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## Insurance Advertising Compliance: 10 Rules Brokers Must Know

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Developing creative, effective insurance advertisements — that also comply with the law — can be a daunting task. Fortunately, states have issued regulations that provide a myriad of guidance to help brokers understand what is, arguably, the most important aspect of the advertising design process. The purpose of these regulations is to “assure *truthful and adequate disclosure* of all material and relevant information” in insurance advertising and to prohibit language that may *deceive or mislead* the insurance-buying public.

Outlined below are 10 key rules aimed at helping brokers create effective and compliant insurance advertisements. While these rules focus on California’s Regulations for Disability Insurance Advertisements (“Regulations”) (10 CCR §§ 2535.1-2537), most apply to the advertising of other products as well, unless otherwise noted.

### 1) Compliance is a Requirement, Not an Option

State regulations mandate that all advertisements, regardless of who created the advertisement, are the responsibility of the underwriting insurer. As a result, some brokers may believe this relieves them of liability. However, the California Insurance Code (“Code”) places the onus on brokers as well, prohibiting them from making or disseminating information that is known to be untrue, deceptive or misleading.

Brokers are obligated to follow the requirements outlined in the Code. Insurers also typically require brokers to comply with relevant laws and regulations, as well as the insurers’ internal advertising policies and procedures. It is common practice for insurers to require that brokers submit their advertising material for approval and archiving. In fact, California requires insurers to establish and maintain “a system of control over the content, form and method of dissemination of all advertisements of its policies.” Insurers may opt to store the advertisements created by brokers or they may require brokers to store the pieces themselves — for a minimum of four years.

### 2) The Definition of an Advertisement

Advertisements take various forms and include:

- Printed and published material, audio visual material and descriptive literature of an insurer, used in direct mail, newspapers, magazines, radio scripts, TV scripts, billboards and similar displays
- Descriptive literature and sales aids of all kinds issued by an insurer, agent or broker for presentation to members of the insurance buying public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations and form letters
- Prepared sales presentations and other materials for use by agents, brokers and solicitors

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