

**2014 UPDATE OF THE  
ADVERTISING BY NEWSPAPER**

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

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**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 2014 EDITION

*Since the 2011 edition, lawmakers adopted few statutes addressing advertising rights and duties of newspapers. Two significant new laws regulate advertisements for escort and massage therapy services. These statutes require advertisements for escort services and massage therapy services to include state license numbers. Another change criminalizes advertisements for prostitution that contain a visual depiction of a minor. This fourth edition of “Advertising By Newspaper” catalogues 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 state laws say about their rights and duties to publish ads.*

*We thank Jessie Wilson, a summer associate from the University of San Diego School of Law, for her work on this project.*

*David J. Bodney  
June 2014*

## INTRODUCTION TO 2011 EDITION

*Nearly five years have passed since the last update of this compendium of Arizona laws addressing the advertising rights and duties of newspapers. In most respects, the laws have not changed, or have received only little revision by lawmakers. Over the past five years, however, policymakers have revised newspaper advertising statutes and regulations in the areas of real estate, mortgage banking and health care. In addition, Arizona voters adopted the Arizona Medical Marijuana Act, which presents a unique set of challenges for newspapers. This third 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, Chris Moeser and I wish to thank Erin Norris, a University of Arizona law student and 2011 summer associate of our firm, for her assistance with this compilation.*

*David J. Bodney  
August 2011*

## 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

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## 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.*

## **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.<sup>1</sup> 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.

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<sup>1</sup> 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, with the exception of the disclosures required for Mortgage Assistance Relief Services. 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.

## **COMMERCIAL SEXUAL EXPLOITATION OF A MINOR**

*Arizona Law prohibits a person from knowingly using an advertisement for prostitution that contains a visual depiction of a minor.*

### **§ 13-3552. Commercial sexual exploitation of a minor; classification**

A. A person commits commercial sexual exploitation of a minor by knowingly:

5. Using an advertisement for prostitution as defined in section 13-3211 that contains a visual depiction of a minor.

B. Subsection A, Paragraph 5 of this section does not apply to an act that is prohibited by section 13-3555 or to websites or internet service providers that host advertisements created and published by third parties and do not participate in creating or publishing the advertisements.

C. Commercial sexual exploitation of a minor is a class 2 felony and if the minor is under fifteen years of age it is punishable pursuant to section 13-705.

## **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 C,<sup>2</sup> 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.

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<sup>2</sup> Annotation to the statute indicates that subsection D also should be consulted.

- 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.

## **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 it is the state of Arizona, the Department of Transportation or the Motor Vehicle Division unless authorized by the Motor Vehicle Division.*

### **R17-7-101(8). Definitions**

8. “Authorized third party” means an entity that:
  - a. Has written permission from the [Motor Vehicle] Division to operate a business under A.R.S. Title 28, Chapter 13; and
  - b. Employs or contracts with at least one certified individual to provide third-party services.

### **R17-7-204(O). Authorized Third Party Requirements**

O. An authorized third party shall not represent that it is the state of Arizona, the Department [of Transportation], or the [Motor Vehicle] Division in any printed or electronic advertising or promotional material, except to the extent that it is authorized by the [Motor Vehicle] 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.<sup>3</sup> 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.*

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<sup>3</sup> The Arizona Medical Marijuana Act does not appear to affect the prohibition on advertising drug paraphernalia. The Act permits only “the acquisition, possession, . . . manufacture, use, . . . delivery, transfer or transportation of . . . paraphernalia” in connection with “medical use.” A.R.S. § 36-2801(9). It makes no specific mention of advertising. For more information about the Arizona Medical Marijuana Act, please see the discussion and the ANA’s guidelines at page 38.

**§ 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.*

#### **R20-5-326. 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.

## **ESCORT SERVICE ADVERTISEMENT**

*Arizona Law prohibits an escort or escort agency from advertising escort services without an escort license number of the escort, or the business license number of the escort agency if the advertisement is not for a specific escort. Additionally, the statute requires an escort agency to retain proof of all the escorts' ages whose services are advertised.*

### **§ 9-500.10(A), (B), (C), (H) Escort and escort agency advertising requirements; civil penalty; definitions**

- A. An escort or escort agency shall not advertise escort services unless the advertisement includes either:
  - 1. The escort license number of the escort if the advertisement is for the services of a specific escort.
  - 2. The business license number of the escort agency where the services are offered if the advertisement does not offer the services of a specific escort.
- B. An escort or escort agency shall retain on file, for at least one year, proof of the ages of any escort whose services are offered in any advertisement of escort services.
- C. An escort or escort agency that violates this section is subject to a civil penalty of:
  - 1. Five hundred dollars for a first violation.
  - 2. One thousand five hundred dollars for a second violation.
  - 3. Five thousand dollars for a third or subsequent violation....
- H. For the purposes of this section:
  - 1. "Advertisement" means any message in any medium that offers or solicits any person to retain the services of the escort or escort agency depicted in the advertisement.

## **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(1), (7). 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:*<sup>4</sup>

<i>Accountants</i> .....	<i>A.A.C. R4-1-455.03</i>
<i>Acupuncturists</i> .....	<i>A.R.S. § 32-3901</i>
<i>Advanced Fee Loan Brokers</i> .....	<i>A.R.S. § 6-1309</i>
<i>Aestheticians</i> .....	<i>A.R.S. § 32-572</i>
<i>AHCCCS Contractors</i> .....	<i>A.A.C. R9-22-504</i>
<i>Attorneys</i> .....	<i>Rule 42, Supreme Court Rules, ER 7.1</i>
<i>Audiologists</i> .....	<i>A.R.S. § 36-1901</i>
<i>Automobile Dealers, Recyclers and Transporters</i> .....	<i>A.R.S. § 28-4493</i>
<i>Boxing Matches</i> .....	<i>A.R.S. § 5-235.01</i>
<i>Cemeteries</i> .....	<i>A.R.S. § 32-2194.05</i>
<i>Chiropractors</i> .....	<i>A.R.S. § 32-924; A.A.C. R4-7-901</i>
<i>Commodities</i> .....	<i>A.R.S. § 41-2081</i>
<i>Consumer Lender Loans</i> .....	<i>A.R.S. § 6-611</i>
<i>Contractors</i> .....	<i>A.R.S. § 32-1154</i>
<i>Cosmetologists</i> .....	<i>A.R.S. § 32-572</i>
<i>Credit Unions</i> .....	<i>A.R.S. § 6-504</i>
<i>Debt Management Companies</i> .....	<i>A.R.S. § 6-710</i>
<i>Dentists</i> .....	<i>A.R.S. § 32-1201</i>
<i>Doctors</i> .....	<i>A.R.S. § 32-1401</i>
<i>Eggs</i> .....	<i>A.R.S. § 3-733, A.A.C. R3-2-906</i>
<i>Embalmers</i> .....	<i>A.R.S. § 32-1301</i>
<i>Employment Agents</i> .....	<i>A.R.S. § 23-533</i>
<i>Equipment Dealers</i> .....	<i>A.R.S. § 44-6703</i>
<i>Fertilizer</i> .....	<i>A.R.S. § 3-281</i>
<i>Food (but see exemption for unknowing publication by newspaper)</i> .....	<i>A.R.S. §§ 36-902, 36-907, 36-914</i>
<i>Funeral Directors</i> .....	<i>A.R.S. § 32-1301; A.A.C. R4-12-302</i>
<i>Health Insurance</i> .....	<i>A.A.C. R20-6-201</i>
<i>Healthcare Group Plans</i> .....	<i>A.A.C. R9-27-503</i>
<i>Healthcare Service Organizations</i> .....	<i>A.R.S. § 20-1065</i>
<i>Hearing Aid Dispensers</i> .....	<i>A.R.S. § 36-1901</i>
<i>Homeopathic Doctors</i> .....	<i>A.R.S. § 32-2933</i>
<i>Insurance Policies</i> .....	<i>A.R.S. §§ 20-443, 20-443.01, 20-444</i>
<i>Investment Advisors</i> .....	<i>A.A.C. R14-6-208</i>
<i>Life Insurance</i> .....	<i>A.A.C. R20-6-202</i>

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<sup>4</sup> See Appendix B for full text of statutes.

<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>Mortgage Assistance Relief Services</i> .....	16 C.F.R. §§ 322.2, 322.4, 322.6
<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
<i>Veterinarians</i> .....	A.R.S. § 32-2232
<i>Weights and Measures</i> .....	A.R.S. § 41-2081

## **FINANCIAL INSTITUTIONS AND MATTERS**

### **COLLECTION AGENCIES**

*A collection agency shall not imply in its advertisements that it is: approved, bonded by, or affiliated with the state of Arizona; a state agency; the director of any state agency; or authorized to practice law.*

#### **R20-4-1516. Advertising**

A collection agency shall not use any form of communication to state or imply that it is:

1. Approved, bonded by, or affiliated with the state of Arizona;
2. A state agency;
3. The director of any state agency; or
4. 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.*

*A loan originator cannot solicit mortgage business on behalf of himself. A loan originator's advertisement must include: (1) the name and license number of the employing mortgage broker mortgage banker, or consumer lender; (2) approval of the employing mortgage broker, mortgage banker or consumer lender; and (3) the loan originator's unique identifier from the national mortgage licensing system and registry.*

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

P. 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 purposes 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 purposes 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.

**§ 6-991.02(C), (N). Prohibited acts**

C. A loan originator acting on the loan originator's own behalf shall not advertise, display, distribute, broadcast or televise, or cause or permit to be advertised, displayed, distributed, broadcast or televised, in any manner, any solicitation of mortgage business.

...

N. A loan originator shall not advertise for or solicit mortgage business in any manner without all of the following:

1. The name and license number as issued on the employing mortgage broker's, mortgage banker's, or consumer lender's or registered exempt person's principal place of business license.

2. Approval of the employing mortgage broker, mortgage banker, or consumer lender or registered exempt person.

3. The unique identifier the loan originator maintains with the nationwide mortgage licensing system and registry established by the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (P.L. 110- 289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116) or its successor.

## **MORTGAGE ASSISTANCE RELIEF SERVICES**

*Federal law requires that any advertisement for mortgage assistance relief services, whether in print or online, must include the following disclosures in a clear and prominent manner:*

1. ***“(Name of company) is not associated with the government, and our service is not approved by the government or your lender.”***

2. ***If the mortgage assistance relief service provider represents that it will perform certain services, the disclosure must add: “Even if you accept this offer and use our service, your lender may not agree to change you loan.”***

3. ***The disclosures must appear together and be preceded by the heading “IMPORTANT NOTICE.” This heading must be in bold face font that is two point-type larger than the font size of the required disclosures.***

4. *If the mortgage service provider represents that the consumer should stop making payments in whole or in part, the disclosure must add: “If you stop paying your mortgage, you could lose your home and damage your credit rating.”*

*All disclosures in the advertisement must be easily readable; in the same language substantially used in the commercial communication; in a format so that the disclosure is distinct from other text, such as inside a border; in a distinct type style such as bold; parallel to the base of the commercial communication; and each letter of the disclosure must be, at a minimum, the larger of 12-point type or one-half the size of the largest letter or numeral used in the name of the advertised website or telephone number to which consumers are referred to receive information.*

*In addition to the above requirements, if the advertisement appears online, the disclosures must be visible to consumers without requiring them to scroll down a webpage or click a conspicuous link, and the disclosures must appear in type at least the same size as the largest character of the advertisement.*

#### **16 CFR § 322.2 Definitions**

(a) “Clear and prominent” means:

(1) In textual communications, the required disclosures shall be easily readable; in a high degree of contrast from the immediate background on which it appears; in the same languages that are substantially used in the commercial communication; in a format so that the disclosure is distinct from other text, such as inside a border; in a distinct type style, such as bold; parallel to the base of the commercial communication, and, except as otherwise provided in this rule, each letter of the disclosure shall be, at a minimum, the larger of 12-point type or one-half the size of the largest letter or numeral used in the name of the advertised website or telephone number to which consumers are referred to receive information relating to any mortgage assistance relief service. . . .

(2) In communications disseminated orally or through audible means, such as radio or streaming audio, the required disclosures shall be delivered in a slow and deliberate manner and in a reasonably understandable volume and pitch;

(3) In communications disseminated through video means, such as television or streaming video, the required disclosures shall appear simultaneously in the audio and visual parts of the commercial communication and be delivered in a manner consistent with paragraphs (a)(1) and (2) of this section. The visual disclosure shall be at least four percent of the vertical picture or screen height and appear for the duration of the oral disclosure;

(4) In communications made through interactive media, such as the Internet, online services, and software, the required disclosures shall:

(i) Be consistent with paragraphs (a)(1) through (3) of this section;

(ii) Be made on, or immediately prior to, the page on which the consumer takes any action to incur any financial obligation;

(iii) Be unavoidable, i.e., visible to consumers without requiring them to scroll down a webpage; and

(iv) Appear in type at least the same size as the largest character of the advertisement;

(5) In all instances, the required disclosures shall be presented in an understandable language and syntax, and with nothing contrary to, inconsistent with, or in mitigation of the disclosures used in any communication of them; and

(6) For . . . Internet-based multi-media commercial communications, the required disclosures shall be made at the beginning, near the middle, and at the end of the commercial communication.

...

(c)(1) “General Commercial Communication” means a commercial communication that occurs prior to the consumer agreeing to permit the provider to seek offers of mortgage assistance relief on behalf of the consumer, or otherwise agreeing to use the mortgage assistance relief service, and that is not directed at a specific consumer.

...

(e) “Dwelling” means a residential structure containing four or fewer units, whether or not that structure is attached to real property, that is primarily for personal, family, or household purposes. The term includes any of the following if used as a residence: an individual condominium unit, cooperative unit, mobile home, manufactured home, or trailer.

(f) “Dwelling loan” means any loan secured by a dwelling, and any associated deed of trust or mortgage.

...

(i) “Mortgage Assistance Relief Service” means any service, plan, or program, offered or provided to the consumer in exchange for consideration, that is represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

(1) Stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale for the consumer’s dwelling, any repossession of the consumer’s dwelling, or otherwise saving the consumer’s dwelling from foreclosure or repossession;

(2) Negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees;

(3) Obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;

(4) Negotiating, obtaining, or arranging any extension of the period of time within which the consumer may:

(i) Cure his or her default on a dwelling loan,

(ii) Reinstate his or her dwelling loan,

(iii) Redeem a dwelling, or

(iv) Exercise any right to reinstate a dwelling loan or redeem a dwelling;

(5) Obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or

- (6) Negotiating, obtaining or arranging:
  - (i) A short sale of a dwelling,
  - (ii) A deed-in-lieu of foreclosure, or
  - (iii) Any other disposition of a dwelling other than a sale to a third party who is not the dwelling loan holder.

(j) “Mortgage Assistance Relief Service Provider” or “Provider” means any person that provides, offers to provide, or arranges for others to provide, any mortgage assistance relief service. This term does not include:

- (1) The dwelling loan holder, or any agent or contractor of such individual or entity.
- (2) The servicer of a dwelling loan, or any agent or contractor of such individual or entity.

**16 CFR § 322.4 Disclosures required in commercial communications**

It is a violation of this rule for any mortgage assistance relief service provider to engage in the following conduct:

(a) Disclosures in All General Commercial Communications —Failing to place the following statements in every general commercial communication for any mortgage assistance relief service:

- (1) “(Name of company) is not associated with the government, and our service is not approved by the government or your lender.”
- (2) In cases where the mortgage assistance relief service provider has represented, expressly or by implication, that consumers will receive any service or result set forth in §322.2(i)(2) through (6), “Even if you accept this offer and use our service, your lender may not agree to change your loan.”
- (3) The disclosures required by this paragraph must be made in a clear and prominent manner, and—

- (i) In textual communications the disclosures must appear together and be preceded by the heading “IMPORTANT NOTICE,” which must be in bold face font that is two point-type larger than the font size of the required disclosures; and

- (ii) In communications disseminated orally or through audible means, wholly or in part, the audio component of the required disclosures must be preceded by the statement “Before using this service, consider the following information.”

...

(c) Disclosures in All General Commercial Communications. . . . In cases where the mortgage assistance relief service provider has represented, expressly or by implication, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any mortgage assistance relief service, that the consumer should temporarily or permanently discontinue payments, in whole or in part, on a dwelling loan,

failing to disclose, clearly and prominently, and in close proximity to any such representation that “If you stop paying your mortgage, you could lose your home and damage your credit rating.”

...

#### **16 CFR § 322.6 Assisting and facilitating**

It is a violation of this rule for a person to provide substantial assistance or support to any mortgage assistance relief service provider when that person knows or consciously avoids knowing that the provider is engaged in any act or practice that violates this rule.

### **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.

...

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

...

24. "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.

...

31. "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.

...

36. "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(23). 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(5). 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)(20). Definitions; adult foster care**

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

...

20. "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 includes home health agencies as defined in § 36-151, outdoor behavioral health care programs 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 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 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 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. *If an advertisement specifies payment of a particular dollar amount for hospital room and board expenses, the advertisement shall also include the maximum daily benefit and the maximum time limit for which those expenses are covered.”*

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), (C)-(P). Advertisements of Health Insurance**

A. Definitions

1. "Advertisement" means materials and information used by an insurer to generate insurance business.

a. Advertisement includes the following information:

i. Printed and published material, audio visual material, or other forms of electronic communication that an insurer uses or displays in direct mail, newspapers, magazines, radio, television, billboards, Internet web sites, and similar media to inform the public about the insurer or its products[.]

...

C. General requirements. Insurers, producers, and third-party administrators shall ensure that health insurance advertisements meet the requirements of this Section.

1. Advertisements shall be truthful and not misleading. The insurer shall not use words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology.

2. An advertisement shall not omit information or use words, phrases, statements, references, or illustrations if the omission of information or use of words, phrases, statements, references, or illustrations may mislead or deceive purchasers or prospective purchasers.

3. The words and phrases used to describe a policy shall accurately describe the benefits of the policy and not exaggerate any benefit through the use of phrases such as "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.

4. If a policy covers only one disease or a list of specified diseases, any advertisement for the policy shall not imply coverage beyond the specified diseases.

5. If a policy pays varying amounts for the same loss occurring under different conditions or pays benefits only when a loss occurs under certain conditions, any advertisement for the policy shall disclose the limited conditions.

6. If an advertisement specifies payment of a particular dollar amount for hospital room and board expenses, the advertisement shall also include the maximum daily benefit and the maximum time limit for which those expenses are covered.

7. An advertisement that refers to any dollar amount, period of time for which a benefit is payable, cost of policy, or specific policy benefit or the loss for which a benefit is payable shall also disclose any related exclusions, reductions, and limitations without which the advertisement would have the capacity and tendency to mislead or deceive.

8. An advertisement covered by subsection (C)(7) shall disclose the existence of a waiting period if a policy contains a period between the effective date of the policy and the effective date of coverage under the policy. The advertisement shall disclose the existence of an elimination period.

9. An advertisement shall disclose any exclusion, reduction, or limitation applicable to a pre-existing condition; however, an insurer is not required to make disclosure in an advertisement that does not reference specific product information, benefit level, or dollar amounts.

10. If a policy has an exclusion, reduction, or limitation applicable to a preexisting condition, an advertisement shall not 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 and shall not use the phrase "no medical examination required" or other similar phrase.

11. If an advertisement refers to renewability, cancellation, or termination of a policy, or states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, the advertisement shall disclose the provisions relating to renewability, cancellation, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that does not minimize or obscure the qualifying conditions.

12. An advertisement shall not make any offer prohibited under A.R.S. § 20-452(4).

13. An advertisement shall not advertise any health insurance policy or form that has not been approved by the Department, unless the policy or form being advertised is exempt from approval or not subject to approval by order or statute.

14. An advertisement shall not state or imply that a product being offered is an introductory, special, or initial offer that will entitle the applicant to receive advantages not described in the policy by accepting the offer.

15. An advertisement designed to produce leads either by use of a coupon, a request to write or call the company, or subsequent advertisement before contact, shall disclose that a producer may contact the potential applicant.

D. Method of disclosure of required information. If an insurer is required by law to disclose particular information, the information shall be conspicuous and in close proximity to the statements to which the information relates, or under a prominent caption so that the required disclosure is not minimized, obscured, presented in an ambiguous fashion, or intermingled with the content of the advertisement.

E. Testimonials.

1. Testimonials used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer shall provide the Department with the full name of the author and a copy of the full testimonial if the advertisement is filed with the Department or requested by the Department. If an insurer uses a testimonial, the insurer adopts the statements in the testimonial as the insurer's own statements. If a testimonial or endorsement is used more than one year after it is given, the insurer shall obtain a written confirmation from the author that the testimonial represents the current opinion of the author.

2. The insurer shall disclose that a spokesperson has a financial interest or the proprietary or representative capacity of a spokesperson in an advertisement in the introductory portion of a testimonial or endorsement in the same form and with equal prominence as the endorsement. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the insurer shall disclose that fact in the

advertisement by language that states, "Paid Endorsement," or words of similar import in type, style, and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. For television or radio advertising, the insurer shall place the required disclosure prominently in the introductory portion of the advertisement.

F. Statistics. An advertisement with information on the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use facts that are irrelevant to the sale of insurance and shall accurately reflect all of the relevant facts specific to the advertised policy or insurer. An advertisement shall not state or imply that statistics are derived from the policy being advertised unless that is true. The insurer shall identify in the advertisement the source of any statistics used.

G. Inspection of policy. An offer in an advertisement of free inspection of a policy or offer of a premium refund does not cure misleading or deceptive statements in the advertisement.

H. Identification of plan or number of policies.

1. If an advertisement offers a choice in the amount of benefits, the advertisement shall disclose that the amount of benefits depends on the policy selected and that the premium will vary with the amount of the benefits.

2. If an advertisement refers to benefits contained in more than one policy, other than a group master policy, the advertisement shall disclose that the benefits are provided only if multiple policies are purchased.

I. Disparaging comparisons and statements. An advertisement shall not make unfair, incomplete, or unsubstantiated comparisons of other insurers' policies or benefits or falsely disparage other insurers' policies, services, or business methods. A comparison is unsubstantiated if the insurer has no empirical study, analysis, or documentation supporting the comparative statement or comparison of policies or benefits.

J. Jurisdictional limits.

If an insurer has an advertisement that is meant to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed, the advertisement 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 language such as "This Company is licensed only in State A" or "This Company is not licensed in State B."

K. Identity of insurer. The insurer shall state the name of the actual insurer in all of its advertisements. An advertisement shall clearly identify the insurer and shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device that may mislead or deceive the public as to the insurer's identity.

L. Group insurance. An advertisement shall not state or imply that prospective policyholders become group or quasi-group members and enjoy special rates or underwriting privileges, unless it is true. An advertisement to join an association, trust, or group that is also an invitation to contract for insurance coverage shall disclose that the applicant will be purchasing both membership in the association, trust, or group and insurance coverage.

M. Government approval. An advertisement shall not state or imply any of the following:

1. That a governmental agency or regulator is connected with or has provided or endorsed a policy or endorsed an insurer;

2. That a governmental agency or regulator has examined an insurer's financial condition and found it satisfactory. This subsection does not apply if an insurer

is responding to a specific documented, public, false allegation about its financial condition.

N. Endorsements. An advertisement may state that an individual, group, society, association, or other organization has approved or endorsed the insurer or its policy if the organization or group has done so in writing and if any proprietary relationship between the organization and the insurer is disclosed.

O. Claims handling. An advertisement shall not contain false statements about the time within which claims are paid or statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.

P. Statements about the insurer. An advertisement shall not contain false or misleading statements about an insurer's assets, corporate structure, financial standing, length of time in business, 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(C)-(D). Advertising, Solicitation, and Transaction of Life Insurance**

C. General provisions. A life insurance advertisement shall not mislead the public by:

1. Omitting information that fairly describes the subject matter as a life insurance policy and the benefits available under the policy;
2. Placing undue emphasis on facts that, even if true, are not relevant to the sale of life insurance; or
3. Placing undue emphasis on features of incidental or secondary importance to the life insurance aspects of the policy.

D. The Department deems the following acts misleading and deceptive:

1. Using any statement, including phrases such as “investment,” “investment plan,” “founders plan,” “charter plan,” “expansion plan,” “profit,” “profits,” or “profit sharing,” in a context or under circumstances or conditions that may mislead a purchaser or prospective purchaser to believe that the insurer is selling something other than a life insurance policy or will provide some benefit not included in the policy, or not available to other persons of the same class and equal expectation of life;
2. Using any phrase as the name or title of a life insurance policy if the phrase does not include the words “life insurance,” unless other language in the same document expressly provides that the contract is a life insurance policy;
3. 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 that would reasonably be understood as attempting to interest a prospective applicant in the purchase of shares of stock in the insurance company rather than in the purchase of a life insurance policy;
4. Making any statement that reasonably tends to imply that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in the insurance company by purchasing the policy, unless the statement is made with reference to policies of domestic life insurers engaged in a program allowed under A.R.S. § 20-453;
5. Providing a policyholder with a premium receipt book, policy jacket, return envelope, or other printed or electronic material referring to the insurer’s “investment department,” “insured investment department,” or similar terminology in a manner implying that the policy is sold, issued, or serviced by the insurer’s investment department;
6. Making any statement that 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 the insurance contract specifically provides for the described payment of dividend, special advantages, benefits, or favored treatment;

7. Stating or implying that only a limited number of persons or limited class of persons may buy a particular kind of policy, unless the limitation is related to recognized underwriting practices or specifically stated in the policy or rider;

8. Describing premium payments in language that states the payment is a “deposit,” unless:

a. The payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or

b. The term is used with the word “premium” in a manner as to clearly indicate the true character of the payment;

9. Providing any illustration or projection of future dividends that:

a. Is not based on the company’s actual scale for payment of current dividends, and

b. Does not clearly indicate that the dividends are not guarantees;

10. Using the words “dividends,” “cash dividends,” “surplus,” or similar phrases in a manner that states or implies that the payment of dividends is guaranteed or certain to occur;

11. Stating, without qualification, that a purchaser of a policy will share in a stated percentage or portion of the insurer’s earnings;

12. 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 also explains:

a. The benefits or coverage that would be provided at the future time, and

b. The conditions under which the receipt of benefits without further payment of premiums would occur;

13. Describing a life insurance policy or premium payments in terms of “units of participation,” unless accompanied by other language clearly indicating that the references are to a life insurance policy or to premium payments, as applicable.

14. Advising producers to avoid disclosing that life insurance is the subject of the solicitation or sale;

15. Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without explaining the non-forfeiture benefits;

16. Using a dollar amount in printed material to be shown to a prospective policyholder, unless the amount is accompanied by language that:

a. States the nature of the dollar amount,

b. Prohibits including the use of dollar amounts not related to guaranteed values and properly projected dividend figures, and

c. Prohibits the use of figures showing growth of stock values, or other values not a part of the life insurance contract.

17. Stating that a policy provides features not found in any other insurance policy, unless the insurer can demonstrate that other policies do not have the same feature;

18. Making any statement or implication about an insurance policy that cannot be verified by reference to the policy contract, a sample of the policy being described, or the company's officially published rate book and dividend illustrations;

19. Stating that life insurance is "loss proof" or "depression proof," except that an insurer may make statements that life insurance benefits, other than dividends, are guaranteed by the company regardless of economic conditions;

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

21. Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience for the company issuing the advertising; and

22. Conduct or statements designed to mislead a prospective applicant or purchaser.

## **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.*

## **INTERNET**

*Internet advertisements must not solicit a person's identifying information by falsely representing that the person is an online business.*

*Pop-up advertisements are prohibited if they cannot be closed without closing the internet browser or turning off the computer.<sup>5</sup>*

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<sup>5</sup> Federal laws also prohibit deceptive or misleading advertisements on the internet. 15 U.S.C. §§ 41-58. For guidance on complying with the federal laws, see the FTC's "Dot Com Disclosures" publication, available at <http://business.ftc.gov/sites/default/files/pdf/bus41-dot-com-disclosures-information-about-online-advertising.pdf>

**§ 44-7202. Prohibition**

A person shall not by means of a web page . . . or otherwise using the internet solicit, request or take any action to induce another person to provide identifying information by representing that the person, either directly or by implication, is an on-line business without the authority or approval of the on-line business.

**§ 44-7302. Prohibited activities; applicability**

A. It is unlawful for any person who is not an owner or operator of a computer to transmit computer software to a computer, with actual knowledge or with conscious avoidance of actual knowledge, and to use the software to do any of the following:

. . .

6. Take control of the computer by:

. . .

(b) Opening multiple, sequential, stand alone advertisements in an owner or operator's internet browser without the authorization of an owner or operator and that a reasonable computer user cannot close without turning off the computer or closing the internet browser.

## **MASSAGE THERAPY ADVERTISEMENT**

*A.R.S. 32-4255 now requires massage therapists to be licensed before advertising massage therapy services. Arizona Law prohibits a massage therapist or massage therapy business from advertising massage therapy services without a massage therapy license number of the therapist, or the business license number of the massage therapy business if the advertisement is not for a specific therapist. Additionally, the statute requires a massage therapy business to retain proof of all therapists' ages whose services are advertised.*

### **§ 32-4260(A), (B), (C), (H). Massage therapist or massage therapy business advertising requirements; civil penalty; definitions**

A. A massage therapist or massage therapy business shall not advertise massage therapy services unless the advertisement includes either:

1. The massage therapy license number of the massage therapist if the advertisement is for the services of a specific massage therapist.
2. The business license number of at least one business license held by the massage therapy business if the advertisement does not offer the services of a specific massage therapist.

B. A massage therapist or massage therapy business shall retain on file, for at least one year, proof of the age of any massage therapist whose services are offered in any advertisement of massage therapy services.

C. A massage therapist or massage therapy business that violates this section is subject to a civil penalty of:

1. Five hundred dollars for a first violation.
2. One thousand five hundred dollars for a second violation.
3. Five thousand dollars for a third or subsequent violation.

...

H. For the purposes of this section:

1. "Advertisement" means any message in any medium that offers or solicits any person to retain the services of the massage therapist or massage therapy business depicted in the advertisement.
2. "Massage therapy business" means a person or business association that furnishes, offers to furnish or advertises the furnishing of massage therapists as one of its primary business purposes for any fee, tip or other consideration.

## **MEDICAL MARIJUANA**

*As of the date of this writing, Arizona has not enacted any laws or regulations pertaining to advertising for medical marijuana. The Arizona Newspapers Association developed the following guidelines to aid newspapers in the interim.*

## **BACKGROUND:**

*On November 2, 2010, Arizona voters approved Proposition 203, also known as the Arizona Medical Marijuana Act (the “Act”). The Act has been codified as A.R.S. §§ 36-2801 through 36-2819.*

*The Act allows registered qualifying patients (who must have a physician’s written certification that they have been diagnosed with a debilitating condition and that they would likely receive benefit from marijuana) to obtain marijuana from a registered nonprofit dispensary, and to possess and use medical marijuana to treat the condition.*

*The Act requires the Arizona Department of Health Services (“ADHS”) (<http://www.azdhs.gov/prop203/index.htm>) to establish a registration and renewal application system for patients and nonprofit dispensaries. It also requires a web-based verification system for law enforcement and dispensaries to verify registry identification cards. The law allows certification of a number of dispensaries not to exceed 10% of the number of pharmacies in the state (which would cap the number of dispensaries at approximately 124). As of this writing, implementation of the Act was delayed by litigation filed by the Arizona Attorney General’s Office challenging the Act’s legality, and as a result of the lawsuit, ADHS was not accepting dispensary applications.*

*The Act provides that a registered patient’s use of medical marijuana is to be considered equivalent to the use of any other medication under the direction of a physician and does not disqualify a patient from medical care, including organ transplants.*

*The Act also provides that an employer may not discriminate against registered patients unless employing registered patients would jeopardize federal funding or licensing. Employers also may not penalize registered patients solely for testing positive for marijuana in drug tests, although the law does not authorize patients to use, possess, or be impaired by marijuana on the employer’s premises or during the hours of employment.*

*Approved Conditions: Cancer, glaucoma, HIV/AIDS, Hepatitis C, ALS, Crohn’s disease, Alzheimer’s disease, cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures (including epilepsy), severe or persistent muscle spasms (including multiple sclerosis).*

*Possession/Cultivation: Qualified patients or their registered designated caregivers may obtain up to 2.5 ounces of marijuana in a 14-day period from a registered nonprofit medical marijuana dispensary. If the patient lives more than 25 miles from the nearest dispensary, the patient or caregiver may cultivate up to 12 marijuana plants in an enclosed, locked facility.*

## NEWSPAPER ADVERTISING MEDICAL MARIJUANA GUIDELINES

*As of this writing, there are no administrative or statutory rules that govern advertising for medical marijuana. In the meantime, newspapers should consider adopting a policy that accepts only advertisements that are clearly and unambiguously in compliance with the Act and any and all subsequent rules written by ADHS.*

*The following guidelines are recommendations from Arizona Newspapers Association and subject to change with additional requirements from ADHS, local municipalities or the courts:*

- 1) All medical marijuana advertising should be accepted only on a Pre-Paid basis.
- 2) All ads should include a “PAID” advertisement disclaimer.
- 3) The ad should list the name of the business and a contact phone number or a paid e-mail address of the advertiser (as opposed to a free account such as gmail).
- 4) Newspaper management should give final approval to medical marijuana ads. The ads we refuse likely will fall into two categories: (1) inappropriate ad not consistent with the newspaper’s advertising policies; or (2) a question exists whether the ad is in clear and unambiguous compliance with the Act and related rules. In both cases, the best approach would be to refuse by stating: “The Publisher chooses not to accept your advertisement/advertising at this time.”
- 5) If any medical claims are made in the advertisement, documentation must be provided.
- 6) It may be appropriate to place medical marijuana ads in the newspaper together. The newspaper can then place a box near the ads with the following disclaimer:  
*Medical Marijuana ads are accepted from advertisers only after the advertiser has sworn that it is in full compliance with the Arizona Medical Marijuana Act and any and all subsequent Rules created by the Arizona Department of Health in reference to the sale of Medical Marijuana.*
- 7) Once the Act is implemented, Medical marijuana approved dispensaries must apply for approval from ADHS annually. We assume that the approved facilities will be listed on the ADHS website at: <http://www.azdhs.gov/prop203/index.htm>
- 8) The rules do not address the sale of any medical marijuana across state lines. Presumably, such sales are prohibited. Although a qualified patient is allowed to be qualified in more than one state, he may only purchase medical marijuana in the state where he currently resides.
- 9) Advertising drug paraphernalia is a class 6 felony in Arizona. Although the Act permits the sale and use of drug paraphernalia in conjunction with “medical use,” the Act makes no specific mention of advertising. To be safe, newspapers should not accept advertisements for paraphernalia, even if it is advertised in conjunction with medical marijuana. See A.R.S. § 13-3415(D) (class 6 felony to advertise drug paraphernalia); A.R.S. § 36-2801(9) (providing that “the *acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer or transportation of . . . paraphernalia*” falls within the definition of “medical use,” but not mentioning advertising.
- 10) The rules from ADHS address the cultivation of medical marijuana. A qualifying patient or the qualifying patient’s designated caregiver may be approved by the Department to cultivate medical marijuana if the qualifying patient lives more than 25 miles from the nearest dispensary. A qualifying patient is limited to cultivating 12 plants. A dispensary may cultivate marijuana at the dispensary or at a cultivation site. The location of the dispensary and the cultivation site needs to be in compliance with local zoning restrictions. Anyone who cultivates medical marijuana must do so in an enclosed, locked area. There are currently no rules as to where seeds can be purchased. Many individuals will look to purchase seeds online, but they also may be available at the certified dispensaries. The ANA recommends refusing ads for the sale of seeds, in state or out of state.
- 11) Any accepted medical marijuana ads should not be placed on a page with high school stories or content of high interest to minors.

- 12) An area of concern for newspapers is the recommendation that advertisers be in clear compliance with the Act and subsequent rules written by ADHS. While newspapers may not want to act as a gatekeeper, they should act with due caution. The ANA recommends that newspapers require the advertiser to sign an addendum (on your newspaper letterhead) before the placement of any advertisement that states the following:

\_\_\_\_\_ (advertiser name) acknowledges that the content of any advertisement and any products or services described in the advertisement is in clear and unambiguous compliance with the provisions of the Arizona Medical Marijuana Act and any subsequent administrative Rules relating to the Arizona Medical Marijuana Act.

The Advertiser agrees to indemnify, defend and hold harmless the Newspaper from all claims (whether valid or invalid), suits, judgments, proceedings, losses, damages, cost and expenses, of any nature whatsoever (including reasonable attorney's fees) for which the Newspaper or any of its affiliates may become liable by reason of Newspaper's publication of Advertiser's advertising.

- 13) This policy is subject to change.

## **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 include on the 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. The advertisement must also disclose 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 a font that is at least 3/32 inches tall in a dark type on a light background surrounded by a dark box. 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 and, after November 2, 2010, 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 threshold exemption statement, and shall also include 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 the 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. For printed material that is delivered or provided by hand or by mail, the disclosure shall be printed in a font that is at least 3/32 inches tall in dark type on light background surrounded by a dark box. 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. In printed advertisements, the disclosure must appear in a font that is at least 3/32 inches tall in a dark type on a light background surrounded by a dark box.*

**§ 16-901(14), (19). 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. Subsection A of this section does 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. For printed material that is delivered or provided by hand or by mail, the disclosure shall be printed in a font that is at least 3/32 inches tall in dark type on light background surrounded by a dark box. For communications that are broadcast on a telecommunications system or other medium that can provide a viewable disclosure and a spoken disclosure, the disclosure may be made in printed format only and a spoken disclosure is not required.

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. An advertisement may not use the title of “aesthetician” or any other title likely to be confused with that terms unless that person is licensed to perform that service.*

#### **§ 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.

...

12. Use the title of "aesthetician," "cosmetologist" or "nail technician" or any other title or term likely to be confused with "aesthetician," "cosmetologist" or "nail technician" in any advertisement, statement or publication unless that person is 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 or knowingly permit to be made on the lawyer’s behalf 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**

(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, which may include, in addition to any membership fee, a fee calculated as a percentage of legal fees earned by the lawyer to whom the service or organization has referred a matter, provided that any such percentage fee shall not exceed ten percent, and shall be used only to help defray the reasonable operating expenses of the service or organization and to fund public service activities, including the delivery of pro bono legal services. The fees paid by a client referred by such service shall not exceed the total charges that the client would have paid had no such service been involved. 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 must 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.*

7. *Fail to affix the word or initials “audiology,” “audiologic,” “audiologist,” “doctor of audiology,” “Au.D.,” “Ph.D.” or “Sc.D” in an advertisement in which the term “doctor” or “Dr.” is used in relation to the audiologist holding a doctoral degree.*

**§ 36-1901. Definitions**

In this chapter, unless the context otherwise requires:

...

27. “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.

...

(cc) Failing to affix the word, term or initials “audiology,” “audiologic,” “audiologist,” “doctor of audiology,” “AU.D.,” “PH.D.” or “SC.D.” in any sign, written communication or advertising media in which the term “doctor” or the abbreviation “Dr.” is used in relation to the audiologist holding a doctoral degree.

**§ 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(4). 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). 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 broadcast, published, internet or billboard advertising, letterheads and other documents used by the licensee to correspond with the licensee’s customers or potential customers 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. An advertisement may not use the title of "cosmetologist" or any other title likely to be confused with that term unless that person is licensed to perform that service.*

### § 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.

...

12. Use the title of "aesthetician," "cosmetologist" or "nail technician" or any other title or term likely to be confused with "aesthetician," "cosmetologist" or "nail technician" in any advertisement, statement or publication unless that person is 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:

...

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

10. “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 or business entity registration as prescribed by this chapter:

1. Practices dentistry or any branch of dentistry as described in section 32-1202.
2. In any manner or by any means, direct or indirect, advertises, represents or claims to be engaged or ready and willing to engage in that practice as described in section 32-1202.
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 that is advertised, represented or held out to the public for that purpose.

**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.

**DOCTORS**

*It is unprofessional conduct for a doctor to make a false, fraudulent, deceptive or misleading advertisement.*

**§ 32-1401. Definitions**

In this chapter, unless the context otherwise requires:

...

10. “Doctor of medicine” means a natural person holding a license, registration or permit to practice medicine pursuant to this chapter.

...

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.

## **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:

...

27. “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.,” “D.O.,” “physician,” “medical doctor-homeopathic,” “doctor of osteopathy-homeopathic,”*

*“doctor of medicine (homeopathic,” or “homeopathic physician” or otherwise imply that the homeopathic doctor is so licensed if it is not true.*

**§ 32-2901(11). 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(A)-(B). Definition of unprofessional conduct**

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

B. If a person is licensed pursuant to section 32-2912, subsection B, unprofessional conduct also includes the following:

...

4. Using the title “physician,” “medical doctor-homeopathic,” “doctor of osteopathy- homeopathic,” “doctor of medicine (homeopathic)” or “homeopathic physician” or otherwise implying that the licensee is a licensed allopathic or osteopathic physician.

**JUDGES**

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

**Arizona Rule of Judicial Conduct 3.16. Conducting Weddings**

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

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

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

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

(E) 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:

...

13. “Physician assistant” means a person who is licensed pursuant to this chapter and who practices medicine with physician supervision.

...

18. “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.

## 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. An advertisement may not use the title of “nail technician” or any other title likely to be confused with that term unless that person is licensed to perform that service.*

### § 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.

...

12. Use the title of “aesthetician,” “cosmetologist” or “nail technician” or any other title or term likely to be confused with “aesthetician,” “cosmetologist” or “nail

technician” in any advertisement, statement or publication unless that person is 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 that the licensee has a practice limited in some way if the licensee does not use the term “specialist” or any derivative of the term “specialist.” 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. False Advertising**

A. A licensee shall not knowingly make, publish, or use an advertisement that contains a false, fraudulent, deceptive, or misleading representation.

B. 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 the term “specialist.”

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. A licensee shall ensure that an advertisement for or by the licensee clearly indicates within the advertisement:

1. Whether spectacle lenses or contact lenses advertised are single vision, multi-focal, or other;
2. Whether the price advertised for spectacles includes both the frame and lenses;
3. Whether the price advertised includes an eye examination;
4. Whether the price advertised for contact lenses includes all dispensing fees, follow-up care, and 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 refund policy if refunds are advertised; and
7. A statement that other restrictions apply if there are other restrictions.

***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 and license number of the business as registered with the State.*

**R4-29-605(B)(2)(f) . Business Management**

B. Use of business name and license number.

...

2. A business licensee shall prominently display the business name and license number, as recorded on the license issued by the Commission, on:

...

f. Advertisements[.]

## 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.

### **R13-2-208(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 under the name and address 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 that 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 estate 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,” “Federal,” “State of Arizona,” “Police,” “Bureau of Investigation” 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.

#### **R13-6-207(A), (F). Business Name**

- A. The Department [of Public Safety] shall not grant a license to an agency with a name that includes the words “United States,” “Federal,” “State of Arizona,” “Police” or “Bureau

of Investigation,” or a name that associates the business with any governmental or law enforcement agency.

F. A qualifying party shall do all business under the name and at the address that is on file with the Department and noted on the agency license. The qualifying party shall ensure that both the agency name and license number are listed on all letterhead and business cards and included in advertising and contracts with 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:

...

27. “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)(5). 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), (C),(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)-(N). 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), (K), (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)(5). 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(G)(2). 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(1), (8). 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.” This law will be repealed Dec. 31, 2017.*

**§ 44-1302(K), (M),(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.

**S. 1083, 48<sup>th</sup> Leg., 1<sup>st</sup> Reg. Sess. (Ariz. 2007)**

The following sections are repealed from and after December 31, 2017:

1. Section 44-1302, Arizona Revised Statutes.

**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(3). 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)-(C), (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), (F)-(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)-(C), (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

## Law Prohibiting Fraudulent and Misleading Advertising

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## **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 medium.

### **§ 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. 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.

B. An insurance producer, consultant or third party administrator shall not falsely disclose the method or amount of compensation associated with a health benefits plan as defined in section 20-2301.

**§ 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:

...

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

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

...

21. "Unprofessional conduct" means the following acts, whether occurring in this state or elsewhere:

...

(t) 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:

...

25. "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.

...

31. "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)**

For the purposes of this chapter, “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)**

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:

...

37. “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.

38. “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.

...

60. “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:

1. Offer a course of study for credit that is not approved by the department, except that the school may advertise a course as pending approval before its approval.

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.

...

24. Representing that the veterinarian is a specialist if the veterinarian lacks the credentials to be a specialist.

**§ 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 pest management.

**§ 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:

...

13. “Physician assistant” means a person who is licensed pursuant to this chapter and who practices medicine with physician supervision.

...

18. “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)**

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

...

27. “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 while

failing to affix the word, term or initials “audiology,” “audiologic,” “audiologist,” “doctor of audiology,” “Au.D.,” “Ph.D.” or “Sc.D”.

(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.

...

(cc) Failing to affix the word, term or initials “audiology,” “audiologic,” “audiologist,” “doctor of audiology,” “Au.D.,” “Ph.D.” or “Sc.D.” in any sign, written communication or advertising media in which the term “doctor” or the abbreviation “Dr.” is used in relation to the audiologist holding a doctoral degree.

**§ 41-2051. Definitions (Commodities)**

In this chapter, unless the context otherwise requires:

...

8. “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[.]

2. Category B:

...

b. Advertising, representing, or selling out-of-state eggs as local eggs.

**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. Unprofessional Conduct (Nurses)**

For purposes of A.R.S. § 32-1601(16)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:

...

23. Advertising of the practice of nursing with untruthful or misleading statements[.]

**R4-21-302(A)-(C). Advertising (Optometrists)**

A. A licensee shall not knowingly make, publish, or use an advertisement that contains a false, fraudulent, deceptive, or misleading representation.

B. 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 the term “specialist.”

C. A licensee shall ensure that the content of an advertisement or directory that includes the name and address of the licensee is accurate.

**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 a member of another contractor to enroll in the represented health plan. Violations of this subsection include, but are not limited to, false or misleading claims, inferences, or representations such as:

- 1. A member will lose benefits under the AHCCCS program or lose any other health or welfare benefits to which a member is legally entitled, if the member does not enroll in the represented contracting health plan;

2. 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

3. 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 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 a violation of this Section resulting from the performance of any marketing representative, subcontractor, agent, program, or process under the contractor's employ or direction and shall impose contract sanctions on the contractor as specified in contract..

**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 Health Insurance (Disability Insurance)**

A. Definitions. . . .

1. "Advertisement" means materials and information used by an insurer to generate insurance business.

a. Advertisement includes the following information:

i. Printed and published material, audio visual material, or other forms of electronic communication that an insurer uses or displays in direct mail, newspapers, magazines, radio, television, billboards, Internet web sites, and similar media to inform the public about the insurer or its products; ii. Descriptive literature and sales aids an insurer issues or releases for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters;

iii. Prepared sales talks and presentations and material for use by an insurer or prepared by an insurer for use by authorized producers[.]

. . .

C. General requirements. Insurers, producers, and third-party administrators shall ensure that health insurance advertisements meet the requirements of this Section.

1. Advertisements shall be truthful and not misleading. The insurer shall not use words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology.

2. An advertisement shall not omit information or use words, phrases, statements, references, or illustrations if the omission of information or use of words, phrases, statements, references, or illustrations may mislead or deceive purchasers or prospective purchasers.

3. The words and phrases used to describe a policy shall accurately describe the benefits of the policy and not exaggerate any benefit through the use of phrases such as "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.

4. If a policy covers only one disease or a list of specified diseases, any advertisement for the policy shall not imply coverage beyond the specified diseases.

5. If a policy pays varying amounts for the same loss occurring under different conditions or pays benefits only when a loss occurs under certain conditions, any advertisement for the policy shall disclose the limited conditions.

6. If an advertisement specifies payment of a particular dollar amount for hospital room and board expenses, the advertisement shall also include the maximum daily benefit and the maximum time limit for which those expenses are covered.

7. An advertisement that refers to any dollar amount, period of time for which a benefit is payable, cost of policy, or specific policy benefit or the loss for which a benefit is payable shall also disclose any related exclusions, reductions, and limitations without which the advertisement would have the capacity and tendency to mislead or deceive.

8. An advertisement covered by subsection (C)(7) shall disclose the existence of a waiting period if a policy contains a period between the effective date of the policy and the effective date of coverage under the policy. The advertisement shall disclose the existence of an elimination period.

9. An advertisement shall disclose any exclusion, reduction, or limitation applicable to a pre-existing condition; however, an insurer is not required to make disclosure in an advertisement that does not reference specific product information, benefit level, or dollar amounts.

10. If a policy has an exclusion, reduction, or limitation applicable to a preexisting condition, an advertisement shall not 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 and shall not use the phrase "no medical examination required" or other similar phrase.

11. If an advertisement refers to renewability, cancellation, or termination of a policy, or states or illustrates time or age in connection with eligibility of applicants or continuation of the policy, the advertisement shall disclose the provisions relating to renewability, cancellation, and termination and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that does not minimize or obscure the qualifying conditions.

12. An advertisement shall not make any offer prohibited under A.R.S. § 20-452(4).

13. An advertisement shall not advertise any health insurance policy or form that has not been approved by the Department, unless the policy or form being advertised is exempt from approval or not subject to approval by order or statute.

14. An advertisement shall not state or imply that a product being offered is an introductory, special, or initial offer that will entitle the applicant to receive advantages not described in the policy by accepting the offer.

15. An advertisement designed to produce leads either by use of a coupon, a request to write or call the company, or subsequent advertisement before contact, shall disclose that a producer may contact the potential applicant.

D. Method of disclosure of required information. If an insurer is required by law to disclose particular information, the information shall be conspicuous and in close proximity to the statements to which the information relates, or under a prominent caption so that the required disclosure is not minimized, obscured, presented in an ambiguous fashion, or intermingled with the content of the advertisement.

E. Testimonials.

1. Testimonials used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately

reproduced. The insurer shall provide the Department with the full name of the author and a copy of the full testimonial if the advertisement is filed with the Department or requested by the Department. If an insurer uses a testimonial, the insurer adopts the statements in the testimonial as the insurer's own statements. If a testimonial or endorsement is used more than one year after it is given, the insurer shall obtain a written confirmation from the author that the testimonial represents the current opinion of the author.

2. The insurer shall disclose that a spokesperson has a financial interest or the proprietary or representative capacity of a spokesperson in an advertisement in the introductory portion of a testimonial or endorsement in the same form and with equal prominence as the endorsement. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the insurer shall disclose that fact in the advertisement by language that states, "Paid Endorsement," or words of similar import in type, style, and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. For television or radio advertising, the insurer shall place the required disclosure prominently in the introductory portion of the advertisement.

F. Statistics. An advertisement with information on the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use facts that are irrelevant to the sale of insurance and shall accurately reflect all of the relevant facts specific to the advertised policy or insurer. An advertisement shall not state or imply that statistics are derived from the policy being advertised unless that is true. The insurer shall identify in the advertisement the source of any statistics used.

G. Inspection of policy. An offer in an advertisement of free inspection of a policy or offer of a premium refund does not cure misleading or deceptive statements in the advertisement.

H. Identification of plan or number of policies.

1. If an advertisement offers a choice in the amount of benefits the advertisement shall disclose that the amount of benefits depends on the policy selected and that the premium will vary with the amount of the benefits.

2. If an advertisement refers to benefits contained in more than one policy, other than a group master policy, the advertisement shall disclose that the benefits are provided only if multiple policies are purchased.

I. Disparaging comparisons and statements. An advertisement shall not make unfair, incomplete, or unsubstantiated comparisons of other insurers' policies or benefits or falsely disparage other insurers' policies, services, or business methods. A comparison is unsubstantiated if the insurer has no empirical study, analysis, or documentation supporting the comparative statement or comparison of policies or benefits.

J. Jurisdictional limits.

If an insurer has an advertisement that is meant to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed, the advertisement 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 language such as "This Company is licensed only in State A" or "This Company is not licensed in State B."

K. Identity of insurer. The insurer shall state the name of the actual insurer in all of its advertisements. An advertisement shall clearly identify the insurer and shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device that may mislead or deceive the public as to the insurer's identity.

L. Group insurance. An advertisement shall not state or imply that prospective policyholders become group or quasi-group members and enjoy special rates or underwriting

privileges, unless it is true. An advertisement to join an association, trust, or group that is also an invitation to contract for insurance coverage shall disclose that the applicant will be purchasing both membership in the association, trust, or group and insurance coverage.

M. Government approval. An advertisement shall not state or imply any of the following:

1. That a governmental agency or regulator is connected with or has provided or endorsed a policy or endorsed an insurer;

2. That a governmental agency or regulator has examined an insurer's financial condition and found it satisfactory. This subsection does not apply if an insurer is responding to a specific documented, public, false allegation about its financial condition.

N. Endorsements. An advertisement may state that an individual, group, society, association, or other organization has approved or endorsed the insurer or its policy if the organization or group has done so in writing and if any proprietary relationship between the organization and the insurer is disclosed.

O. Claims handling. An advertisement shall not contain false statements about the time within which claims are paid or statements that imply that claim settlements will be liberal or generous beyond the terms of the policy.

P. Statements about the insurer. An advertisement shall not contain false or misleading statements about an insurer's assets, corporate structure, financial standing, length of time in business, or relative position in the insurance business.

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

C. General provisions. A life insurance advertisement shall not mislead the public by:

1. Omitting information that fairly describes the subject matter as a life insurance policy and the benefits available under the policy;

2. Placing undue emphasis on facts that, even if true, are not relevant to the sale of life insurance; or

3. Placing undue emphasis on features of incidental or secondary importance to the life insurance aspects of the policy.

D. The Department deems the following acts misleading and deceptive:

1. Using any statement, including phrases such as "investment," "investment plan," "founders plan," "charter plan," "expansion plan," "profit," "profits," or "profit sharing," in a context or under circumstances or conditions that may mislead a purchaser or prospective purchaser to believe that the insurer is selling something other than a life insurance policy or will provide some benefit not included in the policy, or not available to other persons of the same class and equal expectation of life;

2. Using any phrase as the name or title of a life insurance policy if the phrase does not include the words "life insurance," unless other language in the same document expressly provides that the contract is a life insurance policy;

3. 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 that would reasonably be understood as attempting to interest a prospective applicant in the purchase of shares of stock in the insurance company rather than in the purchase of a life insurance policy;

4. Making any statement that reasonably tends to imply that the insured will enjoy a status common to a stockholder or will acquire a stock ownership interest in

the insurance company by purchasing the policy, unless the statement is made with reference to policies of domestic life insurers engaged in a program allowed under A.R.S. § 20-453;

5. Providing a policyholder with a premium receipt book, policy jacket, return envelope, or other printed or electronic material referring to the insurer's "investment department," "insured investment department," or similar terminology in a manner implying that the policy is sold, issued, or serviced by the insurer's investment department;

6. Making any statement that 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 the insurance contract specifically provides for the described payment of dividend, special advantages, benefits, or favored treatment;

7. Stating or implying that only a limited number of persons or limited class of persons may buy a particular kind of policy, unless the limitation is related to recognized underwriting practices or specifically stated in the policy or rider;

8. Describing premium payments in language that states the payment is a "deposit," unless:

a. The payment establishes a debtor-creditor relationship between the insurance company and the policyholder; or

b. The term is used with the word "premium" in a manner as to clearly indicate the true character of the payment;

9. Providing any illustration or projection of future dividends that:

a. Is not based on the company's actual scale for payment of current dividends, and

b. Does not clearly indicate that the dividends are not guarantees;

10. Using the words "dividends," "cash dividends," "surplus," or similar phrases in a manner that states or implies that the payment of dividends is guaranteed or certain to occur;

11. Stating, without qualification, that a purchaser of a policy will share in a stated percentage or portion of the insurer's earnings;

12. 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 also explains:

a. The benefits or coverage that would be provided at the future time, and

b. The conditions under which the receipt of benefits without further payment of premiums would occur;

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

14. Advising producers to avoid disclosing that life insurance is the subject of the solicitation or sale;

15. Stating that an insured is guaranteed certain benefits if the policy is allowed to lapse, without explaining the non-forfeiture benefits;

16. Using a dollar amount in printed material to be shown to a prospective policyholder, unless the amount is accompanied by language that:
  - a. States the nature of the dollar amount,
  - b. Prohibits including the use of dollar amounts not related to guaranteed values and properly projected dividend figures, and
  - c. Prohibits the use of figures showing growth of stock values, or other values not a part of the life insurance contract.
17. Stating that a policy provides features not found in any other insurance policy, unless the insurer can demonstrate that other policies do not have the same feature;
18. Making any statement or implication about an insurance policy that cannot be verified by reference to the policy contract, a sample of the policy being described, or the company's officially published rate book and dividend illustrations;
19. Stating that life insurance is "loss proof" or "depression proof," except that an insurer may make statements that life insurance benefits, other than dividends, are guaranteed by the company regardless of economic conditions;
20. Making any statement that a company makes a profit as a result of policy lapses or surrenders;
21. Making comparisons to the past experience of other life insurance companies as a means of projecting possible experience for the company issuing the advertising; and
22. Conduct or statements designed to mislead a prospective applicant or purchaser.

## **OTHER RULES (ATTORNEYS)**

### **ER 7.1. Communications Concerning a Lawyer's Services**

A lawyer shall not make or knowingly permit to be made on the lawyer's behalf 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, which may include, in addition to any membership fee, a fee calculated as a percentage of legal fees earned by the lawyer to whom the service or organization has referred a matter, provided that any such percentage fee shall not exceed ten percent, and shall be used only to help defray the reasonable operating expenses of the service or organization and to fund public service activities, including the delivery of pro bono legal services. The fees paid by a client referred by such service shall not exceed the total charges that the client would have paid had no such service been

involved. 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 B

### Arizona and Federal Laws Concerning Newspaper Advertising in State, Local, and Federal Elections<sup>6</sup>

#### 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. The literature or advertisement must include the words “paid for by,” followed by the name of the committee that paid for the literature or 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 disclosures must be printed in a font that is at least 3/32 inches tall in dark type on light background surrounded by a dark box.
- 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.

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##### **§ 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

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<sup>6</sup> This Appendix B was created for the Arizona Newspapers Association in May 2004 by Philip J. MacDonnell, and has been updated for this edition by Steptoe & Johnson LLP.

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. Subsection A of this section does 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. For printed material that is delivered or provided by hand or by mail, the disclosure shall be printed in a font that is at least 3/32 inches tall in dark type on light background surrounded by a dark box. For communications that are broadcast on a telecommunications system or other medium that can provide a viewable disclosure and a spoken disclosure, the disclosure may be made in printed format only and a spoken disclosure is not required.

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." The literature or advertisement must include the words "paid for by," followed by the name of the committee that paid for the literature or advertisement.
- 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. The disclosures must be printed in a font that is at least 3/32 inches tall in dark type on light background surrounded by a dark box.
- 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.

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**§ 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 and, after November 2, 2010, 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 threshold exemption statement, and shall also include 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 the 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. For printed material that is delivered or provided by hand or by mail, the disclosure shall be printed in a font that is at least 3/32 inches tall in dark type on light background surrounded by a dark box. 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” October 2006,  
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 (1) “public communications” (defined below), (2) bulk electronic mail (defined as electronic mail with more than 500 substantially similar communications) and (3) web sites available to the general public, 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) that are paid for by a political committee or that contain express advocacy or a solicitation;
- Independent expenditures;
- Electioneering communications;
- A communication that solicits funds for a federal candidate or a federal political committee or that contain express advocacy; and
- Political committees’ websites.

##### **Definitions**

###### *Public Communications*

As defined in FEC regulations, the term “public communication” includes:

- . . .
- Newspaper
- . . .
- Any other general public political advertising General public political advertising does not include Internet ads, except for communications placed for a fee on another person’s web site (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.

### *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).

### *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;
- Campaign materials distributed by volunteers on behalf of federal candidates; and
- Certain slate cards, sample ballots and palm 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 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.
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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.)

## Additional Statements Required in Fundraising Solicitations

### **When is a Disclaimer Not Required?**

In order to deposit undesignated contributions into its federal account, a federal committee must inform donors that their contributions will be used in connection with federal elections or that they are subject to the limits and prohibitions of the [Federal Election Campaign] Act. The committee may satisfy this requirement by including that information in its solicitation materials. 11 CFR 102.5(a)(2)(ii) and (iii).

### **“Best Efforts” Notification**

Under the [Federal Election Campaign] Act and FEC regulations, political committees must report the name, address, occupation and employer of any individual who contributes more than \$200 in a calendar year (or in an election cycle, in the case of an authorized committee) (11 CFR 104.3(a)(4)). Committees must make their “best efforts” to obtain and report contributor information.

To satisfy the “best efforts” requirement, a political committee must include a statement on its solicitations explaining that it is required to make its best efforts to obtain and report contributor information. This statement is referred to as the “best efforts” notification; two examples are listed below:

- Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year, or
- To comply with Federal law, we must use our best efforts to obtain, maintain, and submit the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 per calendar year.

...

### ***Safe Harbor for “Format of Disclosure Statement”***

#### **Print Medium**

In the case of a solicitation by mail, leaflet, or advertisement in a newspaper, magazine or other print medium, the following four requirements are met;

- The solicitation includes whichever of the following statements the organization deems appropriate:
  - “Contributions or gifts to [name of organization] are not deductible as charitable contributions for Federal income tax purposes,”
  - “Contributions or gifts to [name of organization] are not tax deductible,” or
  - “Contributions or gifts to [name of organization] are not tax deductible as charitable contributions”;
- The statement is in at least the same size type as the primary message stated in the body of the letter, leaflet or ad;
- The statement is included on the message side of any card or tear off section that the contributor returns with the contribution; and
- The statement is either the first sentence in a paragraph or itself constitutes a paragraph.