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## Bulletin 403

### Use of Lead Cards by Producers and Agencies

The Bureau has received consumer complaints about “lead cards,” which are post cards, mailers, or other written communications encouraging consumers to supply their contact and other personal information. The reply address might be maintained by a producer, agency, or third-party lead generation entity. This “lead” information is then used or purchased by producers and agencies to create contact lists for insurance sales solicitations. The purpose of this Bulletin is to identify certain lead card practices which are prohibited, and to advise producers, agencies, and other licensed entities that use lead cards of their obligations under the Maine Insurance Code to ensure that these cards are not deceptive or misleading in any manner.

Lead cards are a form of advertising within the meaning of 24-A M.R.S. § 2154 and, as such, may not contain any information that is untrue, deceptive, or misleading. This law applies to all types of insurance products.

Other provisions of the Insurance Code or Bureau Rules may also be applicable to lead cards depending on the insurance product. For any kind of health insurance, the use of cold lead advertising is expressly prohibited by 24-A M.R.S. § 2152-B.<sup>1</sup> “Cold lead advertising” is any advertising that fails to disclose in a conspicuous manner that the purpose of the card is insurance sales solicitation and that contact will be made by an insurance producer or insurance company.

If the lead card is soliciting leads for the sale of Medicare supplemental policies, the use of “high pressure tactics” (defined as marketing methods involving force, fright, explicit or implied threat, or undue pressure) is prohibited by Bureau Rule Chapter 275, Section 20.

Producers, agencies, and companies are responsible for the content of the lead cards that they send or have sent to Maine consumers. This is so whether the producer or agency sends the lead cards directly, employs a third-party to send the lead cards, or purchases leads from a third-party that were

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<sup>1</sup> Health insurance includes not only medical insurance but also such lines of business as long-term care, Medicare supplement, and disability insurance. Further requirements for health insurance advertising can be found in Bureau Rule Chapter 140.



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developed through the use of lead cards. The Bureau is particularly concerned with the following practices, which may lead to a finding that the cards are untrue, misleading, or deceptive:

- Cards that contain words, symbols, seals, or logos that suggest to the consumer that the card comes from or is endorsed by any government agency.
- Cards that fail to disclose conspicuously, in plain and understandable language and a typeface that will be visible to the mailing's intended audience, that the card is an insurance solicitation and that an insurance agent may contact the consumer.
- Cards that make any deceptive or alarming claims to induce the consumer to return information, such as vague or misleading suggestions that "New legislation," "New regulations," or "Important elder law changes" may affect the consumer.
- Cards that suggest that the sole purpose of the card is to offer free information or a brochure to the consumer or provide a free review of benefits for the consumer – "Free elder law information," "Senior benefits update," "Medicare health plan update," etc.
- Cards that falsely represent that the card is being sent only to specially selected persons – "Your annuity may have reached the end of its surrender period," etc.
- Cards requesting that consumers mail their response to an unspecified addressee, such as "National Response Center," "Regional Reply Office" – or simply a Post Office Box, and which do not allow consumers to know the true identity of the addressee, whether it be a producer, insurance agency, or lead generating entity.

Producers and agencies that make use of lead cards are reminded of their responsibility to make sure that lead cards are not deceptive, in keeping with this Bulletin. Producers or agencies using lead cards that contain untrue, deceptive, or misleading information, or working with lead generating entities that engage in deceptive or misleading practices, may be found to have committed an unfair trade practice, making them subject to enforcement penalties as outlined in 24-A M.R.S. §§ 12-A and 1420-K.

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NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.