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HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 508, L.D. 1271, “An Act to Require a Disclaimer on Promotional Materials for Medicare, Medicaid and MaineCare Products by Private Entities ”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 10 MRSA c. 226 is enacted to read:

CHAPTER 226

DISCLAIMER ON PROMOTIONAL MATERIALS USING MEDICARE, MEDICAID OR MAINECARE

§1499-G. Disclaimer on promotional materials using Medicare, Medicaid or MaineCare

1. Disclaimer. A person may not use any advertisement, solicitation, informational brochure, mailer or other promotional material using the terms "Medicare," "Medicaid" or "MaineCare" unless the material:

A. Includes a disclaimer printed on the top and both front and back of the material in type size no smaller than the largest type size on the material stating "This is an advertisement and solicitation";

B. Contains in a type size no smaller than the 2nd largest type size on the material stating "[Name of person sponsoring the promotional material] is a private company that is not Medicare, Medicaid or MaineCare and is not a governmental agency";

C. Contains in a type size no smaller than the 2nd largest type size on the material any other disclaimer on the material; and

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1 D. Does not use a type color for the disclaimer required in paragraph A that is in
2 grayscale or other faded tone, or a font that does not mimic or is not similar to a font
3 used in an official document from a state or federal agency.

4 **2. Application.** The requirements of subsection 1 do not apply to any informational
5 brochure or other material distributed by a person that does not sell or profit from the sale
6 of any insurance product.

7 **3. Rules.** The Attorney General may adopt rules to implement this chapter. Rules
8 adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter
9 375, subchapter 2-A.

10 **4. Violation.** A person that fails to comply with subsection 1 commits a violation of
11 the Maine Unfair Trade Practices Act.

12 **Sec. 2. 24-A MRSA §2152-B, sub-§2,** as enacted by PL 2007, c. 53, §1, is
13 amended to read:

14 **2. Unfair solicitation methods.** It is an unfair trade practice under this chapter for an
15 insurer or producer to:

16 A. Sell, solicit or negotiate the purchase of health insurance in this State through the
17 use of cold lead advertising;

18 B. Use an appointment that was made to discuss Medicare products or to solicit the
19 sale of Medicare products in order to solicit sales of life insurance, health insurance or
20 annuity products unless the consumer requests such solicitation and the products to be
21 discussed are clearly identified to the consumer in writing at least 48 hours in advance
22 of the appointment; ~~and~~

23 C. Solicit the sale of Medicare products door-to-door prior to receiving an invitation
24 from a consumer; ~~and~~

25 D. Use an advertisement, solicitation, informational brochure, mailer or other
26 promotional material using the terms "Medicare," "Medicaid" or "MaineCare" that
27 mimics or implies that it is an official document from a state or federal agency.

28 **Sec. 3. 24-A MRSA §2152-C** is enacted to read:

29 **§2152-C. Disclosures in printed marketing materials of Medicare products**

30 **1. Disclosures.** Except as provided in subsections 2 and 3, a person may not use printed
31 materials marketing Medicare products unless the material:

32 A. Includes a statement printed on the top and both the front and back of the material
33 in type size no smaller than the largest type size on the material stating "This is an
34 advertisement and solicitation";

35 B. Contains in a type size no smaller than the 2nd largest type size on the material
36 stating "[Name of person sponsoring the promotional material] is a private company
37 that is not Medicare, Medicaid or MaineCare and is not a governmental agency";

38 C. Contains in a type size no smaller than the 2nd largest type size on the material any
39 other disclaimer on the material; and

