

§ 58-62-86. Prohibited advertisement of Article in insurance sales; notice to policyholders.

(a) No person, including a member insurer, agent, or affiliate of a member insurer, 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 any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any oral or written advertisement, announcement, or statement that uses the existence of the Association or this Article for the purpose of sale or solicitation of or inducement to purchase any kind of insurance or other coverage covered by this Article. However, this subsection does not apply to the Association or any other person who does not sell or solicit insurance or coverage by a health maintenance organization.

(b) Within 180 days after the effective date of this Article, the Association shall prepare a summary document that describes the general purposes and current limitations of this Article and that complies with subsection (c) of this section. This summary document shall be submitted to the Commissioner for the Commissioner's approval. Sixty days after receiving approval, no member insurer may deliver a policy or contract to a policy owner, contract owner, certificate holder, or enrollee unless the summary document is delivered to the policy owner, contract owner, certificate holder, or enrollee before or at the time of delivery of the policy or contract, unless subsection (d) of this section applies. The summary document shall also be available upon request by a policy owner, contract owner, certificate holder, or enrollee. The distribution, delivery, contents, or interpretation of this summary document does not mean that either the policy or the contract or the policy owner, contract owner, certificate holder, or enrollee would be covered in the event of the impairment or insolvency of a member insurer. The summary document shall be revised by the Association as amendments to this Article require. Failure to receive this summary document does not give the policy owner, contract owner, certificate holder, enrollee, or insured any greater rights than those stated in this Article.

(c) The summary document prepared under subsection (b) of this section shall contain a clear and conspicuous disclaimer on its face. The Commissioner shall prescribe the form and content of the disclaimer. The disclaimer shall do all of the following:

- (1) State the name and addresses of the Association and Department.
- (2) Prominently warn the policy owner, contract owner, certificate holder, or enrollee that the Association may not cover the policy or contract or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in this State.
- (2a) State the types of policies or contracts for which guaranty funds will provide coverage.
- (3) State that the member insurer and its agents are prohibited by law from using the existence of the Association for the purpose of sale or solicitation of or inducement to purchase any kind of insurance or health maintenance organization coverage.
- (4) Emphasize that the applicant, policy owner, contract owner, certificate holder, or enrollee should not rely on coverage under the Association when selecting an insurer or health maintenance organization.
- (4a) Explain rights available and procedures for filing a complaint to allege a violation of any provisions of this Article.
- (5) Provide other information as directed by the Commissioner, including, but not limited to, sources for information about the financial condition of member insurers provided that the information is not proprietary and is subject to disclosure under public records law.

(d) No insurer, health maintenance organization, or agent may deliver a policy or contract described in G.S. 58-62-21(b) and excluded under G.S. 58-62-21(c) from coverage under this Article unless the insurer, health maintenance organization, or agent, before or at the time of delivery, gives the policy or contract owner, certificate holder, or enrollee a separate written notice that clearly and conspicuously discloses that the policy or contract is not covered by the Association. The Commissioner shall prescribe the form and content of the notice. (1991, c. 681, s. 56; 2018-120, s. 1.1(n).)