

R590. Insurance, Administration.

R590-154. Unfair Marketing Practices Rule; Misleading Names.

R590-154-1. Authority.

This rule is adopted pursuant to Subsection 31A-2-201(3) in which the commissioner is empowered to adopt rules to implement the provisions of the Utah Insurance Code, Section 31A-23a-402, which provides that the commissioner may find certain practices to be misleading, deceptive, unfairly discriminatory, or unreasonably restrain competition, and to prohibit them by rule, and [Section]Subsection 31A-23a-110(2), which provides that a licensee may do business under a name other than the licensee's legal name by notifying the commissioner.

R590-154-2. Purpose and Scope.

(1) The purpose of this rule is to provide guidance to all licensees regarding unfair marketing practices.

(2) This rule applies to all insurance producers, limited lines producers, consultants and insurers licensed under Title 31A, Utah Insurance Code.

R590-154-3. Definitions.

(1) "Licensee" means, as used in this rule, all individual producers, all agency producers, all individual limited line producers, all agency limited line producers, all individual consultants, all agency consultants, and all insurers.

R590-154-4. Findings.

The commissioner finds that each of the practices prohibited in this rule constitute misleading, deceptive or unfairly discriminatory practices or unreasonably restrain competition, except as specifically allowed in this rule.

R590-154-5. Licensee Name.

(1) A licensee licensed under the Utah Insurance Code shall not use any name that is:

(a) misleading or deceptive;

(b) likely to be mistaken for another licensee already in business; or

(c) implies association or connection with any other organization where actual bona fide association or connection does not exist.

(2) "Insurance consulting," "insurance consultants" or similar words shall only be used if the licensee is licensed as a consultant.

(3) ~~[An individual]~~A licensee shall be licensed using the ~~[individual's]~~licensee's full legal name. ~~[The full legal name shall include first name or initial, middle name or initial, last name, and suffix.~~

~~—(4) An individual may file with the commissioner a preferred name or nickname to use with the individual's full legal name, consistent with Section 31A-23a-110(2).~~

~~—(5)~~(4)(a) Section 31A-23a-110(2) permits a licensee to use an assumed name by notifying the commissioner.

(b) In order to give notice of an assumed name as required by

Section 31A-23a-110(2), the licensee shall comply with R590-244-13.

([6]5) A licensee may use its legal name, or an assumed name provided the commissioner is properly notified of the assumed name.

R590-154-6. Sale, Solicitation, or Negotiation of Insurance; Consultation.

(1) A licensee shall not, orally or in writing, fail to disclose that the licensee is an insurance licensee.

(2) A licensee shall not use or imply license types or lines of authority not held by the licensee.

(3) An individual licensee may only use the name of an agency licensee if the individual licensee is designated to act under the agency's license.

(4) An individual licensee may not sell, solicit, or negotiate insurance; or consult or advise for an agency licensee unless the individual licensee is designated to act under the agency's license.

R590-154-7. Claiming or Representing Department Approval.

(1) A licensee may not represent, either directly or indirectly, that the department, the commissioner, or any employee of the department, has approved, reviewed, or endorsed any marketing program, insurance product, insurance company, practice or act.

(2) A licensee may report the fact of the filing of any form, financial report, or other document with the department, or of licensure, examination or other action involving the department, or the commissioner but may not misrepresent their effect or import.

R590-154-8. Bartering for Insurance.

Any licensee bartering for the sale of insurance or an annuity contract shall fully document the receipt of goods, services or other thing of value, establishing the value of the thing received and how the value was established, from whom received, the date received, and the premium cost of the insurance or annuity contract bartered for, and shall retain said documentation for three years following the expiration of the policy period or bartering transaction, whichever is longer. Any licensee bartering for the sale of an insurance or annuity contract shall disclose at the time of application to the insurer said bartering arrangement.

R590-154-9. Prohibited Insurance Sales Tie-Ins.

Multi-level marketing programs, investment programs, memberships, or other similar programs, designed or represented to produce or provide funds to pay all or any part of the cost of insurance constitutes an illegal inducement. This does not preclude the provision of insurance through a bona fide employee benefits program.

R590-154-10. Commissions or Consulting Fees.

A licensee shall not give or offer to give a premium reduction by means of commission or consulting fee back to the insurer for any purpose, including competition, unless the reduction is for expense savings and is justified by a reasonable standard and with reasonable accuracy. The insurer's underwriting files must document the savings in order to enable the commissioner to verify compliance. This

documentation must demonstrate legitimate expense savings realized by the insurer and its producer.

R590-154-11. Prohibited Financing Arrangements.

A licensee may not obtain or arrange for third party financing of premium without the knowledge and consent of the insured.

R590-154-12. Acting as A Licensee in Other Jurisdictions.

A resident licensee may not sell, solicit, or negotiate insurance or advise or consult about insurance in another jurisdiction unless licensed or permitted by law to do so in that jurisdiction.

R590-154-13. Use of Comparative Information.

(1) Every insurer marketing insurance in the State of Utah shall establish written marketing procedures to assure that any comparison of insurance contracts, annuities or insurance companies by its producers will be fair and accurate.

(2) A licensee may not use any published rating information regarding an insurer in connection with the marketing of any insurance contract or annuity unless that person also provides at the same time an explanation of what the rating means as defined by the rating service.

R590-154-14. Disclosure of Insurer in Group Insurance.

Every certificate of insurance or booklet describing coverage of a group insurance policy shall prominently state on the cover of the certificate or booklet the full legal name and address of the actual insurer.

R590-154-15. Enforcement Date.

The commissioner shall begin enforcing the revised provisions of this rule on the rule's effective date.

R590-154-16. Severability.

If any provision of this rule or the application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provision of this rule are declared to be severable.

KEY: insurance; unfair marketing practices; misleading names

Date of Enactment or Last Substantive Amendment: October 3, 2012

Notice of Continuation: March 20, 2013

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-402; 31A-23a-110