



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

One South Station • Boston, MA 02110-2208  
(617) 521-7794 • FAX (617) 521-7475  
TTY/TDD (617) 521-7490  
<http://www.mass.gov/doi>

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

GREGORY BIALECKI  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

BARBARA ANTHONY  
UNDERSECRETARY

JOSEPH G. MURPHY  
ACTING COMMISSIONER OF INSURANCE

**BULLETIN 2009-14**

**TO: Insurance Companies and Insurance Company Groups that Sell Private Passenger Motor Vehicle Insurance Policies in Massachusetts**

**FROM: Joseph G. Murphy, Acting Commissioner of Insurance**

**DATE: November 17, 2009**

**RE: Guidelines for Truth in Advertising and Marketing in the Private Passenger Motor Vehicle Insurance Market**

---

Managed competition in the private passenger motor vehicle insurance market has generated a surge in the advertising and marketing of these products. While this increased activity speaks to the success of managed competition, it also creates the need to remind insurers of the importance of truth in advertising and marketing. This Bulletin summarizes an insurer's obligations to provide truth in advertising and marketing of their private passenger automobile insurance products in the Commonwealth. It is not intended to serve as an exhaustive list of such obligations.

Generally, Massachusetts law prohibits representations in the advertising or marketing of insurance products that might induce a consumer to purchase a product under false pretenses. Specifically, G.L. c. 176D, § 3(1) and (2) prohibit advertisements 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. They also prohibit misrepresentations of numerous different elements of an insurance policy. Violations of these prohibitions constitute unfair methods of competition and unfair or deceptive

acts or practices in the business of insurance and will result in the institution of enforcement proceedings against insurers and their insurance producers.

Marketing and advertising must be truthful and not misleading in fact or in implication. A marketing method or an advertisement shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether a marketing method has the capacity or tendency to mislead or deceive is determined from the overall impression that the marketing method may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.

Any marketing method that compares motor vehicle insurance policies issued by different companies is misleading if it makes unfair or incomplete comparisons of policy benefits or if it compares different levels of coverage or lengths of policy terms. Comparisons of policies must be for identical coverages and policy terms.

A claim by a company that a consumer may save money by obtaining a policy with that company must be supportable by data. If the comparison is to its own previous rates, the company must have supportable data. If the company is comparing its premium to that of another specific company, the company making the claim must have supportable data. Unsubstantiated claims of savings will be considered misrepresentations. Similarly, the source of any statistics used in any advertising or marketing method must be identified in such advertisement or method.

Every insurer must maintain a system of control over the content, form and method of dissemination of all of its advertisements and marketing methods of private passenger motor vehicle insurance in the Commonwealth. Furthermore, insurers must maintain a complete file containing every printed, published or prepared advertisement or marketing method of its individual policies and typical printed, published or prepared marketing methods of its blanket franchise and group policies in this state, either at its home or principal office. A notation must be attached to each such advertisement and marketing method that indicates the manner and extent of distribution and the form number of any policy advertised or marketed. Such file shall be subject to the Division's regular and periodic inspection, or examination under G.L. c. 175, § 4 and c. 176D, §5. All such advertisements and marketing methods must be maintained in said file for a period of either five years, or until the filing of the next regular report on examination of the insurer, whichever is longer.