDIX A
Table of Contents, continued

<i>Political Advertising</i>	103
<i>Payment</i>	103
<i>Prizes/Giveaways</i>	104
<i>Real Estate</i>	104
<i>Repossessed – Use of the Word</i>	105
<i>Schools, Training and Instruction</i>	105
<i>Testimonials and Endorsements</i>	106
<i>Tires</i>	106
<i>Trade-In Allowances</i>	106
<i>Unassembled Merchandise</i>	107
<i>Use or Condition Disclosures</i>	107
<i>Vending Machines, Video Games</i>	107
<i>Warranties (or Guarantees)</i>	108
<i>X-Rays</i>	108

ADVERTISING AGREEMENT RATES AND POLICIES

The Advertiser agrees to all terms and conditions of this agreement. Advertiser acknowledges receipt of a copy of this agreement and a copy of the current advertising rate card.

...

CONTRACT AND COPY REGULATIONS

...

B. COPY REGULATIONS

1. Acceptance of payment for advertising or advertising copy by an employee of the Company is subject to review, approval and acceptance by the Publisher, which reserves the right at any time to reject any advertising that is submitted for publication.

2. Except as set forth herein, the Publisher shall not be liable for any error in or omission of any portion of any advertisement made. Publisher shall supply to the Advertiser, upon request made in writing by the Advertiser, a proof copy of any advertisement to be published. In the event the Advertiser returns the proof copy before the publication's advertising deadline with an error or correction plainly noted thereon, or in the event the Publisher fails to publish an advertisement as requested by the Advertiser and is notified of such omission, Publisher shall: (1) in the case of error duly noted, prorate the cost of the advertisement in such proportion as the space occupied by the noted error bears to the whole space occupied by such advertisement; or (2) in the case of omission, publish the advertisement in the next issue of the publication unless requested otherwise by the advertiser in writing. The Publisher's liability is LIMITED to that activity noted in this paragraph, and in no event shall Publisher be liable for any general, special or consequential damages whatsoever. Claims for adjustments occasioned by an error or omission must be made not later than 30 days after the publication date on which the error or omission occurred. In no event shall Publisher's liability for errors or omissions exceed the cost of the advertisement.

3. In the event of error or omission in an advertisement Publisher will, if requested, furnish a letter of explanation which can be utilized by the Advertiser.

4. The Advertiser agrees to comply with all federal, state and local laws and regulations as they relate to advertising including those outlined under Fair Housing Regulation guidelines.

5. The Advertiser represents that all advertising copy is truthful and not misleading. Advertiser shall indemnify and hold Publisher harmless from any claim against Publisher arising out of, or in connection with, publication of advertising (except for modifications made by the Publisher with advertiser's approval) including, but not limited to, claims for libel, invasion of privacy, commercial appropriation of one's name or likeness, copyright infringement, trademark, trade name or patent infringement, commercial defamation, false advertising, or any other claim whether based in tort or contract, or any account of any state or federal statute (including compliance with Fair Housing Regulations), including state and federal deceptive trade practices acts. If Advertiser claims copyright ownership in any of the advertising published, Advertiser must include proper notice of its copyright claim in the body of the advertisement.

6. For value received Advertiser assigns to the Publisher all right, title and interest to all layouts of advertisements placed with the Publisher which represents the creative effort of the Publisher's staff and/or utilization of its own illustrations, computer

software, labor, composition or material. Advertiser understands that because of said assignment, Advertiser cannot authorize duplication or other reproduction of any such advertising layout in any other printed or computerized media without the prior expressed written consent of the Publisher. It is further understood that his assignment does not preclude the Advertiser from supplying to other printed or computerized media similar or identical material or information for production of advertisements by such media or from suggestion the content or form of such advertisements.

7. Advertising simulating news matter must be clearly marked “advertising”.

8. The Publisher is not responsible for advertising materials left in the Publisher’s possession for more than 10 days after insertion.

The conditions stated in the advertising agreement and on both pages of the advertising rates and policies section collectively comprise the entire agreement and are an integral part of the Company’s current rate card.

[WESTERN NEWSPAPERS INC. (“WNI”)] STANDARDS OF ACCEPTABILITY

The intent of these standards is to encourage and preserve believability in advertising, to multiply it’s impact and effectiveness, and to promote accountability in sales and marketing. WNI advertising vehicles are open to the competition of all legitimate advertisers.

No advertising is acceptable which, in a WNI locations judgment, will irritate the sensibilities of, or will result in harm or insult to, any segment of our readers. Any advertising that casts unfavorable reflection, directly or indirectly upon any individual, group, race, creed, religion, organization, institution, competitive merchandise, business or profession is likewise unacceptable.

WNI does not, and will not knowingly accept any advertisement that may be misleading, deceptive, fraudulent, unlawful, is immorally suggestive or in bad taste. Any advertising which tends to destroy the confidence of our readers is unacceptable.

Advertisers furnishing preprinted section, card inserts, hi-fi pages, billboard posters, and other material not printed by a WNI location must comply with these standards.

These standards do not represent a static, inflexible attitude. They are subject to change in order to conform with local, state and federal regulations as well as local business conditions. WNI reserves the right to alter standards when deemed necessary and practical.

In order to fully serve the advertiser, WNI locations must have the full confidence of its readers. Truth and good taste must prevail. With this in mind, the following standards are set forth.

YOUR RIGHT TO REFUSE ADS

by Peter J. Caruso

Recent Court decisions have caused some uneasiness among both publishers and ad directors as to when an advertisement can be refused, who can bind the company and when the company has accepted an ad.

The basic court-tested rule is that the media can refuse any ad, as long as the decision is unilateral, does not violate anti-trust laws, is not part of a conspiracy, or does not breach a contractual obligation.

However, as we are all aware, a “no, thank you” generally brings out the worst in a customer, who immediately believes he has a right to publication of his ad, and if you don’t you must be violating some law. Further, he’s sure his competitor is behind your refusal.

The ideal situation is to have a salesperson bring an ad to the manager explaining the copy seems to violate an acceptance policy, but he’s not sure, so he accepts the ad on the condition that his boss must first review the copy before it runs.

Why is that ideal? Because then you have time to review the copy, think about it, check with your boss or attorney – but at least you have time for an informed decision.

But, what about the telephone ad taker who at the end of the day remembers a questionable ad taken hours before, or the staff artist who shows you a finished political ad he took while everyone was on break, or the part-time clerk who took an envelope full of ads over the counter at lunch time.

When can you change copy or refuse these ads?

When have they been accepted?

-- Telephone ads are accepted at the end of the conversation.

-- Over-the-Counter ads are accepted when the employee leaves the counter.

-- Mail ads are generally not deemed accepted until verified or published.

The key is the word “accepted.” All agreements are subject to basic contract law. There is an offer (will you run my ad). There is consideration (I’ll pay your rate), and then, there is acceptance (O.K., it will run on Sunday, thank you).

The customer leaves or hangs up believing he has made a deal – he relies on the agreement by the employee.

Whether the employee is a clerk, telephone ad taker, artist – in acting for the company, he or she is vested with apparent authority to act in place of the publisher or general manager.

At this point, the publisher, general manager or ad director must run the ad, assuming the copy itself does not violate any laws.

The proper technique to prevent an unconditional acceptance is through a properly trained staff.

Whenever there is a doubt as to the copy or acceptability of an ad, the only proper response is: “Before I can run this ad, I have to check with my supervisor.”

Say nothing more. At this point, the customer becomes inherently suspicious as to your motives for checking with an authority. Do not encourage their questions. If there is something wrong with the ad – they know it or at least suspect it. If not, it will run.

Once an ad is accepted, if there is nothing illegal in the copy, this business transaction cannot be altered. The company cannot, without the customer’s authority, change the ad. The courts have viewed the media’s unconditional acceptance of an ad as legally binding.

Beyond the contractual obligations which are self-created, refusals to deal are governed by the anti-trust laws. The motive for refusal does not have to be an intentional attempt to restrain trade or limit competition, the refusal to deal may be a “per se” violation of the anti-trust laws – such as price fixing or misuse of a monopoly position.

Generally, however, anti-trust violations do not occur in a vacuum. There was some action, some communication, some motive that brought about a legal action. Usually, a well-intentioned, candid response on the reasons for refusal have been the basis of the law suit – and usually its strongest point. After the manager has reviewed the questioned ad and decides, unilaterally, to refuse to publish it, the proper reply to the customer is: “At this time, the company chooses not to accept your ad.”

Do not say anymore. Do not elaborate. Do not offer suggestions as to copy changes. You may hand the customer your rate card and/or standards of acceptance (he will get the idea).

Anything and everything you say will only encourage his belief that the company has an illegal motive and is putting him out of business.

WNI has the right not to publish any advertisement submitted to us, if we so desire. As a private business, we may choose whom to deal with and whom not to deal with.

In addition to this basic business principle that WNI has the added First Amendment protection not to be compelled to publish an advertisement against our policies, the courts have found that media has . . . a strong economic self interest in limited kinds of advertising they will accept, since in the minds of their readers, media advertising may be reflective of the overall policy of the company.

And, in another court which recognized media as a private business enterprise, it was stated: Absent contractual provision, then, the First Amendment protections do not embody any obligations on the part of a privately-owned company to publish anything which conflicts with its internal policies or the reasoned judgment of its management. Nor must the company accept any advertisements in the form presented. The right to refuse, as with all rights, carries with it responsibilities to act within our legal system and with sound business judgment.

ABBREVIATIONS

Surveys have shown that abbreviations tend to make advertising more difficult to comprehend and should be avoided. Only a few standard dictionary abbreviations are acceptable. Examples: St. – Street; Rd. – Road; St. Pete – St. Petersburg; Apt. – Apartment; Approx. – Approximately; BBQ – Barbecue; Cond. – Condition; Bdrm. – Bedroom; Eves. – Evenings; Furn. – Furnished; Hr. – Hour; Mi. – Mile; Mgr. – Manager.

AMUSEMENTS

As with advertisements, no movie or other amusement advertising will be accepted which has headlines, copy or illustrations that state or imply conduct that is considered morally or socially unacceptable.

Motion Pictures

All motion picture advertising must carry a rating in accordance with the procedure established by the Motion Picture Association of America. The ratings are:

- G – (General Audience).
- PG – (Parental Guidance suggested).
- PG13 – (Parental Guidance suggested, minimum suggested age of 13).
- R – (Restricted – persons under 16 not admitted unless accompanied by a parent or guardian).
- X – (Persons under 16 not admitted).
- NR or U – (Not rated or unrated).

Advertisements for X-rated films shall not contain illustrations. Titles of X-rated films may be changed by the Publisher.

ANNOUNCEMENTS/NOTICES

1. Classified advertising appearing in “Special and Social Notices” are to be placed by clubs or organizations holding special functions such as dances, suppers, etc., as well as public announcements of general nature.
2. Advertisements for the sale of tickets to general amusements are acceptable. Copy must include the price, which can be more than the price on the face of the ticket.
3. Advertisements for persons offering or wishing to adopt children are acceptable.
4. Advertising from fortune tellers, palmists and the like are acceptable only if they are properly licensed. No claims can be made. Cash in advance only.
5. Computer or astrological dating, dating services, lonely hearts club, matrimonial offers or escort services and astrological advertising is acceptable.
6. Advertising for organized friendship or social clubs will be accepted subject to the approval of WNI Location.
7. Notices intended to deny the responsibility for payment of debts of others must be placed in person and signed by the person whose name and residence address appears in the notice, with identification verified. Any such notice placed by mail must be signed by the advertiser and notarized. Debt disclaimers should follow this general format: “I will not be responsible for any debts incurred by anyone other than myself.” John R. Doe, (Address). This procedure does not necessarily absolve the person from legal liability, but serves to document the date of claim.

APPLIANCE AND TV ADVERTISING

1. Every item advertised, whether illustrated or listed in line form, must contain a model number.
2. When a television set is advertised, the size of the screen must be stated.
3. If the items are being advertised as “Quantities Limited”, that phrase must be next to the items and not at the bottom of the page.

ASTERISKED REFERENCES, ETC.

Asterisked references should be avoided. However, those references and body text annotations are permissible if they are made conspicuous enough not to go unnoticed or be misunderstood.

AUTOMOBILES

Automotive/Accessories

1. Only a franchised or licensed dealer may advertise “new” cars for sale.
2. Non-franchised dealers cannot use: new, new car broker, or imply that they are franchised in any way.
3. All automotive dealers must clearly indicate in their advertising that they are dealers by using their registered trade name or the designation “dealer” in classified reader ads.
4. Automobiles advertised shall be in the possession of the dealer, owner or advertiser as advertised at the address given. The automobiles must be in operating condition or

stated otherwise, and willingly shown and sold, leased or rented at the advertised prices and terms. An advertiser shall, upon request, be willing to show records in substantiation of the advertised offer.

5. Underselling claims are viewed as not in the interest of our readers and cannot be used.

6. "Public Notice" or other terms imply legal status are not acceptable unless the sale is indeed conducted by legal authority.

Selling Price, Terms

1. Advertised vehicles must be available at the featured price and/or terms and as shown. (See "Illustrations"). Verification of model number(s) may be required.

2. When the price or terms of an automobile are quoted, the car shall be fully identified as to year and make; (i.e., commonly accepted trade, model & brand name).

3. Full Delivered Price – When price and/or terms of an automobile are advertised, such price and/or terms must include all charges which the customer pays for the car, excepting state and local taxes, tag and title.

4. Prices quoted as "Unpaid Balances" will not be accepted, unless they constitute the full cash selling price.

5. Such statements as "At Cost", "Below Cost", "Below Invoice", etc., shall be construed literally; i.e., "Cost" being the actual cash price paid by the advertiser for the automobile or automobiles offered for sale.

6. Phrases such as "No Cash Needed" and "No Down Payment" are not permitted unless qualified by statements such as: "If your present car covers down payment", "If you qualify", and "If one loan can be secured for the total selling price".

7. Advertised installment terms shall include all finance charges required to place the transaction on a time payment basis, including amount of down payment, monthly payment, time period of loan, and annual interest rate.

8. Claims such as "Everybody Financed", "No Credit Rejected", "We Finance Anyone" must be approved by management.

9. Advertised sale prices for other than brand new automobiles shall not claim or imply savings or discount off a new car selling price.

10. State law provides that speedometer readings must not be altered. Terms or statements such as "Low Mileage" are acceptable.

11. No equipment, accessories or other merchandise shall be described as "Free" if advertised automobiles can be purchased at a discount or lesser price without such articles.

12. When such words as "Guaranteed", "Warranty", or others implying protection are used, an explanation shall be given as to the time period, conditions and coverage.

Rental and/or Leasing

1. Any advertised rate based in whole or in part on the duration of time for which an automobile is rented or leased must be specific as to its duration.

2. If a rate is advertised and there is a minimum total charge or minimum mileage charge, such minimum charge or mileage shall be stated in the advertisement.

3. All charges which a customer is required to pay shall be clearly set forth in the advertising copy, including security deposit, first and/or last payment.

4. Expressions such as “Free Insurance”, “Free Mileage”, “Free Gas”, or “Free Maintenance” shall not be used in advertising since their cost must somehow be included in the basic charges which the customer pays.

5. Any reference in advertising to deductibility of leasing costs for income tax purposes shall clearly state that such deductibility relates only to the tax deductible business use of the leased vehicle. In no case shall specific income tax savings be used.

The above standards are founded in part on the code of ethics adopted by the National Automobile Dealers Association and The Association of Better Business Bureaus.

BAIT ADVERTISING AND SELLING

A “bait” offer is an alluring but insincere offer to sell a product or service which the advertiser does not intend to sell. Its purpose is to switch consumers from buying the advertised merchandise or service in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser.

a. No advertisement should be published unless it is a bonafide offer to sell the advertised merchandise or service.

b. The advertising should not create a false impression about the product or service being offered in order to lay the foundation for a later “switch” to other, more expensive products or services, or product of a lesser quality at the same price.

c. Subsequent full disclosure by the advertiser of all other facts about the advertised article does not preclude the existence of a bait scheme.

d. An advertiser should not use nor permit the use of the following bait scheme practices:

- Refusing to show or demonstrate the advertised merchandise or service.
- Disparaging the advertised merchandise or service, its warranty, availability, services and parts, credit terms, etc.
- Selling the advertised merchandise or service and thereafter “unselling” the customer to make a switch to other merchandise or service.
- Refusing to take orders for the advertised merchandise or service or to deliver it within a reasonable time.
- Demonstrating or showing a defective sample of the advertised merchandise; or,
- Having a sales compensation plan designed to penalize salespersons who sell the advertised merchandise or service.

An advertiser should have on hand a sufficient quantity of advertised merchandise to meet reasonably anticipated demands, unless the advertisement disclosed the number of items available. If items are available only at certain branches, their specific locations must be disclosed. The use of “rainchecks” is no justification for inadequate estimates of reasonable anticipated demand.

Actual sales of the advertised merchandise or service may not preclude the existence of “bait” in the number of times the merchandise or service was advertised compared to the number of actual sales of the merchandise or service.

BOX NUMBERS

Although experience shows response is reduced when box numbers are used, they may be employed in most types of advertisements with the following exception.

Post Office box number coupon advertisements for out-of-town merchandise placed by non-residents O.K. (but business opportunity form is necessary). Transient advertisers with only P.O. box number as a fixed place of business are not acceptable.

Customer identification numbers will be issued to advertisers using a box number. In order to insure the confidentiality of the advertiser, no information will be given to persons not able to provide this number.

BUSINESS OPPORTUNITIES

General Policies

“Business Opportunities” advertisements (except for the sale of an established business) must be approved by management prior to publication. Advertisers may be required to submit any or all of the following with a proposed advertisement:

- a. Completed Business Opportunity Questionnaire.
- b. Completed Earnings Claim Substantiation form and supporting material.
- c. Brochures, contract agreements and other material which explain offering or validate claims made in advertisement.

All “Business Opportunity” advertisements must state the kind of business or sale, the type of franchise offered, or kind of product or service to be sold.

Potential earnings claims must be based on fact.

- a. In advertisements to sell established businesses, statements of actual gross sales or net profits are permitted; statements of future possible earnings must be realistically obtainable.
- b. In advertisements to sell new businesses or franchises, possible earnings or references to earnings of other such business may not be included.

CLAIMED RESULTS

Claims to energy savings, performance, safety, efficacy, results, etc. which will be obtained by or realized from a particular product or service shall be based on recent and competent scientific engineering or other objective data.

COMPANY NAME OR TRADE STYLES

No words should be used in a company name or trade style which would mislead the public either directly or by implication. For example, the words “factory” or “manufacturer” should not be used in a company name unless the advertiser actually owns and operates or directly and absolutely controls the manufacturing facility that produces the advertised products.

COMPARISONS – DISPARAGEMENT

a. All advertising should be positive and based upon the performance and capabilities of the advertiser's own products and services. Truthful comparisons using factual information may help consumers make informed buying decisions, provided:

(1) All representations are consistent with the general rules and prohibitions against false and deceptive advertising;

(2) All comparisons of features or qualities with competitive products or services that imply overall superiority are not based on a selected list of criteria in which the advertiser excels while ignoring those in which the competitors excel; and

(3) The advertiser can substantiate all claims made about both its own products and services and those to which they are compared.

b. Advertising which deceptively or falsely disparages a competitor or competing products or services shall not be used.

COMPARATIVE PRICE AND SAVINGS CLAIMS

Advertisers may offer a price reduction or saving by comparing their selling price with:

- a. their own former selling price;
- b. the current price of identical merchandise sold by others in the market area; or
- c. the current price of comparable merchandise sold by others in the market area.

In all cases, the advertising must make clear to which of the above the comparative price or savings claim relates.

1. The advertiser's own former selling price.

When an advertiser offers a reduction from a former price, the former price shall be the actual price at which the advertiser has been currently offering the merchandise immediately preceding the sale, on a regular basis, and for a reasonably substantial period of time.

Descriptive terminology often used by advertisers includes: "regularly", "was", "you save \$____", and "originally". (If the word "originally" is used and the original price is not the last previous price, that fact should be disclosed by stating the last previous price.)

Offering prices, as distinguished from actual former selling prices, have frequently been used as a comparative to deceptively imply a saving. In the event few or no sales were made at the advertised comparative price, the advertiser should make sure that the price is one at which the merchandise was openly and actively offered for sale, for a reasonably substantial period of time, in the recent, regular course of business, honestly and in good faith.

2. Current price of identical merchandise sold by others.

If any comparison is made between a seller's price & the current price of merchandise sold elsewhere in the market area, the comparative price shall not exceed the price at which substantial sales of merchandise are being made by representative principal retail outlets in the market area. Such comparisons shall be substantiated by the advertiser immediately prior to any advertised comparisons.

Descriptive terminology often used by advertisers includes: “selling elsewhere at”.

3. Current price of comparable merchandise sold by others.

If any comparison is made between a seller’s price and the current price of comparable merchandise sold elsewhere in the market area, the comparative price shall not exceed the price at which substantial sales of such merchandise are being made by representative principal retail outlets in the market area, and shall be substantiated by the advertiser immediately prior to any advertised comparisons. In all such cases, the comparable merchandise must be similar in all respects and of at least like grade and quality.

Descriptive terminology often used by advertisers includes: “comparable value”, “compares with dresses selling at \$_____”, “equal to sofas selling for \$_____”.

4. List Prices.

“List price”, “manufacturer’s list price”, “suggested retail price”, and similar terms have been used in the past deceptively to state or imply a savings which was not, in fact, the case. A list price may be advertised as a comparative to the advertised sales price only to the extent that it is the actual selling price currently charged by representative principal retailers in the market area where the claim is made.

5. “Imperfects”, “Irregulars”, “Seconds”.

No comparative price should be used in connection with an imperfect, irregular or second article unless it is accompanied by a clean and conspicuous disclosure that such comparative price applies to the price of the article if perfect. The comparative price advertised should be based on (1) the price currently charged by the advertiser for the article without defects, or (2) the price currently charged by representative principal retailers in the trade area for the article without defects, and the advertisement should disclose which basis of comparison is being used.

6. “Factory to you”, “Wholesaler”, “Wholesale Prices”

The word “wholesale” and words of similar import have been the subject of great abuse in advertising. They should not be used unless they meet all the requirements below:

(1) The terms “factory to you”, “direct from maker”, “factory outlet” and the like shall not be used unless all advertised merchandise is actually manufactured by the advertiser or in factories owned or controlled by the advertiser.

(2) The terms “wholesaler”, “wholesale outlet”, “distributor” and the like shall not be used unless the advertiser actually owns and operates or directly and absolutely controls a wholesale or distribution facility which sells products to retailers for sale.

(3) The terms “wholesale price”, “at cost” and the like shall not be used unless they are the current prices which retailers usually and customarily pay when they buy such merchandise for resale.

7. “Sales”

(1) The unqualified term “sale” may be used in advertising only if there is a significant reduction from the advertiser’s usual and customary price of the merchandise offered and the sale is for a limited period of time. If the sale exceeds thirty (30) days the advertiser should be prepared to substantiate

that the offering is indeed a valid reduction and has not become his regular price.

(2) Time limit sales should be rigidly observed. For example, merchandise offered in a “one day sale”, “three day sale”, “Columbus Day Sale” should be taken off “sale” and revert to the regular price immediately following expiration of the stated time.

(3) Introductory sales must be limited to a stated time period and the selling price should be increased to the advertised regular price immediately following expiration of the stated time.

(4) Price predictions – statements regarding savings based on predictions of an increase – should not be used. However, an advertiser may currently advertise a future increase in his own price on a subsequent date provided that he does in fact increase the price to the stated amount on that date and maintains it for a reasonably substantial period of time thereafter.

8. “Emergency” or “Distress” Sales

Emergency or distress sales should not be advertised unless the stated or implied reason is a fact, shall be limited to a stated period of time, and shall offer only such merchandise as is affected by the emergency. When advertisers are located in communities having special laws governing distress sales, the advertisers shall conform with the requirements of such laws.

9. “Up To” Savings Claims

Savings or price reduction claims covering a group of items with a range of savings shall state both minimum and maximum savings. The number of items available at the maximum savings shall comprise at least 10% of all the items in the offering, unless local or state law requires otherwise.

10. Underselling Claims

Despite an advertiser’s best efforts to ascertain competitive prices, the volatility of prices and the difficulty of determining prices of all sellers at all times precludes an absolute knowledge of the truth of claims such as, “Our Prices are Guaranteed Lower Than Elsewhere”, “Never Undersold”, “We Guarantee to Sell for Less”, “Highest Trade-In Allowances”, “Lowest Prices”.

Better Business Bureaus have always advocated that advertisers have proper substantiation for all claims prior to dissemination. Since underselling claims may be accurate at the time of the advertiser’s investigation, but not be accurate at the time of dissemination, such claims should be avoided.

CONSTRUCTION/HOME IMPROVEMENTS

Licensing Requirements

Advertisers in certain categories must hold competency licenses from the County Construction Licensing Board or be registered with the State to conduct business.

General Contractors
Mechanical
Sheet Metal
Roofing

Building Contractors
Air Conditioning
Electrical
Aluminum
Residential Contractors
Swimming Pool
Plumbing

License numbers must be made available to WNI locations, if requested, for verification and filing, for advertisers in the categories listed above.

Advertisers not holding a competency license must clarify use of the following:

“Insured” – Advertiser must state “Insured to Protect Customer” or “Liability Insured”, etc.

“Bonded” – Advertiser must state “Performance Bond”.

COMPLAINTS

All formal complaints will be investigated and forwarded to the advertiser for resolution.

Advertisers who have numerous unresolved complaints, or who fail to respond to complaints jeopardize the credibility of our products to our readers. An advertiser’s failure to perform in this area may result in rejection of his/her advertising by the Publisher or General Manager.

CONTESTS AND GAMES OF CHANCE

a. If contests are used, the advertiser shall publish clear, complete and concise rules and provide competent impartial judges to determine the winners.

b. No contest, drawing or other game of chance that involves the three elements of prize, chance and consideration shall be conducted since it constitutes a lottery and is in violation of federal statutes.

c. The Federal Trade Commission has rendered various decisions on contests and games of chance relating to disclosure of the number of prizes to be awarded and the odds of winning each prize, and issued a trade regulation rule for games of chance in the food retailing and gasoline industries. Advertisers should make certain any contest conforms to FTC requirements.

CREDIT

Whenever a specific credit term is advertised, it should be available to all respondents unless qualified as to respondents’ credit acceptability. All credit terms must be clearly and conspicuously disclosed in the advertisement, as required by the Federal Truth in Lending Law and applicable state laws.

Advertisers should be aware of Regulation Z, issued by the Board of Governors of the Federal Reserve System, which contains comprehensive and detailed regulations for advertising of credit.

a. "Easy Credit", "Liberal Terms"

The terms "easy credit", "easy credit terms", "liberal terms", "easy pay plan", and other similar phrases relate to credit worthiness as well as to the terms of sale and credit repayment, and should be used only when:

(1) consumer credit is extended to persons whose ability to pay or credit rating is below typical standards of credit worthiness;

(2) the prices charged for the goods do not exceed the prices charged for like or similar merchandise by other retail establishments in the same trade area whether sold on credit or for cash;

(3) the finance charges and annual percentage rate to not exceed those charged to persons whose credit rating has been determined and who meet generally accepted standards of credit worthiness;

(4) the down payment is as low and the period of repayment of the same duration as in consumer credit extensions to those of previously determined credit worthiness; and

(5) the debtor is dealt with fairly on all conditions of the transaction including the consequences of a delayed or missed payment.

b. "No Credit Rejected"

The words "no credit rejected" or words of similar import shall not be used since they imply that consumer credit will be extended to anyone regardless of the person's credit worthiness or financial ability to pay.

DRUG ADVERTISING

The purpose of these standards is to decline advertising for anything that could cause harm to readers of WNI newspapers.

Upon request, evidence of claims, medicinal properties, the effectiveness of treatment and/or safety will be needed from competent medical authorities. These authorities would include specialists in various fields of medicine, authorities in pharmacology, recognized medical journals, Better Business Bureau reports, Federal Trade Commission reports, the State Dept. of Agriculture reports, the Federal Food and Drug Administration (FDA) and U.S. Postal Service reports.

Documentation must be specific; that is, it must refer directly to claims made for the particular product, and must be in terms of the specific active ingredients, contained in the product. Documentation of evidence that the advertisement in question has appeared elsewhere, in newspapers or general periodicals, is not considered adequate.

For mail order drug advertising, the FDA registry number and a sample of the product are required prior to acceptance.

For prescription drugs, full disclosure of any side effects and FDA approval are required. Comparative statements of competitive products, strength, dosage, etc. may not be accepted.

Advertising for certain appetite suppressant products will be accepted providing:

1. The advertising copy is candid, straightforward and generally meets our Standards of Acceptability.

2. The advertisement contains a line of copy that is quite visible and suggests "See Your Physician for Guidance".

DMSO (Dimethyl sulfoxide) mail order advertising is not acceptable. DMSO advertising containing a local address is acceptable providing:

1. The advertiser has an occupational license.
2. No reference is made to suggest that the product is helpful, cures, relieves pain or any medicinal value pertaining to any ailment.
3. The copy does not convey the meaning that the product is pharmaceutically pure. The advertisement may state that DMSO is a solvent, but it is not mandatory.

EMPLOYMENT

General Policies

Advertisements under help wanted classifications must be for bonafide, existing job opportunities.

All employment advertising must disclose the nature of the work offered. These advertisements run basically in alphabetical sequence and therefore should begin with job title, industry, field or profession.

Advertisements may not discriminate nor show preference on the basis of age, sex, race, religion or national origin.

- a. Age – advertisements may not discriminate against those between the ages of 40-65.
- b. Sex – advertisements may not specify a particular sex, unless sex has been designated a bonafide occupational qualification by the Equal Employment Opportunity Commission.
- c. Race – advertisements may not specify race or national origin as a job requirement. Ability to fluently communicate in a foreign language may be stated.
- d. Religion – advertisements may not state religious preferences as a job requirement.
- e. A request for respondents to “Send Photograph” in employment advertising is unacceptable.

Employment offerings requiring purchase of a bond must so state, including amount.

Advertising under “General Employment” must state the method of pay, if other than salaried (i.e., commission, guarantee, draw, bonus, fee or combinations thereof); otherwise, these advertisements will appear under “Sales Help Wanted”.

Advertisements for a paid training course not related to a bonafide job offer with pay are unacceptable under employment classifications. Such advertisements must appear under the “Instructions” classifications. (See “Schools, Training Instruction”.)

Advertisements indicating a training period must state whether or not training is paid and on what basis.

“Work-at-Home” offers requiring applicants to purchase machines, materials or kits for the manufacture or processing of items to be sold on the open market or resold to the advertiser are not acceptable under employment classifications. These are business opportunities and therefore subject to the standards which apply to such advertising.

Sales – Help Wanted:

Product or service must be disclosed.

Evasive or misleading job titles which disguise the actual work are unacceptable.

Commission earnings claims must be reasonable and based on verifiable facts. Earnings claims are permitted when substantiated by Earnings Claims Substantiation Questionnaire. Advertisers should attach verification such as:

- a. Average earnings of company's sales staff.
- b. Average earnings of a certain number of people.
- c. Actual earnings of a particular salesperson (when not an extreme example).
- d. Average earnings or range of earnings in the particular field involved.

Advertisements requiring the purchase of sales kits, sample deposits or merchandise must so state in copy. These advertisements may run under "Sales Help Wanted" only. If the purchase exceeds \$75, advertisement must run under the "Business Opportunities" classification.

Advertising for sales help to sell products or services which are not acceptable as direct advertisement is also unacceptable.

Advertisements offering work as models are generally acceptable, if placed by an employer with proven performance records, such as department stores, clothing stores, local attractions. (See also "Modeling/Talent Agencies", this page).

Employment Agencies

Advertising under "Help Wanted" classifications must be clear that the advertiser is an agency. The business name and the words "Employment Agency" must appear in advertisement.

If a registration or filing fee is charged, a statement of such, including amount, must appear in the advertisement.

"Fee Paid" and "Non-Fee Paid" job listings may not be mixed in the same advertisement unless it is indicated which jobs are fee paid and which are not.

Copy regarding fees may not be abbreviated.

Modeling/Talent Agencies

These advertisements are unacceptable under "Employment" classification because jobs are offered on an "As Available" basis. They must appear under the "Modeling Talent Agencies" classification.

Advertisers may offer their services under the "Business Personals" classification. Only general statements regarding types of employment are acceptable. The advertiser's business name must appear in copy. If business name does not so indicate, the word "Agency" must be stated. All fees must be stated in copy. These might include registration fees, photography fees and training fees.

Employment Referral Services (Advance Fee Agencies)

Advertisements offering employment lists for sale or referral, or which sell memberships for employment newsletters, etc. are unacceptable under "Help Wanted". Such advertisements must appear under "Employment Information" classification. The words "Advance Fee" and amount of fee must appear in the copy. Copy may not indicate specific job listings or salaries.

Advertisements offering employment listings publications for sale through the mail are unacceptable.

Career Counseling Services

These advertisements must run under “Career Counseling” or “Employment Information” classifications.

Copy must be clear as to services offered and may not suggest that employment is being offered.

The complete business name must appear in the copy.

EXTRA CHARGES

Whenever a price is mentioned in advertising, any extra charges should also be disclosed in immediate conjunction with the price (e.g., delivery, installation, assembly, excise tax, postage and handling).

FOOD PRODUCTS

In order to be advertised as edible, a product must be licensed by the Health Department.

FRAUDULENT ADVERTISING

Following is the Supreme Court’s interpretation of what constitutes misleading and fraudulent advertising:

1. Advertising as a whole must not create a misleading impression even though every statement considered separately, is literally truthful.
2. Advertising must be written for the probable effect it produces on ordinary and trusting minds, as well as those intellectually capable of penetrating analysis.
3. Advertising must not obscure or conceal material facts.
4. Advertising must not be artfully contrived to distract and divert reader’s attention from the true nature of the terms and conditions of an offer.
5. Advertising must be free of fraudulent traps and stratagems which induce action which would not result from a forthright disclosure of the true nature of an offer.

“FREE”

The word “free” may be used in advertising whenever the advertiser is offering receipt of “free” merchandise:

When service is conditional on a purchase, the advertiser must disclose this condition, clearly and conspicuously together with the “Free” offer (not by placing an asterisk or symbol next to “free” and referring to the condition(s) in a footnote);

The normal price of the merchandise or service to be purchased must not have been increased nor its quantity or quality reduced; and

The “Free” offer must be temporary; otherwise, it would become a continuous combination offer, no part of which is free.

In a negotiated sale, no “free” offer of another product or service shall be made where:

1. The product or service to be purchased usually is sold at a price arrived at through bargaining, rather than at a regular price; or when
2. There may be a regular price but other material factors such as quantity, quality or size are arrived at through bargaining.

ILLUSTRATIONS

When using illustrations of money in advertising, use only coins. Federal law, with one exception, prohibits exact photographic reproductions of paper money, checks, bond and other obligations and securities of the U.S. and/or foreign governments. The one exception is that printed illustrations of paper money may be used in numismatic advertising, providing they appear in black and white and in a size which is either less than three-fourths or more than 1-1/2 times the size of the genuine bill.

Pictures showing alcoholic beverages bottles or narcotic instruments along with persons portrayed in compromising positions are unacceptable.

When using any illustration, be sure it accurately portrays the merchandise advertised. Any differences must be noted near the illustrations – such as “not exactly as illustrated” or “diamonds enlarged to show detail”.

Use of the name or picture of any living person in an advertisement without his or her written permission is strictly prohibited.

INSURANCE ADVERTISING

All insurance companies submitting advertising must be licensed by the State in which the ad appears.

Other criteria for acceptance of insurance advertising:

- a. On mail order hospitalization insurance advertising, the daily benefit must be shown in the same size type fact and in the same headline and sentence as the monthly, yearly or weekly benefit is shown, followed by the words “After Waiting Period”.
- b. Waiting periods must be shown in the headline or in a box in the advertisement in type sufficiently large to be readily noticeable and readable. These waiting periods must include: (1) The number of days in the hospital for which no benefits are paid; (2) waiting period before policy becomes effective on injuries or sickness which might have occurred before policy was purchased; and any and all other waiting periods which diminish the benefits. Exclusions of suicide, insanity, war, other causes, must be listed in same type size as waiting periods.
- c. Life insurance, fire or casualty and accident and health insurance advertising should emanate from a company recommended by “Best Insurance Reports” WNI locations will check new, unlisted companies through the State Department of Insurance.
- d. Advertising acceptance is contingent on inquiries of local and national Better Business Bureaus, state insurance departments and newspapers currently being used in other states to determine prior consumer experience and the performance records of the company and/or policy in question.
- e. If a company’s policyholders are liable to additional assessments, this fact must be stated in both the advertisement and the advertised policy.

f. Insurance advertising may not refer to WNI locations or its products by name or intimate that this policy is conceived for our company and/or our readers.

INVESTMENT ADVERTISING

Investment advertising must:

1. be submitted by firms, registered with the State Securities Commission, Federal Securities and Exchange Commission (SEC) and/or be members of the National Association of Investments Companies or comparable organizations.
2. be private individuals offering for sale only those securities qualified with the State Division of Securities. In such case, name and address must be included in the advertisement. The advertiser must be a registered dealer or broker.
3. have financial statement to substantiate any promise or implication of exact return.

It is necessary to fill out the Business Opportunity Questionnaires in this classification.

NOTE: The Securities and Exchange Commission prohibits advertising which:

1. Represents that any “graph, chart, formula, method, system or other device” can indicate when to buy or sell securities, “without disclosing, in close juxtaposition and with equal prominence, the limitations and difficulties” in using such techniques.
2. Contains testimonials about the financial advisor or his product.
3. Refers to a financial advisor’s past recommendations which have been profitable. SEC says such references “are misleading because by their very nature they emphasize the comments and activities favorable to the investment advisor and ignore or omit those which are unfavorable.
4. Offers any service as “Free” unless it is entirely free and subject to no charges or obligation, direct or indirect, to the respondent.

Investment advertising which is highly speculative or which promises unreasonably large profits not verified by facts is not acceptable.

The phrase “Full Recourse” should be eliminated. No reference, actual or implied, should be made to the Federal Securities and Exchange Commission. The SEC in no way endorses this type of financial transaction.

JEWELRY

If the weight of all the gems contained in a piece of jewelry is stated, it must be accompanied by the words “Total Weight” or similar words that indicate clearly the weight shown is that of all stones and not that of the center or largest stone.

LAYOUT AND ILLUSTRATIONS

The composition and layout of advertisements shall be such as to minimize the possibility of misunderstanding by the reader. For example, prices, illustrations, or descriptions shall not be so placed in an advertisement as to give the impression that the price or terms of featured merchandise apply to other merchandise in the advertisement when such is not the fact. An advertisement shall not be used which features merchandise at a price or terms boldly displayed,

together with illustrations of higher-priced merchandise, so arranged as to give the impression that the lower price or more favorable terms apply to the other merchandise, when such is not the fact.

LIBEL

Libel is defined as a defamation by written or printed words, pictures or in any form other than spoken words or gestures. Copy is defamatory if it tends to harm the reputation of any person by:

1. Exposing him or her to public aversion.
2. Lowering him or her in the estimation of anyone.
3. Deterring third persons from dealing with him or her.

A corporation, partnership, club or other association of individuals, as well as a person, may be defamed through false written words.

Words are libelous if they:

1. Reflect unfavorably upon personal morality or integrity.
2. Carry statements that tend to injure financial standing.
3. Tend to exclude or hurt one's social or business standing.

LIQUOR

1. Forcing techniques shall not be used. Examples:
 - a. Buy the large economy size.
 - b. Premiums to induce purchase.
 - c. Appeal to fear or disease or social ostracism.
2. Advertising shall not use devices in copy or illustrations which are intended to induce non-drinkers to use alcoholic beverages or to cause present drinkers to drink more.
3. No prices will be censored; however a clear designation must be made as to size. The term "Metric Half Gallon" is unacceptable.

LOST AND FOUND

"Lost and Found" advertisements with such phrases as: "No Questions Asked", "Party Known", "Stolen From", "Taken From", "Party Taking", or any other phrases implying theft or offers of immunity generally are not acceptable.

LOTTERY

A lottery is a violation of postal regulations and is not mailable. These regulations apply only to newspapers sent through the mail. There are three essential elements in lottery; all must be present to constitute a lottery. (Does not apply to state conducted lottery).

1. Price: The prize may be cash, merchandise or anything of value to be given to the winner.
2. Chance: Is the absence of any means of calculating results by participants (not a skill).

3. Consideration: Is the money or anything of worth which is expended by the participant for entry – regardless of whether face value is given in exchange. Consideration can include visiting a store, expenditure of time, etc., under the “time-and-effort” rule which held, for example, that while a single store visit does not constitute consideration, two visits would; that is, one to register and another to attend the drawing. It can also include purchase of the newspaper to obtain contest entry. Facsimile of entry forms is recommended for use.

MAIL ORDER ADVERTISING

Advertising asking that money be sent through the mail for information, instruction services, books, brochures, or merchandise or articles of any kind are not acceptable unless placed by concerns of established responsibility with a record of prompt performance, guarantee or refund, and products or services of known values. All mail order advertisements require an approved Business Opportunity Questionnaire on file.

A sample of mail order merchandise to be advertised may be requested by WNI prior to acceptance of any mail order advertising.

Offers to secure or to sell mailing lists or names for mailing lists are not acceptable.

MERCHANDISE ADVERTISING

Dealer Identification: All advertisements placed by dealers must clearly state the dealer’s firm name or the word “Dealer”. The absence of an occupational license does not void the dealer status.

There is one exception: Advertisements under the “Business Services” classification are obviously from business firms, so the firm name or “Dealer” is not required. Other exceptions may be made only by the Publisher.

All advertising for merchandise must:

1. Fairly, accurately and truthfully represent the items being offered.
2. Advertise merchandise as “Used” and not “Reconditioned” unless it has been checked, tested, and repaired and is in proper operating condition. Reconditioned would mean the replacement of broken or worn parts.
3. Indicate willingness and ability to immediately deliver the advertised merchandise.
4. Not advertise merchandise as “repossessed” unless the merchandise was originally sold or financed by the advertiser. (See “Repossessed” page 109)

Fire Sales or Damaged Merchandise Sales

Fire sale and damaged merchandise copy must clearly state the condition of the merchandise. Merchandise offered for sale must factually be merchandise in stock of firm at the time of the fire, or of conditions causing damage to said merchandise.

“Going Out of Business” Sales

License required – it shall be unlawful for any person within a city where a “Going Out of Business” license is required to conduct a closing out sale without first obtaining a license from the city to do so.

What sales are included? For the purpose of the preceding section, a closing out sale is defined as an offer to sell, to the public, goods, wares and merchandise of any kind, and

descriptions, on hand or in stock, in connection with the declared purpose of the seller to terminate, closeout, liquidate, wind-up or abandon the business.

All Federal, state and local “Going Out of Business” laws must be observed.

The following sales may be included and may require approval of Management.

1. Bankruptcy Sale, or any sales in which the terms “Bankrupt” or “Bankruptcy” are used.
2. Adjustment sales.
3. Liquidation sales.
4. Creditor sales.
5. Fire sales.
6. Lost our Lease sales.
7. Closing Out sales.
8. Any other sale advertised in such a manner that conveys to the public the idea that upon disposal of the stock of goods on hand, the business will cease and be discontinued.

Time Provision for License: License may be issued for a period of not less than ten (10) days or more than thirty (30) days. It may be extended by an authorized city official for an additional time period.

NOTE: Judicial sales or sales by executors and administrators conducted by order of any court are included in city ordinances.

MONEY WANTED – MONEY TO LEND

1. Money Wanted

Advertisements offering stocks or silent partnerships in return for financial investments must be cleared through the State Securities and Exchange Commission.

2. Money to Lend

Advertisements are acceptable only from licensed mortgage brokers and direct lenders.

A “Mortgage Broker” must be licensed, registered and bonded and this must be stated in the copy.

In some classifications, mortgage brokers and other advertisers must fill out questionnaires.

The words “insured, guaranteed, bonded, and full recourse” are unacceptable unless fully factual and legally explained with complete source and responsibility of all such claims.

No person shall use the word “Mortgages” in any advertising, sign, letterhead, card, etc., which tends to represent that he arranges mortgage loans, unless he or she is licensed to do so under the act. The advertisement must contain the broker’s firm name and address. Post office box, telephone number or street address is not enough.

MOTOR HOME RENTALS

The advertiser must be licensed and have a state sales tax number to rent for hire.

POLITICAL ADVERTISING

All political advertising must be pre-paid.

State statutes define a political advertisement as an expression via any mass media except the spoken word in direct conversation, which seeks to further the candidacy of any person for public office, or to influence legislative action. WNI will accept all proper political advertising so long as it is not libelous and does not violate good taste.

- a. The advertisement must be inserted by an authorized adult and signed by that individual.
- b. If it is published by a committee or club, it must be signed by the chairman and/or secretary-treasurer of the committee or club.
- c. If the material is in pre-printed form, it must show the name of the sponsor and be properly labeled, "Paid Political Advertisement."
- d. All political advertising appearing in newspapers must be labeled "Paid for by _____ (politician) or committee _____ (president or chairman)."
- e. A signature release must accompany any name appearing in a political ad.
- f. Copy on all political advertising must be reviewed and approved by management before publication.

PAYMENT

The general purpose of these guidelines is to highlight certain problem areas of price advertising. Truthful price advertising offering legitimate bargains is a benefit to all. Misleading, fictitious bargain price advertising violates the spirit and intent of truthful advertising and is unacceptable for publication.

1. If a specific statement of savings is made, the former price must be the retailer's regular price. If it is not the retailer's regular selling price, it must be clearly and conspicuously disclosed so the reader has a clear understanding of the comparison.
2. Merchandise must not be advertised as reduced in price if the former higher price is based on an artificial mark-up.
3. Special sales prices must not be advertised unless they represent a bonafide price reduction from the seller's customary retail price or at a savings from the regular price in this trading area.
4. "Two for One Sales" claims may be used only if the price of the two items is the seller's usual retail price for the single articles or is the regular price.
5. So-called "Half-Price" or "50% Off" or "One Cent" sales must be factually true, and if conditioned on purchase[s] of other merchandise, this must be conspicuously disclosed.
6. Retailers must not advertise items that are "preticketed" with a price above the usual sales price.
7. Price comparisons showing the savings of the sale price and the former price must be substantiated by the advertiser, on request.
8. Advertising citing discounts beyond the norm of accepted retailing practices (60% off, 70% off, etc.) will be questioned and advertisers will be required to document the authenticity of such discounts.

9. The terms “rebate”, “cash rebate”, or similar terms may be used only when payment of money will be made by the retailer or manufacturer to a purchaser after the sale and the advertising shall make clear who is making the payment.

10. The Truth in Lending Act, Regulation Z requires that advertisements tell the whole story. Anyone placing a consumer credit or lease advertisement should comply. Basically, there are specified terms that “trigger” the disclosure of other information.

If you state any of the following:

- a. Amount of down payment required.
- b. Dollar amount of the finance charge.
- c. Amount of any installment payment.
- d. Number of installments.
- e. Period of repayment.

then you are required to state all the following:

- a. Cash price or amount of loan.
- b. Amount of down payment or that no down payment is required.
- c. Number, amount and due dates or period of repayment if credit is extended.
- d. The amount of the finance charge as an Annual Percentage Rate (not abbreviated as A.P.R.)
- e. Deferred payment price in a credit sale, or total of payments in a loan.

There is no liability under the Truth in Lending Act for the media in which advertisements appear.

PRIZES/GIVEAWAYS

Any advertisement offering prizes, giveaways, or drawings must be cleared through management and must comply with all state laws.

REAL ESTATE

Every broker must state the licensed name and the term “Broker” or “Realtor”, in all advertising.

When a broker, broker associate or sales person advertises his or her own property and uses the real estate office address and/or phone number, the firms must be in the advertisement. When advertising his or her own real property, in which they reside, using the home address and/or phone number, the owner does not have to disclose that he or she is a broker.

If a salesperson’s name appears in any advertisement, he or she must be identified as a salesperson, broker-salesperson, associate or realtor-associate.

Terms such as “Save Broker’s Commission”, or “Save Commission” are not acceptable. Phrases such as “No Realtors” or “No Brokers” are not acceptable. The statement “Principals Only” is acceptable.

All real estate advertising, whether for sale or rent, is subject to the Civil Rights Act, which makes it unlawful to discriminate or show preference because of race, color, religion, sex or national origin. The following ad should appear at the beginning of all real estate classifications:

Real Estate advertised in The Courier by the Members of the Prescott Board of Realtors is subject to the Federal Fair Housing Act of 1988. This publication will not knowingly accept any advertising for Real Estate which is in violation of the law.

[LOGO]

EQUAL HOUSING
OPPORTUNITY

Rooms for Rent

Advertisements in this classification may not indicate that any medical care or attention is offered unless the advertiser is a licensed nurse or a licensed nursing home.

REPOSSESSED – USE OF THE WORD

The use of the term “Repossessed” should be generally discouraged at all times as being poor publicity for all retail businesses.

An item can only be advertised as “Repossessed” by the original seller or financier of the item.

Articles repossessed by a finance company and sold to a dealer for resale may not be advertised as “repossessed”.

Advertisements claiming that merchandise has been “Repossessed”, or using such phrases as “Taking Over Payments” or “Assume Balance”, when in actuality it is regular stock, are unacceptable.

It must not be used to create a false impression of below-market price.

In order to be acceptable, an advertisement placed by a dealer or financing institution of its bonafide repossession, using the statement “Take Over Payments”, should mean that a buyer could take delivery of the item by assuming the remaining installment payments on the unfinished contract, without obligation of any other kind.

The advertisement must also include:

1. The balance due when the item was repossessed, which becomes the new selling price.
2. The amount of down payment, if any.
3. The amount and number of weekly or monthly payments to be made to pay off the above mentioned balance which must total the full balance.

SCHOOLS, TRAINING AND INSTRUCTION

1. Classified advertisements seeking prospective students shall appear under the “Instruction”, “Business Personals”, or “Career Counseling” classifications and shall not be published under any “Help Wanted” classifications.

2. Every advertisement shall contain the full name of the school, the address and/or phone number.

3. In obtaining leads for prospective students, an advertiser shall not use advertisements which are classified, designated, or captioned “Men Wanted to Train For . . .”,

“Help Wanted”, “Employment”, “Business Opportunities” or by words or terms of similar import, so as to represent directly or by implication that employment is being offered.

4. No dollar amount or amounts shall be quoted in such advertisements as representative or indicative of earnings potential for graduates.

5. No statement shall be made that the school or its courses of instruction have been approved unless that can be substantiated by appropriate certificate of approval issued by an agency of government.

6. School advertisements that contain the phrases “Pay While Learning” or “Earn While You Learn” or similar statements are acceptable only when this fact is firmly established with Management and such school has been licensed by the state to act in the capacity of an employment agency.

TESTIMONIALS AND ENDORSEMENTS

In general, advertising which uses testimonials or endorsements is likely to mislead or confuse if:

- it is not genuine and does not actually represent the current opinion of the endorser;
- it is not quoted in its entirety, thereby altering its overall meaning and impact;
- it contains representations or statements which would be misleading if otherwise used in advertising;
- while literally true, it creates deceptive implications;
- the endorser is not competent or sufficiently qualified to express an opinion concerning the quality of the product or service being advertised or the results likely to be achieved by its use;
- it is not clearly stated that the endorser, associated with some well known and highly regarded institution, is speaking only in a personal capacity, and not on behalf of such an institution, if such be the fact;
- broad claims are made as to endorsements or approval by indefinitely large or vague groups, e.g., “the homeowners of America,” “the doctors of America”;
- an endorser has a pecuniary interest in the company whose product or service is endorsed and this is not made known in the advertisement;
- a signed release must accompany any testimonial or endorsement.

TIRES

Tire advertising shall in all ways and manners conform to the standards outlined by the Federal Trade Commission (FTC) Tire Advertising Guides – August 27, 1958, and shall likewise conform to the standards outlined by the National Tire Dealers and Retreaders Association, based on FTC Advertising Guides.

TRADE-IN ALLOWANCES

Any advertised trade-in allowance shall be an amount deducted from the advertiser’s current selling price without a trade-in. That selling price must be clearly disclosed in the advertisement. It is misleading to offer a fixed and arbitrary allowance regardless of the size, type, age, condition, or value of the article traded in, for the purpose of disguising the true retail price or

creating the false impression that a reduced price or a special price is obtainable only by such trade-in.

UNASSEMBLED MERCHANDISE

When advertised merchandise requires partial or incomplete assembly by the purchaser, the advertising shall disclose that fact, e.g., “unassembled”, “partial assembly required”.

USE OR CONDITION DISCLOSURES

a. Used, Secondhand, etc.

A product previously used by a consumer shall be clearly and conspicuously described as such, e.g., “used”, “second hand”, “pre-owned”, “repossessed”, “rebuilt”, “reconditioned”.

b. Rebuilt, Reconditioned.

(1) The term “rebuilt” should be used only to describe products that have been completely disassembled, reconstructed, repaired and refinished, including replacement of parts.

(2) The term “reconditioned” should be used only to describe products that have received such repairs, adjustments or refinishing as were necessary to put the product in satisfactory condition without rebuilding.

c. “As Is”

When merchandise is offered on an “as is” basis, i.e., in the condition in which it is displayed at the place of sale, the words “as is” shall be indicated in any advertising and on the bill of sale. An advertiser may also describe the condition of the merchandise if so desired.

d. Second, Irregular, Imperfect

If merchandise is defective or rejected by the manufacturer because it falls below specifications, it should be advertised by terms such as “second”, “irregular” or “imperfect”.

e. “Discontinued”

Merchandise shall not be described as “discontinued”, “discontinued model”, or by words of similar import unless the manufacturer has in fact discontinued its manufacture or the retail advertiser will discontinue offering it entirely after clearance of existing inventories. If discontinuance is only by the retailer, the advertising shall indicate that fact, e.g., “we are discontinuing stocking these items”.

VENDING MACHINES, VIDEO GAMES

In classified advertising, WNI will accept advertisements for sale of vending machines only under the “Miscellaneous For Sale” classification. Copy must be directed to the private individual for home use or the business person who has a location. The copy cannot suggest secured or unsecured routes or locations, an investment of any kind or a return on the investment.

Advertisements from owners to sell their video game rooms or from owners to resell their established vending routes will be accepted only under the “Business Opportunities” classification. These ads must be submitted with verification in order to be accepted.

WNI locations should not accept:

a. Advertisements for unsecured vending machine or video game machine routes or those that promise to secure location.

b. Advertisements from distributors or agents requiring the purchaser to make contractual agreement, binding them to share profits, purchase supplies, etc.

WARRANTIES (OR GUARANTEES)

a. The unqualified terms “warranty” (or “guarantee”) shall not be used in advertising.

b. When the term “warranty” (or “guarantee”) is used in oral or written representations, the following disclosures shall be made clearly and conspicuously:

(1) the nature and extent of the warranty, including what materials, services, workmanship or characteristics are warranted or excluded, its duration and what must be done by the customer before the warrantor will fulfill the obligation;

(2) the manner in which the advertiser will perform under the warranty such as repair, replacement or refund. If either the advertiser or the customer has an option as to what may satisfy the warranty, this shall be clearly disclosed; and

(3) the warrantor’s identity, to avoid confusion as to whether a supplier, manufacturer or the advertiser is the warrantor.

c. Warranties providing for adjustments on a prorated basis shall clearly disclose how such adjustments will be prorated (e.g., the time that a material has been used and how the warrantor will perform).

d. If “Lifetime” or similar warranties relate to any life other than that of the purchaser or original user, the “life” referred to must be clearly disclosed.

e. The manner in which a warranty is used frequently constitutes representations of material fact, e.g., “warranted to reduce heating bills 30% or we pay the difference”. In such cases, the warrantor not only undertakes to perform (“pay the difference”) under the warranty’s terms, but also assumes responsibility for the truth of the entire claim that is made, i.e., that heating bills will be reduced by 30%.

f. Advertisers should make certain that any advertising of warranties complies with the Consumer Products Warranty Act, effective July 4, 1975, and relevant Federal Trade Commission requirements.

X-RAYS

Advertising of “Free X-Rays” is not acceptable. However, “Free X-Ray if necessary upon examination” or words to this effect may be used. In no manner should an advertisement imply free X-rays or X-rays for a specific charge when in fact it will be transmitted at a higher charge for the X-rays to a third party payor for payment.

APPENDIX B

Law Prohibiting Fraudulent and Misleading Advertising

Table of Contents

ARIZONA REVISED STATUTES (A.R.S.)	112
§ 3-242(A). <i>Violations; civil penalties (Seed)</i>	112
§ 3-281. <i>False or misleading statements (Fertilizer)</i>	112
§ 3-663(A). <i>Labeling and advertising (Trade Products)</i>	112
§ 3-733. <i>Unlawful acts and conduct (Eggs)</i>	112
§ 5-235.01(B). <i>Disciplinary action; grounds; emergency suspension; injunction (Boxing Matches)</i>	112
§ 6-504. <i>Advertising (Credit Unions)</i>	112
§ 6-611(A). <i>Prohibited acts (Consumer Lender Loans)</i>	112
§ 6-710. <i>Prohibitions (Debt Management Companies)</i>	113
§ 6-909(C). <i>Prohibited acts (Mortgages)</i>	113
§ 6-947(D). <i>Prohibited acts (Mortgages)</i>	113
§ 6-984(D). <i>Prohibited acts (Mortgages)</i>	113
§ 6-1309(A). <i>Prohibited acts (Advanced Fee Loan Brokers)</i>	113
§ 20-443. <i>Misrepresentations and false advertising of policies (Insurance Policies)</i>	113
§ 20-443.01(A)-(B). <i>Misrepresentation in sale of insurance; violation; classification (Insurance Policies)</i>	114
§ 20-444(A)-(B). <i>False or deceptive advertising of insurance or status as insurer (Insurance Policies)</i>	114
§ 20-1007(E). <i>Membership coverage by prepaid dental plan organizations (Prepaid Dental Plans)</i>	114
§ 20-1065(A). <i>Suspension or revocation of certificate of authority; civil penalties (Healthcare Service Organizations)</i>	114
§ 20-2602(D). <i>Requirements applicable to insurers issuing variable life insurance (Variable Life Insurance Policies)</i>	114
§ 23-533. <i>Duty of agent to determine truthfulness of representation made to applicants (Employment Agents)</i>	114
§ 28-4493(A). <i>Cancellation or suspension; grounds (Automobile Dealers, Recyclers and Transporters)</i>	115
§ 32-572(A). <i>Grounds for disciplinary action or refusal to issue or renew license; definition (Aestheticians, Cosmetologists, Nail Technologists)</i>	115
§ 32-854.01. <i>Unprofessional conduct (Podiatrists)</i>	115
§ 32-924(A)-(B). <i>Grounds for disciplinary action; hearing; civil penalty; definition (Chiropractors)</i>	115
§ 32-1154(A). <i>Grounds for suspension or revocation of license; continuing jurisdiction; civil penalty; recovery fund award (Contractors)</i>	116
§ 32-1201. <i>Definitions (Dentists)</i>	116
§ 32-1301. <i>Definitions (Embalmers, Funeral Directors)</i>	116
§ 32-1401. <i>Definitions (Medical Doctors)</i>	116
§ 32-1501. <i>Definitions (Naturopathic Doctors)</i>	117
§ 32-1671. <i>Definitions (Opticians)</i>	117
§ 32-1696(A). <i>Unlawful acts; grounds for disciplinary action; classification (Opticians)</i>	117
§ 32-1854. <i>Definition of unprofessional conduct (Osteopathic Doctors)</i>	118
§ 32-2061(A). <i>Definitions; court ordered evaluations (Psychologists)</i>	118
§ 32-2101. <i>Definitions (Membership Camping Contracts, Unsubdivided Lands)</i>	118

APPENDIX B
Table of Contents, continued

§ 32-2135(D). *Real estate schools; courses of study; instructors; certification (Real Estate Schools)* 118

§ 32-2153(A). *Grounds for denial, suspension or revocation of licenses; retention of jurisdiction by commissioner (Real Estate Agents)*..... 119

§ 32-2161(A)-(B). *False statements or publications concerning land, subdivision or membership camping contract for sale or lease; classification; definition (Membership Camping Contracts, Subdivided Lands)*..... 119

§ 32-2183.01(B)-(G). *Advertising material; contents; order prohibiting use; costs of investigation; drawings or contests (Subdivided Lands)*..... 119

§ 32-2194.05(B)-(G). *Advertising material; contents; order prohibiting use (Cemeteries)* 120

§ 32-2195.05(B)-(G). *Advertising material; contents; order prohibiting use; costs of investigation (Unsubdivided Lands)*..... 120

§ 32-2197.17(B)-(G). *Advertising and promotional requirements; telemarketing and promotional employees; presentations and tours, drawings and contests; commissioner's authority (Timeshare Contracts)* 121

§ 32-2198.08(A). *Denial, suspension or revocation of a public report (Membership Camping Contracts)*..... 122

§ 32-2198.10(A)-(E). *Advertising plans; disclosures; lotteries and drawings (Membership Camping Contracts)*..... 122

§ 32-2232. *Unprofessional or dishonorable conduct (Veterinarians)*..... 123

§ 32-2321(B). *Disciplinary action; grounds; procedure; judicial review (Pest Control Agents)* 123

§ 32-2454. *Advertising (Private Investigators)*..... 123

§ 32-2457(A). *Grounds for disciplinary action; emergency summary suspension (Private Investigators)*..... 123

§ 32-2501. *Definitions (Medical Assistants)*..... 123

§ 32-2901. *Definitions (Homeopathic Doctors)*..... 124

§ 32-2933. *Definition of unprofessional conduct (Homeopathic Doctors)*..... 124

§ 32-3051. *Grounds for disciplinary action (Private Post-Secondary Schools)*..... 124

§ 32-3901. *Definitions (Acupuncturists)* 124

§ 36-902. *Prohibited acts (Food)*..... 125

§ 36-907. *Misleading labeling and advertisements; considerations (Food)*..... 125

§ 36-914(C). *Violation; classification; guaranty (Food)* 125

§ 36-1901. *Definitions (Audiologists, Hearing Aid Dispensers, Speech Language Pathologists)*..... 125

§ 41-2051. *Definitions (Commodities)*..... 126

§ 41-2081(C). *Sale of commodities (Commodities, Weights and Measures)*..... 126

§ 44-1231.01. *Unlawful acts (Native American Arts and Crafts)*..... 126

§ 44-6701. *Definitions (Equipment Dealers)*..... 126

§ 44-6703(B). *Dealer agreements; cancellation (Equipment Dealers)*..... 127

ARIZONA ADMINISTRATIVE CODE 127

R3-2-906(A). *Violations and Penalties (Eggs)*..... 127

R3-12-101. *Definitions (Arizona State Fair Concessionaires)* 127

R4-1-455.03(B), (D). *Professional Conduct: Other Responsibilities and Practices (Accountants)*..... 128

R4-7-901. *Advertising of a deceptive and fraudulent nature (Chiropractors)*..... 128

R4-12-302(A). *Deceptive practices prohibited (Funeral Directors)*..... 128

R4-19-403. *Competency to Practice Nursing (Nurses)*..... 128

R4-21-302(A)-(C). *False Advertising (Optometrists)*..... 129

R4-28-502(C). *Advertising by a licensee (Real Estate Salespersons and Brokers)*..... 129

R4-28-504(A)-(N). *Developments Advertising (Membership Camping Contracts)*..... 129

R4-30-301(A). *Rules of Professional Conduct (Professionals Registered with the Board of Technical Registration)*..... 130

R4-39-305(A)-(E). *Advertising (Private Post-Secondary Schools)*..... 130

R4-43-101. *Definitions (Occupational Therapists)*..... 131

APPENDIX B
Table of Contents, continued

<i>R4-46-601. Standards of Practice (Property Tax Agents)</i>	131
<i>R9-22-504(A)-(D). Marketing; Prohibition against Inducements; Misrepresentations; Discrimination; Sanctions (AHCCCS Contractors)</i>	131
<i>R9-27-503(A)-(D). Marketing and Discrimination (Healthcare Group Plans)</i>	132
<i>R14-4-103(B)-(I). Advertising and Sales literature (Securities)</i>	132
<i>R14-6-208(A). Advertisements by Investment Advisers or Investment Adviser Representatives (Investment Advisors)</i>	133
<i>R20-6-201(A)-(Q). Advertisements of Disability Insurance (Disability Insurance)</i>	134
<i>R20-6-202(C)-(D). Advertising, Solicitation, and Transaction of Life Insurance (Life Insurance)</i>	137
OTHER RULES (ATTORNEYS)	141
<i>ER 7.1. Communications Concerning a Lawyer's Services</i>	141

ARIZONA REVISED STATUTES (A.R.S.)

§ 3-242(A). Violations; civil penalties (Seed)

A. The director [of the Department of Agriculture] may assess a civil penalty of at least fifty dollars but not more than three hundred dollars for each violation, with each affected customer constituting a separate violation, against a seed dealer or labeler who, after a hearing, is found by a preponderance of the evidence:

...

6. To have labeled or sold seed that has been advertised in a false or misleading manner.

§ 3-281. False or misleading statements (Fertilizer)

It is unlawful to distribute a misbranded fertilizer material. A fertilizer material is misbranded if it carries any false or misleading statement upon or attached to the container, or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the fertilizer material.

§ 3-663(A). Labeling and advertising (Trade Products)

A. A trade product shall not be advertised, displayed for sale, or sold in any manner or under any circumstances or conditions likely to mislead, deceive or confuse the public into believing the product is a real product.

§ 3-733. Unlawful acts and conduct (Eggs)

The following acts or conduct are unlawful:

...

4. Making a statement, representation or assertion in writing, or by any other manner or means whatever, concerning the grade, size, weight, condition of or any other matter relating to advertising and selling eggs and egg products which is false, deceptive or misleading in any particular.

§ 5-235.01(B). Disciplinary action; grounds; emergency suspension; injunction (Boxing Matches)

B. The [Arizona State Boxing] commission may take disciplinary action or refuse to issue or renew a [boxing] license for any of the following causes:

...

2. Advertising by means of known false, misleading, deceptive or fraudulent statements through any communication media.

§ 6-504. Advertising (Credit Unions)

A credit union shall not make, advertise, display, distribute, broadcast or televise, or cause or permit to be made, advertised, displayed, distributed, broadcast or televised, in any manner whatever any false, misleading or deceptive statement or representation.

§ 6-611(A). Prohibited acts (Consumer Lender Loans)

A. A licensee shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a consumer lender loan. To the extent applicable, all advertising shall comply with the advertising requirements of the truth in lending act.

§ 6-710. Prohibitions (Debt Management Companies)

It is unlawful for a licensee to:

...

8. Advertise his services, display, distribute, broadcast or televise or permit to be displayed, advertised, distributed, broadcasted or televised his services in any manner whatsoever in which any false, misleading or deceptive statement or representation with regard to the services to be performed by the licensee or the charges to be made for those services.

§ 6-909(C). Prohibited acts (Mortgages)

C. A person engaged in the mortgage business shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner whatever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a mortgage loan. The charges or rates of charge, if stated, shall be set forth in such manner as to prevent misunderstanding by prospective borrowers.

§ 6-947(D). Prohibited acts (Mortgages)

D. A person engaged in the mortgage banking business shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner whatever, any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a mortgage banking loan or mortgage loan. The charges or rates of charge, if stated, shall be set forth in a clear and concise manner.

§ 6-984(D). Prohibited acts (Mortgages)

D. A person engaged in commercial mortgage banking shall not knowingly advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner whatever, a false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for a commercial mortgage loan. The charges or rates of charge, if stated, shall be set forth in a clear and concise manner.

§ 6-1309(A). Prohibited acts (Advanced Fee Loan Brokers)

A. An advance fee loan broker shall not advertise, display, distribute, broadcast or televise or cause or permit to be advertised, displayed, distributed, broadcast or televised any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans or the likelihood of the loan or extension of credit being granted.

§ 20-443. Misrepresentations and false advertising of policies (Insurance Policies)

A person shall not make, issue or circulate, or cause to be made, issued or circulated, any estimate, illustration, circular, sales material or statement:

1. Misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised or the dividends or share of the surplus to be received.
2. Making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies.
3. Making any misleading representation or any misrepresentation as to the financial condition of any insurer or as to the legal reserve system upon which any life insurer operates.
4. Using any name or title of any policy or class of policies misrepresenting the true nature of the policy.

5. Making any misrepresentation to any policyholder for the purpose of inducing or tending to induce the policyholder to lapse, forfeit, surrender, retain or convert any insurance policy.

6. Referring to the coverage or any of the provisions of chapter 3, article 6 or 7 of this title in connection with the sale or attempted sale of any policy of insurance, except in connection with the notice prescribe in 20-400.10, subsection E, section 20-410, subsection B and section 20-422, subsection C.

§ 20-443.01(A)-(B). Misrepresentation in sale of insurance; violation; classification (Insurance Policies)

A. It is unlawful for a person to knowingly make any misrepresentation as proscribed by § 20-443 in the sale of insurance.

B. A person who violates this section is guilty of a class 5 felony.

§ 20-444(A)-(B). False or deceptive advertising of insurance or status as insurer (Insurance Policies)

A. No person 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 a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, any advertisement, announcement, sales material or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

B. No person that is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

§ 20-1007(E). Membership coverage by prepaid dental plan organizations (Prepaid Dental Plans)

E. A membership coverage and advertising and sales material shall contain no provisions or statements that are unjust, unfair, inequitable, misleading or deceptive or that encourage misrepresentation or that are untrue.

§ 20-1065(A). Suspension or revocation of certificate of authority; civil penalties (Healthcare Service Organizations)

A. The director may suspend or revoke any certificate of authority issued to a health care services organization under this article if the director finds that any of the following conditions exists:

...

5. The health care services organization, or any authorized person on its behalf, has advertised or merchandised its services in a materially untrue, misleading, deceptive or unfair manner.

§ 20-2602(D). Requirements applicable to insurers issuing variable life insurance (Variable Life Insurance Policies)

D. An insurer authorized to transact variable life insurance business in this state shall not use any sales material, advertising material, descriptive literature or other material of any kind in connection with its variable life insurance business in this state that is false, misleading, deceptive or inaccurate.

§ 23-533. Duty of agent to determine truthfulness of representation made to applicants (Employment Agents)

Every employment agent shall reasonably assure himself that any representations whatever, whether spoken, written or advertised in printed form, which he makes with regard to

any employment, work or situation, and which leads or may lead persons to seek such employment, work or situation, are true and cover all the material facts affecting the employment in question.

§ 28-4493(A). Cancellation or suspension; grounds (Automobile Dealers, Recyclers and Transporters)

A. The director may suspend or cancel the license, off-premises exhibition permit, off-premises display and sales permit or special event permit of any [vehicle dealer, recycler or transporter] licensee or exhibitor if the director determines that the licensee or exhibitor:

...

2. Has used or is using any false advertising as prescribed by § 13-2203.

§ 32-572(A). Grounds for disciplinary action or refusal to issue or renew license; definition (Aestheticians, Cosmetologists, Nail Technologists)

A. The board [of cosmetology] may take disciplinary action or refuse to issue or renew a license for any of the following causes:

...

5. Knowingly advertising by means of false, misleading, deceptive or fraudulent statements through communication media.

§ 32-854.01. Unprofessional conduct (Podiatrists)

Unprofessional conduct [by a podiatrist], includes the following conduct, whether it occurs in this state or elsewhere:

...

5. Advertising in a false, deceptive or misleading manner or advertising the quality of podiatric service.

§ 32-924(A)-(B). Grounds for disciplinary action; hearing; civil penalty; definition (Chiropractors)

A. The following are grounds for disciplinary action, regardless of where they occur:

...

13. Advertising in a false, deceptive, or misleading manner.

...

18. Failing to place or cause to be placed the word or words “chiropractic”, “chiropractor”, “chiropractic doctor” or “chiropractic physician” in any sign or advertising media.

...

24. Advertising chiropractic services, appliances, tests, equipment, x-ray examinations or other procedures for a specified price without also specifying the services, procedures or items included in the advertised price.

25. Advertising chiropractic services, appliances, tests, equipment, x-ray examinations or other procedures as free without also disclosing what services or items are included in the advertised service or item.

...

27. Advertising a specialty or procedure that requires a separate examination or certificate of specialty, unless the licensee has satisfied the applicable requirements of this chapter.

§ 32-1154(A). Grounds for suspension or revocation of license; continuing jurisdiction; civil penalty; recovery fund award (Contractors)

A. The holder of a [contractor's] license or any person listed on a license pursuant to this chapter shall not commit any of the following acts or omissions:

...

16. False, misleading or deceptive advertising whereby any member of the public may be misled and injured.

§ 32-1201. Definitions (Dentists)

In this chapter, unless the context otherwise requires:

...

8. "Dentistry," "dentist" and "dental" means the general practice of dentistry and all specialties or restricted practices of dentistry.

9. "Denturist" means a person practicing denture technology pursuant to article 5 of this chapter.

...

20. "Unprofessional conduct" means the following acts, whether occurring in this state or elsewhere:

...

(u) The following advertising practices:

(i) The publication or circulation, directly or indirectly, of any false, fraudulent or misleading statements concerning the skill, methods or practices of the licensee or of any other person.

(ii) Advertising in any manner which tends to deceive or defraud the public.

§ 32-1301. Definitions (Embalmers, Funeral Directors)

54. "Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:

(i) Falsely advertising or labeling any service or merchandise with the intention of deceiving the public.

§ 32-1401. Definitions (Medical Doctors)

In this chapter, unless the context otherwise requires:

...

27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

...

(c) False, fraudulent, deceptive or misleading advertising by a doctor of medicine or the doctor's staff, employer or representative.

§ 32-1501. Definitions (Naturopathic Doctors)

In this chapter, unless the context otherwise requires:

...

24. "Naturopathic medicine" means medicine as taught in approved schools of naturopathic medicine and in clinical, internship, preceptorship and postdoctoral training programs approved by the board and practiced by a recipient of a degree of doctor of naturopathic medicine licensed pursuant to this chapter.

...

30. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:

...

(u) False, fraudulent, deceptive or misleading advertising or advertising the quality of a medical or health care service by a physician or by the physician's staff, employer or representative.

§ 32-1671. Definitions (Opticians)

In this chapter, unless the context otherwise requires:

...

3. "Dispensing optician" means any person, except as provided in § 32-1691, who dispenses lenses, contact lenses, frames, artificial eyes, optical devices, appurtenances thereto or parts thereof to the intended wearer on written prescription from a duly licensed physician or optometrist, and in accordance with such prescription interprets, measures, adapts, fits or adjusts the same for the aid or correction of visual or ocular anomalies of the human eye or who duplicates, replaces, reproduces or repeats the same without prescription when there is no change in refractive value, provided that contact lenses shall never be dispensed without a written contact lens prescription being on file in any optical establishment, office of an optometrist or office of a physician or verbal confirmation of that written prescription. The dispensing optician shall advise the intended wearer at the time that contact lenses are delivered to return to the prescribing physician or optometrist for evaluation and follow-up care.

§ 32-1696(A). Unlawful acts; grounds for disciplinary action; classification (Opticians)

A. It is unlawful [for a dispensing optician] to:

...

4. Engage in false or misleading representations by knowingly and with the intent to sell to the public real or personal property or services, or to induce the public to acquire an interest in real or personal property or services, make and publish an advertisement, either printed or by public or proclamation, or otherwise, containing any false, fraudulent, deceptive or misleading representations in respect to such property or services, or the manner of its sale or distribution.

5. Provide any examination or treatment of the eye or advertise eye examinations without the disclaimer "by independent doctor of optometry", "by independent doctor of ophthalmology" or "by independent physician licensed pursuant to title 32, chapter 13 or 17, Arizona Revised Statutes.

...

7. Make use of any advertising statement of a character tending to indicate to the public superiority of any particular system or type of eyesight examination or treatment over that provided by other licensed ocular practitioners.

§ 32-1854. Definition of unprofessional conduct (Osteopathic Doctors)

"Unprofessional conduct" [by an osteopathic doctor] includes the following acts, whether occurring in this state or elsewhere:

...

16. Advertising in a false, deceptive or misleading manner.

§ 32-2061(A). Definitions; court ordered evaluations (Psychologists)

A. In this chapter, unless the context otherwise requires:

...

13. "Unprofessional conduct" [by a psychologist] includes the following activities whether occurring in this state or elsewhere:

...

(x) Engaging in false, deceptive or misleading advertising.

§ 32-2101. Definitions (Membership Camping Contracts, Unsubdivided Lands)

In this chapter, unless the context otherwise requires:

...

36. "Membership camping contract" means an agreement offered or sold in this state evidencing a purchaser's right or license to use the camping or outdoor recreation facilities of a membership camping operator and includes a membership that provides for this use.

37. "Membership camping operator" means an enterprise, other than one that is tax exempt under § 501(c)(3) of the internal revenue code of 1986, as amended, that solicits membership paid for by a fee or periodic payments and has as one of its purposes camping or outdoor recreation including the use of camping sites primarily by members. Membership camping operator does not include camping or recreational trailer parks that are open to the general public and that contain camping sites rented for a per use fee or a mobile home park.

59. "Unsubdivided lands" means land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests and the lots or parcels are thirty-six acres or more each but less than one hundred sixty acres each, or that are offered, known or advertised under a common promotional plan for sale or lease, except that agricultural leases shall not be included in this definition.

§ 32-2135(D). Real estate schools; courses of study; instructors; certification (Real Estate Schools)

D. A real estate school, through any owner, director, administrator, instructor or other agent, shall not:

...

2. Promote or advertise the school using false or misleading statistics or testimonials or any other form of deceptive advertisement.

§ 32-2153(A). Grounds for denial, suspension or revocation of licenses; retention of jurisdiction by commissioner (Real Estate Agents)

A. The [real estate] commissioner may suspend or revoke a license, deny the issuance of a license or deny the renewal or the right of renewal of a license issued under the provisions of this chapter if it appears that the holder or applicant, within five years immediately preceding, in the performance of or attempt to perform any acts authorized by the license or by this chapter, has:

...

4. Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution or circulation of any material false or misleading statement or representation concerning the licensee's business or any land, cemetery property, subdivision or membership campground or camping contract offered for sale, in this or any other state.

§ 32-2161(A)-(B). False statements or publications concerning land, subdivision or membership camping contract for sale or lease; classification; definition (Membership Camping Contracts, Subdivided Lands)

A. Every person who knowingly authorizes or directs any publication or any false statement or representation concerning any land, subdivision or membership camping contract [see A.R.S. § 32-2101 for definition] offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus, or letter concerning the land, subdivision or membership camping contract contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes it or causes it to be issued, circulated, published or distributed, or who in any respect knowingly violates or fails to comply with any order, permit, decision, demand or requirement of the commissioner under the provisions of this chapter, is guilty of a class 6 felony and, if a licensee, shall be tried before the commissioner for suspension or revocation of his license.

B. For purposes of this section, "knowingly" or "with knowledge" includes, but is not limited to, engaging in any conduct prohibited in subsection A if such person knew or should have known of the falsity of any statement or representation.

§ 32-2183.01(B)-(G). Advertising material; contents; order prohibiting use; costs of investigation; drawings or contests (Subdivided Lands)

B. No advertising, communication or sales literature of any kind [regarding the sale of subdivided real estate], including oral statements by salespersons or other persons, shall contain:

1. Any untrue statement of material fact or any omission of material fact which would make such statement misleading in light of the circumstances under which such statement was made.

2. Any statement or representation that the lot or parcels are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial representation of proposed improvements or nonexistent scenes without clearly indicating the improvements are proposed and the scenes do not exist.

4. Any statement or representation that the lot or parcels are suitable as homesites or building lots unless either of the following is true:

(a) Potable water is available from a certificated public utility or a municipal corporation and either an individual sewage disposal system will operate or a sewer system is available from a certified public utility or a municipal corporation.

(b) Facts to the contrary are clearly and conspicuously included in each advertisement pertaining to the property.

C. All advertising and sales literature shall be consistent with the information contained in the notice of intention [to subdivide lands filed with the real estate commission] and the public report [authorizing the sale of subdivided lands]. The subdivider shall retain and have available for department review copies of all advertising materials used in marketing lots in the subdivision for three years after the last use of the advertising materials.

D. If it appears to the commissioner that any person is or has engaged in advertising or promotional practices in violation of this article, the commissioner may hold a hearing as a contested case and issue such order or orders as he deems necessary to protect the public interest, or the commissioner may bring an action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation.

...

F. It is unlawful for any owner, subdivider, agent or employee of any subdivision or other person with intent directly or indirectly to sell or lease lots or parcels subject to the provisions of this article to authorize, use, direct or aid in any advertising, communication, sales literature or promotional practice which violates this section.

G. Nothing contained in this section shall apply to the owner or publisher of a newspaper or magazine or to any other publication of printed matter wherein such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2194.05(B)-(G). Advertising material; contents; order prohibiting use (Cemeteries)

B. No advertising, communication or sales literature of any kind, including oral statements by salespersons or other persons, may contain:

1. Any untrue statement of material fact or any omission of material fact which would make the statement misleading in light of the circumstances under which the statement was made.

2. Any statement, representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

C. All advertising and sales literature shall be consistent with the information contained in the notice of intention [filed with the real estate commissioner] and shall otherwise comply with the rules of the commissioner.

...

G. Nothing contained in this section applies to the owner or publisher of a newspaper, magazine or other publication of printed matter in which such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement if the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2195.05(B)-(G). Advertising material; contents; order prohibiting use; costs of investigation (Unsubdivided Lands)

B. No advertising, communication or sales literature of any kind [regarding unsubdivided lands (see A.R.S. § 32-2101 for definition)], including oral statements by salespersons or other persons, shall contain:

1. Any untrue statement of material fact or any omission of material fact which would make such statement misleading in light of the circumstances under which such statement was made.

2. Any statement or representation that the land is offered without risk or that loss is impossible.

3. Any statement or representation or pictorial representation of proposed improvements or nonexistent scenes without clearly indicating the improvements are proposed and the scenes do not exist.

4. Any statement or representation that the lot or parcels are suitable as homesites or building lots unless either of the following is true:

(a) Potable water is available from a certificated public utility or a municipal corporation and either an individual sewage disposal system will operate or a sewer system is available from a certified public utility or a municipal corporation.

(b) Facts to the contrary are clearly and conspicuously included in each advertisement pertaining to the property.

C. All advertising and sales literature shall be consistent with the information contained in the notice of intention [filed with the real estate commissioner] and the public report [of the commission].

...

G. Nothing contained in this section shall apply to the owner or publisher of a newspaper, magazine or other publication of printed matter wherein such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

§ 32-2197.17(B)-(G). Advertising and promotional requirements; telemarketing and promotional employees; presentations and tours, drawings and contests; commissioner's authority (Timeshare Contracts)

B. Any advertising, communication or sales literature of any kind [regarding time shares], including oral statements by salespeople or any other person, shall not contain:

1. Any untrue statement of material fact or any omission of material fact which would make such statements misleading in light of the circumstances under which such statements were made.

2. Any statement or representation that the timeshare interests are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

C. All promotional and advertising material shall be consistent with the information contained in the notice of intention [filed with the real estate commissioner] and the public report [of the commissioner] and shall clearly indicate that the material is being used to promote the sale, lease or use of an interest in a timeshare plan. An interest in timeshare plan, vacation ownership plan, fractional ownership plan, vacation club or other term or terms may be approved by the commissioner or on a case by case basis after the commissioner finds that such term or terms clearly disclose to prospective purchasers the nature of the timeshare interest being offered.

...

G. This section does not apply to the owner or publisher of a newspaper or magazine or to any other publication of printed matter in which such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement if the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

...

K. A developer or a representative of a developer conducting timeshare presentations or tours may offer a timeshare prospect a redemption certificate in return for participation in a presentation or tour if all of the following requirements are met:

4. All advertising and offers referring to redemption certificates shall clearly and conspicuously set forth any terms, conditions, restrictions or limitations governing the use of the certificates.

§ 32-2198.08(A). Denial, suspension or revocation of a public report (Membership Camping Contracts)

A. The commissioner may order that a public report be denied, suspended or revoked or an application for a public report be denied if he finds that the order is necessary for the protection of purchasers or owners of membership camping contracts and that any of the following is true:

1. The membership camping operator's advertising, sales techniques or trade practices have been or are deceptive, false or misleading under § 44-1522.

...

9. The membership camping operator has disseminated or caused to be disseminated any false or misleading promotional materials in connection with a campground.

§ 32-2198.10(A)-(E). Advertising plans; disclosures; lotteries and drawings (Membership Camping Contracts)

A. Any advertising, communication or sales literature [regarding membership camping contracts], including oral statements by salespersons or any other person, shall not contain:

1. Any untrue statement of material fact or any omission of material fact which would make the statements misleading in light of the circumstances under which such statements were made.

2. Any statement or representation that the membership camping contracts are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial presentation of proposed improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

...

C. This section does not apply to the owner or publisher of a newspaper or magazine or to any other publication of printed matter in which an advertisement appears or to the owner or operator of a radio or television station which disseminates an advertisement if the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

...

E. No campground facility may be advertised or promoted in any way that appears to guarantee the unimpeded use of or access to campground properties, if a blanket encumbrance exists on the properties, unless a nondisturbance or other acceptable agreement has been recorded, filed and accepted by the department pursuant to § 32-2198.14.

§ 32-2232. Unprofessional or dishonorable conduct (Veterinarians)

As used in this chapter, unprofessional or dishonorable conduct [by a veterinarian] includes:

...

9. False, deceptive or misleading advertising, having for its purpose or intent deception or fraud.

§ 32-2321(B). Disciplinary action; grounds; procedure; judicial review (Pest Control Agents)

B. The following acts are grounds for disciplinary action [of a structural pest control license]:

...

6. Authorizing, directing or abetting the publication, advertisement, distribution or circulation of any false statement or material misrepresentation concerning a business of structural pest control.

§ 32-2454. Advertising (Private Investigators)

All display or broadcast media advertising by a [private investigator] licensee soliciting business shall contain the licensee's name and license number as they appear in the records of the department [of public safety]. The licensee shall not use any advertising that is false, deceptive or misleading.

§ 32-2457(A). Grounds for disciplinary action; emergency summary suspension (Private Investigators)

A. The following constitute grounds for which disciplinary action . . . may be taken against a licensee or registrant or if the licensee is other than an individual, against the licensee's qualifying party or any of its associates, directors or managers:

...

2. Using any letterhead, advertisement or other printed matter in any manner or representing that the licensee, associate registrant or employee of the licensee is an instrumentality of the federal government, a state or any political subdivision of a state.

...

10. Soliciting business for an attorney in return for compensation.

...

22. Advertising in a false, deceptive or misleading manner.

§ 32-2501. Definitions (Medical Assistants)

In this chapter, unless the context otherwise requires:

...

14. "Physician assistant" means a person who is licensed pursuant to this chapter and who performs health care tasks pursuant to a dependent relationship with a physician.

...

21. "Unprofessional conduct" includes the following acts by a physician assistant that occur in this state or elsewhere:

...

(y) Using the term "doctor" or the abbreviation "Dr." on a name tag or in a way that leads the public to believe that the physician assistant is licensed to practice as an allopathic or an osteopathic physician in this state.

...

(gg) False, fraudulent, deceptive or misleading advertising by a physician assistant or the physician assistant's staff or representative.

§ 32-2901. Definitions (Homeopathic Doctors)

In this chapter, unless the context otherwise requires:

...

11. "Homeopathy" means a system of medicine that employs homeopathic medication in accordance with the principle that a substance that produces symptoms in a healthy person can cure those symptoms in an ill person.

§ 32-2933. Definition of unprofessional conduct (Homeopathic Doctors)

"Unprofessional conduct" [by a homeopathic doctor (see A.R.S. § 32-2901 for definition)] includes the following acts, whether occurring in this state or elsewhere:

...

21. Advertising in a false, deceptive or misleading manner.

...

29. Use of the designation "M.D." or "D.O." in a way that would lead the public to believe that a person is licensed by the Arizona medical board or the board of osteopathic examiners in medicine and surgery in this state if this is not the case.

30. Falsely or fraudulently representing or holding oneself out as being a homeopathic medical specialist.

§ 32-3051. Grounds for disciplinary action (Private Post-Secondary Schools)

The board [for private postsecondary education] may take disciplinary action against any person licensed pursuant to this chapter for any one or a combination of the following reasons:

...

3. Engaging in fraudulent advertising.

...

5. Engaging in false or misleading advertising, solicitation or recruitment practices.

§ 32-3901. Definitions (Acupuncturists)

In this chapter, unless the context otherwise requires:

1. "Acupuncture" means puncturing the skin by thin, solid needles to reach subcutaneous structures, stimulating the needles to affect a positive therapeutic response at a distant site and the use of adjunctive therapies.

...

4. "Unprofessional conduct" [by an acupuncturist] includes the following, whether occurring in this state or elsewhere:

...

- (o) Advertising in a false, deceptive or misleading manner.

§ 36-902. Prohibited acts (Food)

The following acts and the causing thereof within the state of Arizona are prohibited:

...

- 4. The dissemination of any false advertisement with respect to a food.

§ 36-907. Misleading labeling and advertisements; considerations (Food)

When a food is alleged to be misbranded because the labeling is misleading, or when an advertisement of a food is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be considered, among other things and in addition to representations made or suggested in the labeling or advertising, the extent to which the labeling or advertisement fails to reveal facts material in light of such representations or material with respect to consequences which may result from use of the food under the conditions of use prescribed in the labeling or advertisement or under such conditions of use as are customary or usual.

§ 36-914(C). Violation; classification; guaranty (Food)

C. No publisher, broadcast or telecast licensee or agency or medium for the dissemination of an advertisement shall be liable under this section by reason of the dissemination by him of such false advertisement, unless one or more of the following exists:

- 1. He knew or had reason to know that the advertisement was false.
- 2. He is also the manufacturer, packer, distributor or seller of the food to which the false advertisement relates.
- 3. He has refused a request of the director to furnish the director the name and post-office address of the manufacturer, packer, distributor, seller or advertising agency who caused him to disseminate such advertisement.

§ 36-1901. Definitions (Audiologists, Hearing Aid Dispensers, Speech Language Pathologists)

In this chapter, unless the context otherwise requires:

...

- 20. "Unprofessional conduct" means:

...

(c) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or other representation, however disseminated or published, which is misleading, deceiving, improbable or untruthful.

(d) Advertising for sale a particular model, type or kind of product when purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing the advertised model, type or kind where the purpose of the advertisement is to obtain prospects for the sale of a different model, type or kind than that advertised.

(e) Representing that the professional services or advice of a physician will be used or made available in the selling, fitting, adjustment, maintenance or repair of hearing aids when such is not true, or using the words "doctor", "clinic", "clinical" or like words, abbreviations or symbols which tend to connote the medical profession services when such is not accurate.

(f) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts or questionable credit standing or by other false representations, or falsely disparaging the products of competitors in any respect, or their business methods, selling prices, values, credit terms, policies or services.

(g) Displaying competitive products in his show window, shop or advertising in such manner as to falsely disparage such products.

(h) Representing falsely that competitors are unreliable.

(i) Quoting prices of competitive products without disclosing that they are not the current prices, or showing, demonstrating or representing competitive models as being current models when they are not current models.

(j) Imitating or simulating the trademarks, trade names, brands or labels of competitors with the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers.

(k) Using in his advertising the name, model name or trademark of a particular manufacturer of hearing aids in such a manner as to imply a relationship with the manufacturer that does not exist, or otherwise to mislead or deceive purchasers or prospective purchasers.

§ 41-2051. Definitions (Commodities)

In this chapter, unless the context otherwise requires:

...

4. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

§ 41-2081(C). Sale of commodities (Commodities, Weights and Measures)

C. A person shall not misrepresent the price of any commodity [see A.R.S. § 41-2051 for definition] or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

§ 44-1231.01. Unlawful acts (Native American Arts and Crafts)

It is unlawful for any person to knowingly do any of the following:

...

6. Engage in any false, misleading or deceptive advertising or any unconscionable trade practice regarding Indian arts or crafts. In this paragraph "unconscionable trade practice" means any act or practice in connection with the sale or offering for sale of Indian arts or crafts to a person which to the person's detriment takes advantage of the person's lack of knowledge, ability, experience or capacity to a grossly unfair degree or results in a gross disparity between the value received by the person and the price paid.

§ 44-6701. Definitions (Equipment Dealers)

In this chapter, unless the context otherwise requires:

1. "Dealer agreement" means an oral or written contract or agreement of definite or indefinite duration between a supplier and an equipment dealer that prescribes the rights and obligations of each party with respect to the purchase or sale of equipment.

2. "Equipment" means machines designed for or adapted and used for agriculture, livestock, grazing, light industrial and utility purposes. Equipment does not include earthmoving and heavy construction equipment, mining equipment or forestry equipment.

3. "Equipment dealer" or "dealer" means any person, partnership, corporation, association or other form of business enterprise that is primarily engaged in the retail sale of equipment.

4. "Net cost" means the price the equipment dealer pays to the supplier for equipment, including the freight costs from the supplier's location to the equipment dealer's location, minus all applicable discounts allowed by the supplier.

5. "Net price" means the price listed for repair parts in the supplier's price list or catalog minus all applicable discounts allowed by the supplier.

6. "Supplier" means any person, partnership, corporation, association or other business enterprise that is engaged in the manufacturing, assembly or wholesale distribution of equipment or repair parts, or both, and includes any successor in interest, including a purchaser of assets or stock, or a surviving corporation that results from a merger, liquidation or reorganization of the original supplier.

§ 44-6703(B). Dealer agreements; cancellation (Equipment Dealers)

B. A supplier [see A.R.S. § 44-6701 for definition], either directly or through an agent, shall not terminate, cancel, fail to renew or substantially change the competitive circumstances of a dealership agreement [see A.R.S. § 44-6701 for definition] without cause. For the purposes of this subsection, "cause" means that a dealer [see A.R.S. § 44-6701 for definition]:

...

11. Consistently engages in business practices that are detrimental to the consumer or the supplier including excessive pricing, misleading advertising or failing to provide service and replacement parts or to perform warranty obligations.

ARIZONA ADMINISTRATIVE CODE

R3-2-906(A). Violations and Penalties (Eggs)

A. A dealer, producer-dealer, manufacturer, producer, or retailer [of eggs], at each individual location [is subject to civil penalty] for any of the following violations:

1. Category A.
 - a. Making a false or misleading statement relating to advertising or selling eggs and egg products[.]

R3-12-101. Definitions (Arizona State Fair Concessionaires)

In this Chapter, the following definitions shall apply unless the context requires otherwise:

...

3. "Board" means the Arizona Exposition and State Fair Board.
4. "Concession" means any business that sells merchandise or services, conducts games, or provides other entertainment regulated by the Board.
5. "Concessionaire" means any person who owns, operates, or leases a concession and includes any person acting as an agent of the concessionaire.

R4-1-455.03(B), (D). Professional Conduct: Other Responsibilities and Practices (Accountants)

B. Advertising practices: Certified public accountants, public accountants, or firms have violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising of public accounting services through any media, if those accountants willfully engage in any of the following conduct:

1. Employ any device, scheme, or artifice to defraud;
2. Make any untrue statement of material fact or fail to state any material fact necessary to make the statements made not misleading;
3. Engage in any advertising which would operate as a fraud or deceit;
4. Violate A.R.S. § 44-1522 and a court finds the violation willful;
5. Engage in fraudulent or misleading practices in the advertising of public accounting services which leads to a conviction pursuant to A.R.S. § 44-1481; or
6. Engage in fraudulent practices in the advertising of public accounting services which leads to a conviction for a violation of any other state or federal law.

D. Form of practice and name

2. A certified public accountant or public accountant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company", "& Associates", or "& Consultants" unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.

R4-7-901. Advertising of a deceptive and fraudulent nature (Chiropractors)

The Board [of Chiropractic Examiners] shall investigate an allegation of advertising in a false, deceptive or misleading manner by a licensee and may sanction a licensee for a violation under A.R.S. § 32-924. Advertising of a false, deceptive, or misleading manner includes, but is not limited to, the following::

1. Advertising painless procedures;
2. Advertising complete health services; or
3. Advertising that uses the words "specialist," "specializing," or "expert."

R4-12-302(A). Deceptive practices prohibited (Funeral Directors)

A. In selling or offering to sell funeral goods or funeral services to funeral services consumers, it is a deceptive act or practice for a funeral establishment, funeral director, embalmer, or agents or employees of a funeral establishment:

1. To advertise for or solicit business through the use of deceptive, misleading or inaccurate statements or other information.

R4-19-403. Competency to Practice Nursing (Nurses)

For purposes of A.R.S. § 32-1601(11)(d), a practice that is or might be harmful or dangerous to the health of a patient or the public includes the following:

...

18. Advertising of the practice of nursing in which untruthful or misleading statements are made;

R4-21-302(A)-(C). False Advertising (Optometrists)

A. A licensee shall not knowingly make, publish, or use an advertisement, printed, oral, or otherwise, that contains any false, fraudulent, deceptive, or misleading representations concerning ophthalmic goods or optometric services, or the manner of their sale or distribution.

B. A licensee shall only advertise as a specialist if the licensee has been certified by the American Academy of Optometry as a diplomate in that specialty or as a fellow in the College of Optometrists in Vision Development. A licensee may advertise that the licensee has a practice limited in some way, if the licensee does not use the term “specialist” or any derivative of that term.

C. A licensee shall have knowledge of and be professionally responsible for the contents of any advertisement or directory that includes the name and address of the licensee.

R4-28-502(C). Advertising by a licensee (Real Estate Salespersons and Brokers)

C. A salesperson or broker shall ensure that all advertising contains accurate claims and representations, and fully states factual material relating to the information advertised. A salesperson or broker shall not misrepresent the facts or create misleading impressions.

R4-28-504(A)-(N). Developments Advertising (Membership Camping Contracts)

A. If a developer obtains a conditional sales exemption, under R4-28-B1202, or registers a notice of intent with the Department to accept lot reservations under A.R.S. § 32-2181.03, the developer shall disclose on all advertising that only reservations or conditional sales contracts will be taken until the public report has been issued.

B. Only a developer or the developer's authorized representative shall file advertising for a development under A.R.S. §§ 32-2183.01(A), 32- 2194.05(A), 32-2195.05(A), 32-2197.17(A) or 32-2198.01(A)(6) with the Department.

C. A developer shall ensure that advertisement of property in a development includes the name of the development as registered with the Department. The Commissioner may waive application of this subsection if the Commissioner determines that the public interest is not affected.

D. A developer shall not advertise a monthly payment, total price, or interest rate that is not available to all prospective purchasers or is restricted, unless the lack of availability or the restriction is conspicuously disclosed to all prospective purchasers within the advertisement.

E. A developer shall not advertise proposed or incomplete improvements unless the following requirements are met:

1. The estimated date of completion is specified or, if there is no estimated date of completion, the developer includes a prominent disclosure in the advertisement that the improvement is proposed only and no warranty is given or implied that the improvement will be completed; and

2. If a completion date is specified, the developer has submitted to the Department evidence to satisfactorily demonstrate to the Department that the completion and operation of the facilities are assured and that completion will be within the time represented in the advertisement or promotional material.

F. The developer shall not reference a proposed public facility or project that purports to effect the value or utility of an interest in a development without disclosing in writing the existing status of the proposed facility. The developer shall base the disclosure upon information supplied or verified by the authority responsible for the public facility or project and shall forward the information to the Department.

G. Pictorial or illustrative depictions, other than unmodified photographs of the property being offered, shall bear a prominent disclosure identifying the nature of the depiction,

such as an artist's conception, and shall identify those improvements that are proposed and not in existence.

H. When a pictorial representation is used in an advertisement for a specific development and is not an actual or accurate representation of the property, a statement within the advertisement shall prominently disclose the distance of the pictorial representation from the advertised property.

I. If a map or diagram is used to show the location of the development in relation to other facilities, actual road miles from each facility to the development shall be shown on the map or diagram.

J. A developer shall not expressly state or imply that a facility is available for the exclusive use of purchasers of lots or interests if a public right of access or public use of the facility exists.

K. A developer shall not refer to availability for use of private clubs or facilities in which the owner will not acquire a proprietary interest through purchase of an interest in the development unless a disclosure is made in the advertisement. The disclosure shall affirmatively state the existence of the facilities and that availability for use by owners of an interest in the development is at the pleasure of the owners of the facility.

L. When a standing body of water is described as a feature of a development, all advertising shall indicate the average surface area of the body of water. If a standing body of water or a flowing waterway described as a feature of a development is not permanent, or fluctuates substantially in size or volume, the developer shall disclose this fact in all advertisements describing the feature.

M. At the time an incentive is offered to visit any place where a sales presentation for a development is to be made and before the recipient of the incentive makes the trip, the developer shall disclose in writing all conditions, limitations, or recipient qualifications that will be applied.

N. A developer shall not include in advertising testimonials or endorsements that contain statements that a salesperson or broker would be precluded by law from making on the salesperson's or broker's behalf.

R4-30-301(A). Rules of Professional Conduct (Professionals Registered with the Board of Technical Registration)

All registrants [with the Board of Technical Registration, A.R.S. Title 32, Chapter 1] shall comply with the following rules of professional conduct:

...

2. A registrant shall not engage in fraud, deceit, misrepresentation or concealment of material facts in advertising, soliciting or providing professional services to members of the public.

R4-39-305(A)-(E). Advertising (Private Post-Secondary Schools)

A. Advertising shall be truthful and shall not include any false or misleading statements about the institution, personnel, the faculty, courses, services, or occupational opportunities for a graduate.

B. The Board [for Private Postsecondary Education] may institute disciplinary proceedings against a non-accredited private vocational or degree-granting institution or an institutional representative for false or misleading advertising.

C. A non-accredited private vocational or degree-granting institution or an institutional representative shall not solicit students in "help wanted" section of a newspaper, magazine or other similar publication.

D. A non-accredited private vocational or degree-granting institution or an institutional representative shall not use the words "guarantee" or "free" in solicitations or advertising in any brochure, catalog, bulletin, leaflet or other publication of the institution, nor in a newspaper, magazine, or any other media.

E. All printed advertising shall include the full legal name, phone number and address of the institution.

F. The Board may require a non-accredited private vocational or degree-granting institution or an institutional representative to submit all advertising for approval prior to publication.

R4-43-101. Definitions (Occupational Therapists)

D. "Immorality or misconduct that tends to discredit the occupational therapy profession" means:

- a. Engaging in false advertising of occupational therapy services.

R4-46-601. Standards of Practice (Property Tax Agents)

The Board [of Appraisal] may revoke or suspend an agent's registration or otherwise discipline a Property Tax Agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

...

- 10. Promoting a tax agent practice and soliciting assignments by using misleading or false advertising;

R9-22-504(A)-(D). Marketing; Prohibition against Inducements; Misrepresentations; Discrimination; Sanctions (AHCCCS Contractors)

A. A contractor [with the Arizona Health Care Cost Containment System ("AHCCCS") Administration] or the contractor's marketing representative shall not offer or give any form of compensation or reward, or engage in any behavior or activity that may be reasonably construed as coercive, to induce or procure AHCCCS enrollment. Any marketing solicitation offering a benefit, good, or service, in excess of the covered services in Article 2 shall be deemed an inducement.

B. A marketing representative shall not misrepresent itself, the contracting health plan represented, or the AHCCCS program, through false advertising, false statements, or in any other manner to induce an eligible person or member of another contracting entity to enroll in the represented health plan.

- 1. The Administration shall deem violations of this subsection to include, but not be limited to, false or misleading claims, inferences, or representations that:

- a. An eligible person or member will lose benefits under the AHCCCS program or any other health or welfare benefits to which the eligible person or member is legally entitled, if the eligible person or member does not enroll in the represented contracting health plan;

- b. Marketing representatives are employees of the state or representatives of the Administration, a county, or any health plan other than the health plan with whom they are employed, or by whom they are reimbursed; and

- c. The represented health plan is recommended or endorsed as superior to its competition by any state or county agency, or any organization, unless the organization has certified its endorsement in writing to the health plan and the Administration.

C. A marketing representative shall not engage in any marketing or pre-enrollment practice that discriminates against an eligible person or a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.

D. The Administration shall hold a contractor responsible for the performance of any marketing representative, subcontractor or agent, program, or process under its employ or direction and shall make the contractor subject to the contract sanctions in this Chapter.

R9-27-503(A)-(D). Marketing and Discrimination (Healthcare Group Plans)

HCGA marketing representatives shall not engage in any marketing or other pre-enrollment practices that discriminate against an application of a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.

R14-4-103(B)-(I). Advertising and Sales literature (Securities)

B. No advertising, communication, prospectus, or sales literature of any kind shall contain:

1. Any untrue statement of material fact nor any omission to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

2. Any statement or inference that the securities offered are without risk, that dividend returns are assured, or that failure or loss is not possible.

3. Any comparison with alleged analogous situations, nor statistics or statements relating to the financial condition, growth or business success of other companies or the appreciation of or returns from the securities of other companies except that a statutory prospectus meeting the requirements of A.R.S. § 44-1894 may contain financial and business information concerning subsidiaries or affiliates and statistics or statements concerning an issuer's competitive position in its industry.

C. Any advertising, communication, prospectus, or sales literature of any kind shall contain:

1. The name of the issuer and of the person circulating or publishing the same.

2. A statement showing the connection between the issuer or dealer and every person whose name is used or from whom quotations are made.

3. A statement clearly indicating the source and authority of all reports, statements, or claims used in whole or in part or in any manner referred to therein relating to oil, gas or mineral occurrence, or production potentials of any kind.

4. Other than in a statutory prospectus meeting the requirements of A.R.S. § 44-1894, substantially the following legend: "THIS IS NEITHER AN OFFER TO SELL NOR A SOLICITATION OF AN OFFER TO BUY THE SECURITIES DESCRIBED HEREIN. THE OFFERING IS MADE ONLY BY THE PROSPECTUS." If printed, the legend shall appear on the face of the advertisement, communication, prospectus, or sales literature in type as large as that used generally in the body thereof.

D. The body of all printed advertisements, communications, prospectuses or sales literature shall be in Roman type at least as large as ten-point modern type. However, to the extent necessary for convenient presentation, financial statements and other statistical or tabular data and the notes thereto may be in Roman type at least as large as eight-point modern type. All type shall be leaded at least two points.

E. No advertising, communication, prospectus or sales literature of any kind shall be published in the same issue of a newspaper, magazine or other periodical on the same page as

or on a page opposite to, nor be broadcast from or on the same radio station or television channel, immediately before or immediately after a separate advertisement or communication of or concerning the issuer that is unrelated to the sale of its goods or services but is related to the financial condition, growth or business success of the issuer or other companies.

F. The full text of any report, statement or claim relating to oil, gas, or mineral occurrence, or production potentials, used in whole or in part or in any manner referred to in any advertising, communication, prospectus or sales literature of any kind, shall be filed with the Commission at least three days prior to its proposed use.

G. Oral statements made by salesmen or other persons in connection with the purchase or sale of a security registered or subject to registration under A.R.S. §§ 44-1871 or 44-1891, supplementing, interpreting or explaining any advertising, communication, prospectus or sales literature are subject to all applicable provisions of this rule and no person shall make any statement contrary to the provisions hereof.

H. No advertising, communication, prospectus, or sales literature not filed with the Commission shall be used, nor shall any advertising, communication, prospectus, or sales literature filed with the Commission be used after entry of an Order by the Commission prohibiting its use.

I. The provisions of subsections (A) through (H) of this rule shall not apply to advertising, communication, prospectus or sales literature of any kind, published, exhibited, or broadcast for radio or television, meeting the requirements of the Securities and Exchange Commission Rule 156 [17 CFR 230.156] relating to advertising and sales literature used in the sale of investment company shares registered pursuant to the Investment Company Act of 1940.

R14-6-208(A). Advertisements by Investment Advisers or Investment Adviser Representatives (Investment Advisors)

A. It shall constitute a fraudulent practice within the meaning of A.R.S. § 44-3241(A)(4) for any investment adviser or investment adviser representative, directly or indirectly, to use any advertisement:

1. Which refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser or investment adviser representative or concerning any advice, analysis, report, or other service rendered by such investment adviser, or investment adviser representative.

2. Which refers, directly or indirectly, to past specific recommendations of the investment adviser or investment adviser representative that were or would have been profitable to any person; except that an investment adviser or investment adviser representative may furnish or offer to furnish a list of all recommendations made by the investment adviser or investment adviser representative within the immediately preceding period of not less than one year if the investment adviser or investment adviser representative also furnishes:

a. The name of each security recommended, the date and nature of each recommendation (for example, whether to buy, sell, or hold), the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each such security; and

b. The following legend on the 1st page in prominent print or type: "It should not be assumed that recommendations made in the future will be profitable or will equal the performance of the securities in this list;"

3. Which represents, directly or indirectly, that any graph, chart, formula, or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making

his or her own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in such advertisement the limitations thereof and the difficulties with respect to its use.

4. Which represents, directly or indirectly, that any report, analysis, or other service will be furnished free or without charge, unless such report, analysis or other service actually is or will be furnished entirely free and without any direct or indirect condition or obligation.

5. Which states that the Commission has approved any advertisement.

R20-6-201(A)-(Q). Advertisements of Disability Insurance (Disability Insurance)

A. Definitions

1. "An advertisement" for the purpose of these rules shall include:

a. Printed and published material and descriptive literature of an insurer used in newspapers, magazines, radio and TV scripts, billboards and similar displays; and

b. Descriptive literature and sales aids of all kinds issued by an insurer for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and

c. Prepared sales talks, presentations and material for use by agents and brokers, and representations made by agents and brokers in accordance therewith.

B. Advertisements in general. Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology shall not be used.

C. Advertisements of benefits payable, losses covered or premiums payable

1. Deceptive words, phrases or illustrations -- Words, phrases or illustrations shall not be used in a manner which misleads or has the capacity and tendency to deceive as to the extent of any policy benefit payable, loss covered or premium payable. An advertisement relating to any policy benefit payable, loss covered or premium payable shall be sufficiently complete and clear as to avoid deception or the capacity and tendency to deceive.

a. Explanation:

i. The words and phrases "all", "full", "complete", "comprehensive", "unlimited", "up to", "as high as", "this policy will pay your hospital and surgical bills" or "this policy will replace your income", or similar words and phrases shall not be used so as to exaggerate any benefit beyond the terms of the policy but may be used only in such manner as fairly to describe such benefit.

ii. A policy covering only one disease or a list of specified diseases shall not be advertised so as to imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.

iii. The benefits of a policy which pays varying amounts for the same loss occurring under different conditions or which pays benefits only when a loss occurs under certain conditions shall not be

advertised without disclosing the limited conditions under which the benefits referred to are provided by the policy.

iv. Phrases such as "this policy pays \$1,800 for hospital room and board expenses" are incomplete without indicating the maximum daily benefit and the maximum time limit for hospital room and board expenses.

2. Exceptions, reductions and limitations -- When an advertisement refers to any dollar amount, period of time for which any benefit is payable, cost of policy, or specific policy benefit or the loss for which such benefit is payable, it shall also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy without which the advertisement would have the capacity and tendency to mislead or deceive.

a. Explanation:

i. The term "exception" 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.

ii. The term "reduction" shall mean any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction clause not been used.

iii. The term "limitation" shall mean any provision which restricts coverage under the policy other than an exception or a reduction.

iv. Waiting, elimination, probationary or similar periods -- When a policy contains a time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement covered by (C)(2) shall disclose the existence of such periods.

3. Pre-existing conditions

a. An advertisement covered by (C)(2) shall disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy.

b. When a policy does not cover losses traceable to preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This limits the use of the phrase "no medical examination required" and phrases of similar import.

D. Necessity for disclosing policy provisions relating to renewability, cancellability and termination -- An advertisement which refers to renewability, cancellation or termination of a policy, or which states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, shall disclose the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which shall not minimize or render obscure the qualifying conditions.

E. Method of disclosure of required information -- All information required to be disclosed by these rules shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

F. Testimonials -- Testimonials used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement including such statements is subject to all of the provisions of these rules.

G. Use of statistics -- An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not be used unless it accurately reflects all of the relevant facts. Such an advertisement shall not imply that such statistics are derived from the policy advertised unless such is the fact.

H. Inspection of policy -- An offer in an advertisement of free inspection of a policy or offer of a premium refund is not a cure for misleading or deceptive statements contained in such advertisement.

I. Identification of plan or number of policies

1. When a choice of the amount of benefits is referred to, an advertisement shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits.

2. When an advertisement refers to various benefits which may be contained in two or more policies, other than group master policies, the advertisement shall disclose that such benefits are provided only through a combination of such policies.

J. Disparaging comparisons and statements -- An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or otherwise falsely disparage competitors, their policies, services or business methods.

K. Jurisdictional licensing

1. An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

2. Such advertisements by direct mail insurers shall indicate that the insurer is licensed in a specified state or states only, or is not licensed in a specified state or states, by use of some language such as "This Company is licensed only in State A" or "This Company is not licensed in State B".

L. Identity of insurer -- The identity of the insurer shall be made clear in all of its advertisements. An advertisement shall not use a trade name, service mark, slogan, symbol or other device which has the capacity and tendency to mislead or deceive as to the true identity of the insurer.

M. Group or quasi-group implications -- An advertisement of a particular policy shall not state or imply that prospective policyholders become group or quasi-group members and as such enjoy special rates or underwriting privileges, unless such is the fact.

N. Introductory, initial or special offers -- An advertisement shall not state or imply that a particular policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages by accepting the offer, unless such is the fact.

O. Approval or endorsement by third parties

1. An advertisement shall not state or imply that an insurer or a policy has been approved or an insurer's financial condition has been examined and found to be satisfactory by a governmental agency, unless such is the fact.

2. An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact.

P. Service facilities -- An advertisement shall not contain untrue statements with respect to the time within which claims are paid or statements which imply that claim settlements will be liberal or generous beyond the terms of the policy.

Q. Statements about an insurer -- An advertisement shall not contain statements which are untrue in fact or by implication misleading with respect to the insurer's assets, corporate structure, financial standing, age or relative position in the insurance business.

R20-6-202(C)-(D). Advertising, Solicitation, and Transaction of Life Insurance (Life Insurance)

C. Policy

1. Misleading, through omissions, use of irrelevant material, or improper emphasis -- The purpose of this rule essentially is to assure the fair disclosure of relevant facts in the sale of life insurance. As used herein, the words "life insurance" shall mean the entire life insurance contract, including all benefits provided therein, and are not intended to be limited to the benefits payable on death. It is also designed to protect purchasers and prospective purchasers of life insurance policies against the use of sales methods which are misleading because of:

a. Omission of facts fairly describing both the subject matter as a life insurance policy and the benefits obtainable thereunder; or

b. An undue emphasis upon facts which, however true, are not relevant to the sale of life insurance; or

c. An undue emphasis upon features which are of incidental or secondary importance to the life insurance aspects of the policy.

2. In considering possible violations, the Department of Insurance will consider as relevant to a proposed sale, statements which are intended to:

a. Motivate the insured to purchase life insurance; or

b. Provide an explanation of the benefits provided by the life insurance policy; or

c. Present a picture of the company's ability to conduct a life insurance business.

3. Specified acts and practices -- To assure such fair disclosure and to prevent the use of misleading sales methods, this rule provides advance interpretations as to the specific acts and practices which the Department of Insurance believes constitute a violation of such statutes; provided, however, it is recognized that whether particular conduct comes within the prohibition of such statutory provisions depends on the facts in each case.

4. Acts and practices not specified -- Although this rule is intended to cover selected acts and practices which have been of serious concern to the Department of Insurance, this delineation is not a determination that any act of practice not specified herein is in conformance with the statutes. However, this rule will be read as a guide in

considering whether any unspecified act or practice is of the kind or character which may be within the prohibitions of the statute and this rule.

D. Prohibited acts and practices

1. References to profits and investments -- In accordance with the authority, applicability and policy set out in subsections (A) through (C) above, the following is declared to be a violation of this rule: The use of the word or words "investment", "investment plan", "founders plan", "charter plan", "expansion plan", "profit", "profits", or "profit sharing" in a context or under such circumstances or conditions as to have the capacity and tendency to mislead a purchaser or prospective purchaser to believe that he will receive something other than a life insurance policy, some benefit not provided in the policy, or some benefit not available to other persons of the same class and equal expectation of life. This is not intended to prohibit appropriate presentation of the investment elements of a life insurance policy.

2. Other limitations -- In accordance with subsections (A) through (C) above, the acts and practices set out in the following paragraphs are declared to be a violation of this rule in the sale of life insurance when used in a context or done under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser to believe that he will receive, or that it is probable he will receive, something other than a life insurance policy, some benefit not provided in the policy, or some benefit not available to other persons of the same class and equal expectation of life. Each of said paragraphs will, therefore, be construed and applied in accordance with the provisions of this Section.

a. Using any phrase as the name or title of a life insurance policy which does not include the words "life insurance", unless accompanied by other language in the same document clearly indicating that the contract referred to is a life insurance policy.

b. Making any statement relating to the growth or earnings of the life insurance industry or to the tax status of life insurance companies in a context which would reasonably be understood to interest a prospect in the purchase of shares of stock in the insurance company rather than in the purchase of a life insurance policy.

c. Making any statement which reasonably gives rise to the belief that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by virtue of the purchase of the policy, unless such statement is made with reference to policies of domestic life insurers engaged in a program as set forth in the provisions of A.R.S. § 20-453.

d. Providing a policyholder with any premium receipt book, policy jacket, return envelope, or other printed material containing references to the company's "investment department", "insured investment department", or similar terminology in such a manner as to imply that the policy is sold or issued or is serviced by the investment department of an insurance company.

3. Referenced to special benefits

a. Making any statement which reasonably tends to imply that, by purchasing a policy, the purchaser or prospective purchaser will become a member of a limited group of persons who may receive the payment of dividends, special advantages, benefits, or favored treatment unless such is specifically provided in the insurance contract. This paragraph has no relation or

applicability to policies under which insured persons of one class of risk may receive dividends of a higher rate than persons of another class of risk.

b. Stating that each stockholder is given the right to purchase or allocate a specific number of policies.

c. Stating or implying that only a limited number of persons or limited class of persons will be eligible to buy a particular kind of policy, unless such limitation is related to recognized underwriting practices, or unless such limitation is specifically stated in the policy or rider therefore.

d. Stating that the policyholders who are to act as "centers of influence" for an insurance company in that capacity will share in the company's surplus earnings in some manner not available to other policyholders of the same class.

4. Coupons

a. Stating or implying that the principal amounts payable under the coupons represent interest, earnings, return on investments, a bonus, or anything other than benefits, the cost of which is included in the total premium. To eliminate misunderstanding of the nature of coupons, each policy, bearing coupons, shall, on its face, bear the following words: "The premium above includes an extra premium of \$ for coupon benefits".

b. Describing premium payments in language which states the payment is a "deposit", unless:

i. The payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or

ii. The term is used in conjunction with the word "premium" in a manner as to clearly indicate the true character of the payment.

5. References to dividends

a. Providing any illustration or projection of future dividends which is not based on the actual scale being used by the company for the payment of current dividends. Furthermore, such projection or illustration must clearly indicate that the dividends are not guarantees.

b. Using the words "dividends", "cash dividends", "surplus", or similar phrases in such a manner as to state or imply that the payment of dividends is guaranteed or certain to occur.

c. Stating, without qualification, that a purchaser of a policy will share in a stated percentage or portion of the earnings of the company.

d. Making any statement that projected dividends under a participating policy will be or can be sufficient at any future time to assure the receipt of benefits such as a paid-up policy without further payment of premiums unless the statement is accompanied by an adequate explanation as to:

i. What benefits or coverage would be provided at such time; and

ii. Under which conditions this would occur.

6. Miscellaneous

a. Describing a life insurance policy or premium payments therefor in terms of "units of participation", unless accompanied by other language clearly indicating the references are to a life insurance policy or to premium payments, as the case may be.

b. Using the words "contract", "contract plan", or "plan" in describing a life insurance policy, unless accompanied by other language in the same document clearly indicating the reference is to a life insurance policy.

c. Including in sales kits and prepared sales presentations proposed answers to a prospect's question as to whether life insurance is being sold, which are designed to avoid a clear and unequivocal statement that LIFE INSURANCE IS THE SUBJECT MATTER OF THE SOLICITATION.

d. Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without making an explanation of the non-forfeiture benefits.

e. Using a dollar amount in printed material to be shown to a prospective policyholder unless accompanied by language in such material indicating the nature of the figure. (This is intended to prohibit the use of dollar figures not in relation to guaranteed values and properly projected dividend figures. It is intended to prohibit the use of figures showing growth of stock values, or other values not a part of the life insurance contract.)

f. Stating that a policy provides certain features which are not found in any other insurance policies, unless that in fact be true.

g. The making of any statement or implication in regard to an insurance policy that cannot be verified by reference to the policy contract itself, or a specimen copy of the policy being described, or to the company's officially published rate book and dividend illustrations.

h. Stating that life insurance is "loss proof" or "depression proof", but this shall not prohibit statements that life insurance benefits (other than dividends) are guaranteed by the company regardless of economic conditions.

i. Making any statement that a company makes a profit as a result of policy lapses or surrenders.

j. Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience of your company. This is intended to protect policyholders from being misled through presentations as to the probabilities of the policy being sold having the same results as that of other companies which successfully sold similar policies, without a fair disclosure of the fact that many companies have had unfavorable experience.

OTHER RULES (ATTORNEYS)

ER 7.1. Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

ER 7.2. Advertising (Lawyers)

(a) Subject to the requirements of ERs 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority; and

(3) pay for a law practice in accordance with ER 1.17.

(c) Any communication made pursuant to this Rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

(d) Every advertisement (including advertisement by written solicitation) that contains information about the lawyer's fees shall be subject to the following requirements:

(1) advertisements and written solicitations indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall disclose (A) that the client will be liable for expenses regardless of outcome unless the repayment of such is contingent upon the outcome of the matter and (B) whether the percentage fee will be computed before expenses are deducted from the recovery;

(2) range of fees or hourly rates for services may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the total fee within the range which will be charged or the total hours to be devoted will vary depending upon that particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged;

(3) fixed fees for specific routine legal services, the description of which would not be misunderstood or be deceptive, may be communicated provided that the client is informed in writing at the commencement of any client-lawyer relationship that the quoted fee will be available only to clients whose matters fall within the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged;

(4) a lawyer who advertises a specific fee, range of fees or hourly rate for a particular service shall honor the advertised fee, or range of fees, for at least ninety (90) days unless the advertisement specifies a shorter period; provided, for advertisements in the yellow pages of telephone directories or other media not published more frequently than annually, the advertised fee or range of fees shall be honored for no less than one year following publication.

(e) Advertisements on the electronic media may contain the same information as permitted in advertisements in the print media. If a law firm advertises on electronic media and a person appears purporting to be a lawyer, such person shall in fact be a lawyer employed full-time

at the advertising law firm. If a law firm advertises a particular legal service on electronic media, and a lawyer appears as the person purporting to render the service, the lawyer appearing shall be the lawyer who will actually perform the service advertised unless the advertisement discloses that the service may be performed by other lawyers in the firm.

(f) Communications required by paragraphs (c) and (d) shall be clear and conspicuous. To be "clear and conspicuous" a communication must be of such size, color, contrast, location, duration, cadence, and audibility that an ordinary person can readily notice, read, hear, and understand it.

APPENDIX C

Arizona and Federal Laws Concerning Newspaper Advertising in State, Local, and Federal Elections⁵

ARIZONA LAWS CONCERNING NEWSPAPER ADVERTISING IN STATE AND LOCAL ELECTIONS

Advertisements For or Against Candidates

- Any advertisement by a candidate or a political committee that advocates the election or defeat of any candidate or solicits contributions to a political committee shall state that it was paid for by the name of the political committee that paid for the advertisement.
- If an advertisement is by a single individual, who is not acting in combination with any other person and is not a candidate, this section does not apply and the newspaper's policy on disclosure shall govern. The ANA recommends, however, that newspapers require all political ads to state who paid for the ad.
- If the advertisement is an independent expenditure by a political committee, the advertisement shall also state the names and telephone numbers of the three political committees making the largest contributions to the political committee that paid for the advertisement. If an acronym is used to identify any political committee, the name of any sponsoring organization of the political committee must also be identified.
- The required disclosures must be printed clearly and legibly in a conspicuous manner in the advertisement.
- The advertiser should consult Secretary of State, county elections department, or clerk of city council, as appropriate, to make appropriate filings and disclosures as required by law.

§ 16-912. Candidates and independent expenditures; campaign literature and advertisement sponsors; identification; civil penalty

A. A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat of any candidate or that make any solicitation of contributions to any political committee shall be registered pursuant to this chapter at the time of distribution, placement or solicitation and shall include on the literature or advertisement words "paid for by" followed by the name of the committee that appears on its statement of organization or five hundred dollar exemption statement.

⁵ This Appendix C was created for the Arizona Newspapers Association in May 2004 by Philip J. MacDonnell, Jennings Strouss & Salmon PLC.

B. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, the political committee, in addition to the disclosures required by subsection A of this section, shall include on the literature or advertisement the names and telephone numbers of the three political committees making the largest contributions to the political committee making the independent expenditure. If an acronym is used to name any political committee outlined in this section, the name of any sponsoring organization of the political committee shall also be printed or spoken. For purposes of determining the three contributors to be disclosed, the contributions of each political committee to the political committee making the independent expenditure during the one year period before the election being affected are aggregated.

C. The provisions of subsection A of this section do not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A of this section cannot be conveniently printed or to signs paid for by a candidate with campaign monies or by a candidate's campaign committee or to a solicitation of contributions by a separate segregated fund from those persons it may solicit pursuant to §§ 16-920 and 16-921.

D. The disclosures required pursuant to this section shall be printed clearly and legibly in a conspicuous manner or, if the advertisement is broadcast on a telecommunications system, the disclosure shall be spoken.

E. A person who violates this section is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement. This civil penalty shall be imposed as prescribed in § 16-924.

§ 16-901. Definitions

In this chapter, unless the context otherwise requires:

14. "Independent expenditure" means an expenditure by a person or political committee, other than a candidate's campaign committee, that expressly advocates the election or defeat of a clearly identified candidate, that is made without cooperation or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. Independent expenditure includes an expenditure that is subject to the requirements of section 16-917 which requires a copy of campaign literature or advertisement to be sent to a candidate named or otherwise referred to in the literature or advertisement. An expenditure is not an independent expenditure if any of the following applies:

(a) Any officer, member, employee or agent of the political committee making the expenditure is also an officer, member, employee or agent of the committee of the candidate whose election or whose opponent's defeat is being advocated by the expenditure or an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure.

(b) There is any arrangement, coordination or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure, including any officer, director, employee or agent of that person.

(c) In the same election the person making the expenditure, including any officer, director, employee or agent of that person, is or has been:

(i) Authorized to raise or expend monies on behalf of the candidate or the candidate's authorized committees.

(ii) Receiving any form of compensation or reimbursement from the candidate, the candidate's committees or the candidate's agent.

(d) The expenditure is based on information about the candidate's plans, projects or needs, or those of his campaign committee, provided to the expending person by the candidate or by the candidate's agents or any officer, member or employee of the candidate's campaign committee with a view toward having the expenditure made.

19. "Political committee" means a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will become a candidate for election in this state or in any county, city, town, district or precinct in this state, that engages in political activity in behalf of or against a candidate for election or retention or in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number and circulates petitions and, in the case of a candidate for public office except those exempt pursuant to section 16-903, that receives contributions or makes expenditures in connection therewith, notwithstanding that the association or combination of persons may be part of a larger association, combination of persons or sponsoring organization not primarily organized, conducted or combined for the purpose of influencing the result of any election in this state or in any county, city, town or precinct in this state. . . .

Advertisements For or Against Ballot Propositions

- A political committee that advertises in support of or opposition to a ballot proposition must disclose in the advertisement the four largest of its "major funding sources" as of the time of the advertisement. If the political committee has fewer than four "major funding sources", it shall disclose all "major funding sources".
- A "major funding source" does not include an individual. A "major funding source" is an entity that has made a cumulative contribution totaling \$10,000 or more for or against a statewide ballot proposition or a ballot proposition in a political subdivision with a population of 100,000 or more. A "major funding source" is an entity that has made a cumulative contribution totaling \$5,000 or more for or against a ballot proposition in a political subdivision with a population of less than 100,000.
- If a "major funding source" is from out-of-state the advertisement shall state that fact.
- The disclosure statement must be printed clearly and legibly in a conspicuous manner in a type at least as large as the majority of the printed text.
- This section only applies to advertisements the contents of which are more than fifty per cent devoted to one or more ballot propositions or proposed measures on the same subject.
- This section does not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required cannot be conveniently printed or to a communication by an organization solely to its members.
- The advertiser should consult Secretary of State, county elections department, or clerk of city council, as appropriate, to make appropriate filings and disclosures as required by law.

16-912.01. Ballot measure committees; campaign literature and advertising funding; identification; disclosure; civil penalty; definition

A. A political committee that makes an expenditure in connection with any literature or advertisement to support or oppose a ballot proposition shall disclose in such literature or advertisement the four largest of its major funding sources as of the time the literature or advertisement is printed, recorded or otherwise produced for dissemination. If a political committee has fewer than four major funding sources, the committee shall disclose all major funding sources.

- B. For purposes of this section, a major funding source of a political committee is any contributor that is not an individual person and that has made cumulative contributions of either:
1. Ten thousand dollars or more for an expenditure in support of or opposition to a statewide ballot proposition or a ballot proposition of a political subdivision with a population of one hundred thousand persons or more.
 2. Five thousand dollars or more for an expenditure in support of or opposition to a ballot proposition of a political subdivision with a population of less than one hundred thousand persons.
- C. If an out-of-state contributor or group of out-of-state contributors is a major funding source to a political committee disclosed pursuant to subsection A, the political committee shall state the contributor is an out-of-state contributor on its literature or advertisement in support of or in opposition to a ballot proposition.
- D. Contributors that make contributions to more than one political committee that supports or opposes the same ballot proposition shall notify each political committee of the cumulative total of these contributions. Cumulative totals must be disclosed by each political committee that received contributions from the same contributor if the cumulative totals qualify as a major funding source to be disclosed pursuant to subsection A.
- E. Any disclosure statement required by this section shall be printed clearly and legibly in a conspicuous manner in type at least as large as the majority of the printed text. If the communication is broadcast on radio, the information shall be spoken at the end of the communication. If the communication is broadcast on a telecommunications system, the information shall be both written and spoken at the end of the communication, except that if the disclosure statement is written for at least five seconds of a thirty second advertisement broadcast or ten seconds of a sixty second advertisement broadcast, a spoken disclosure statement is not required. If the communication is broadcast on a telecommunications system, the written disclosure statement shall be printed in letters equal to or larger than four per cent of the vertical picture height.
- F. Subsection A does not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A cannot be conveniently printed or to a communication by an organization solely to its members.
- G. A committee shall change future literature and advertisements to reflect any change in funding sources that must be disclosed pursuant to subsection A.
- H. This section only applies to advertisements the contents of which are more than fifty per cent devoted to one or more ballot propositions or proposed measures on the same subject.
- I. Any committee that violates this section is liable in a civil action brought by the attorney general, county attorney or city or town attorney, as appropriate, or by any other person for a civil penalty of three times the total cost of the advertisement. A donor who does not accurately disclose its contributions is liable for a civil penalty of three times the amount donated.
- J. For purposes of this section "advertisement" means general public advertising through the print and electronic media, signs, billboards and direct mail.

FEDERAL LAWS CONCERNING NEWSPAPER ADVERTISING IN FEDERAL ELECTIONS

[Excerpted from Federal Elections Commission Brochure entitled:
“Special Notices on Political Ads and Solicitations” July 2003,
www.fec.gov]

Disclaimer Notices

What is a Disclaimer Notice?

For the purpose of this brochure, a “disclaimer” notice is defined as a statement placed on a public communication that identifies the person(s) who paid for the communication and, where applicable, the person(s) who authorized the communication.

When is a Disclaimer Required?

Political Committees

Political committees must include a disclaimer on all “public communications” (defined below), regardless of whether the communication expressly advocates the election or defeat of a clearly identified candidate, or solicits funds in connection with a federal election (i.e., contributions for a federal candidate or a federal political committee).

Individuals and Other Persons

A disclaimer must appear on any “electioneering communication” (defined below) and on any public communication by any person that expressly advocates the election or defeat of a clearly identified candidate or solicits funds in connection with a federal election.

Application

Specific examples of public communications that would require a disclaimer include:

- Public communications coordinated with a federal candidate (i.e., in-kind contributions or coordinated party expenditures);
- Independent expenditures;
- Electioneering communications;
- Solicitations for a federal candidate or a federal political committee; and
- Political committees’ websites.

Definitions

Public Communications

As defined in FEC regulations, the term “public communication” includes:

- ...
- Newspaper
- ...
- Any other general public political advertising (11 CFR 110.11(a)).

Independent Expenditures

An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate and is not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or their agents, or a political party committee or its agents. 11 CFR 100.16; 109.11.

Coordinated Party Expenditures

Coordinated party expenditures are expenditures made by national or state party committees on behalf of their nominees in connection with the general election. Such expenditures may be coordinated with the candidate, but are reported only by the party committee that makes the expenditure. These expenditures are subject to a special monetary limit. 11 CFR 110.11(d)(1); 109.32.

Exempt Party Activities

State and local party committees may engage in certain candidate-support activities without making a contribution or expenditure provided specific rules are followed. These “exempt” party activities refer to the three types of communications listed below:

- Registration and get-out-the-vote drives on behalf of the Presidential ticket;
- Distribution of campaign materials by volunteers on behalf of federal candidates; and
- Slate cards listing at least 3 candidates for public office (11 CFR 100.80, 100.87 and 100.89; 100.140, 100.147 and 100.149; and 11 CFR 110.11(e)).

What Must the Disclaimer Say?

The actual wording of the disclaimer depends on the type of communication, as explained below. In each example, it is presumed that the ad qualifies as a “public communication” in connection with a federal election.

Messages Authorized and Financed by a Candidate

On a public communication that is authorized and paid for by a candidate or his/her campaign committee, the disclaimer notice must identify who paid for the message. 11 CFR 110.11(b)(1). Example: “Paid for by the Sheridan for Congress Committee.”

Messages Authorized but Not Financed by a Candidate

On a public communication that is authorized by a candidate or his/her campaign committee, but is paid for by another person, the disclaimer notice must identify who paid for the communication and indicate that the candidate authorized the message. 11 CFR 110.11(b)(2). Example: “Paid for by the XYZ State Party Committee and authorized by the Sheridan for Congress Committee.”

Messages Not Authorized by a Candidate

On a public communication that is not authorized by a candidate or his/her campaign committee, the disclaimer notice must identify who paid for the message, state that it was not authorized by any candidate or candidate’s committee and list the permanent street address, telephone number or World Wide Web address of the person who paid for the communication. 11 CFR 110.11(b)(3). Example: “Paid for by the QRS Committee (www.QRScommittee.org) and not authorized by any candidate or candidate’s committee.”

Coordinated Party Expenditures

Pre-nomination Period

On a public communication that is made as a coordinated party expenditure before a nominee is chosen, the disclaimer notice must identify the committee that paid for the message, but need not state whether the communication was authorized. 11 CFR 110.11(d)(1). Example: “Paid for by XYZ State Party Committee.”

Post-nomination Period

Once a candidate has been nominated for the general election, the disclaimer notice must also state who authorized the communication. Example: “Paid for by the XYZ State Party Committee and authorized by the Sheridan for Congress Committee.”

The committee that actually makes the expenditure is considered to be the person who paid for the public communication even when the committee is acting as the designated agent of a different party committee.

Exempt Party Activities

On exempt activity communications (for example, campaign materials) the disclaimer notice must identify the committee that paid for the message. 11 CFR 110.11(e). Example: “Paid for by the XYZ State Party Committee.”

How and Where Must the Disclaimer Appear?

In order to give the reader sufficient notice about the person(s) paying for or authorizing a public communication regardless of its medium, the disclaimer notice must be “clear and conspicuous” on the committee’s communications, solicitations and response materials. The notice will not be considered to be “clear and conspicuous” if:

- It is difficult to read or hear; or
- The notification is placed where it can be easily overlooked (11 CFR 110.11(c)(1)).

Additional requirements are described below.

Printed Materials

On printed materials, the disclaimer notice must appear within a printed box set apart from the other contents in the communication. The print must be of a sufficient type-size to be clearly readable by the recipient of the communication, and the print must have a reasonable degree of color contrast between the background and the printed statement. 11 CFR 110.11(c)(2)(i), (ii) and (iii).

Example: Paid for by the Save the Seahorses
 Committee and authorized by the
 McKay for Senate Committee.

As long as the disclaimer appears somewhere within the communication it does not have to appear on the front page or cover of multiple-paged documents. However, in the case of single-sided documents and billboards, the disclaimer must appear on the front. 11 CFR 110.11(c)(2)(iv).

Safe Harbor for “Clearly Readable”

The regulations contain a safe harbor that establishes a fixed, 12-point type size as a sufficient type size for disclaimer text in newspapers, magazines, flyers, signs and other printed communications that are no larger than the common poster size of 24 inches by 36 inches. 11 CFR 110.11(c)(2)(i). Please note, disclaimers for larger communications will be judged on a case by case basis.

Safe Harbor for “Reasonable Degree of Color Contrast”

The regulations additionally provide two safe harbor examples that would comply with color contrast requirement:

- The disclaimer is printed in black on a white background; or
- The degree of contrast between the background color and the disclaimer text color is at least as great as the degree of contrast between the background color and the color of the largest text in the communication (11 CFR 110.11(c)(2)(iii)).

Packaged Materials

When communications are distributed in a package or as a group, a committee must evaluate each item separately in order to determine whether a disclaimer notice is required on that item. A message or ad that would require a disclaimer notice if it were distributed separately must still display the notice when it is included in a package of materials. 11 CFR 110.11(c)(2)(v). Example: A campaign poster is mailed with a campaign brochure and solicitation letter. A disclaimer notice must appear on each of these items.

When is a Disclaimer Not Required?

Although the FEC recommends that disclaimer notices be included on all campaign materials, the notices are not required in the following situations.

Disclaimer Placement is Inconvenient

In situations where a disclaimer notice cannot be conveniently printed, the notice is not required. This provision affects items such as pens, bumper stickers, campaign pins, campaign buttons and similar small items. Further, a disclaimer notice is not required for communications using skywriting, clothing, water towers or other forms of advertisement where it would be impracticable to display the disclaimer notice. 11 CFR 110.11(f). (See also AO 2002-9.)