

Oregon DFR Invites Insurers to Discuss Ad Filing Requirements

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On November 5, 2021, the Oregon Division of Financial Regulation issued an invitation to comment on [proposed filing requirements](#) for life and health insurance advertisements. The centerpiece of the proposed ad filing requirements are the “new marketing strategies [that] are complex” and the “on-going advancements and changes in internet and social media advertising, including the use of algorithms, targeted marketing, and multi-part advertising.”

The proposed filing requirements set forth:

1. **The filing process for review by the Oregon DFR.**

According to the invitation for comments, insurers would file the marketing campaign for a product as supporting documentation in SERFF. The proposed ad filing requirements require a filing of “[the questionnaire], associated marketing material, and required supporting documentation in an Advertising Filing in SERFF.”

Under the proposed ad filing requirements, refiling of stale insurance product may be required. First, if an insurance product was approved for use in Oregon more than five years before the submission of the advertising, the Oregon DFR may require refiling of the insurance product. Second, the Oregon DFR will require refiling of the insurance product if it has not been actively marketed for more than three years, if there have been endorsements added to the product to comply with changes in state or federal law, or certain other conditions apply.

2. **A bountiful questionnaire** that seeks information on the cornucopia of methods by which the insurance product will be marketed. This includes “traditional” marketing through print media and commercials, as well as marketing:

- On one or more websites

All website addresses must be filed with the Oregon DFR and no variability in the website address is permitted.

- Through producers

If agents are used, the Oregon DFR seeks (i) **information on the commission** that the producer will receive **per sale** and on whether independent lead generation services are permitted; and (ii) confirmation that the insurer has trained the producer and monitors **and audits** the sales of producers.

In addition, if web-based marketing platforms are used, the questionnaire seeks information on the ownership of the platform and the producer licensing status of the platform's owner.

- On social media

The questionnaire seeks information on social media platforms on which the insurance product will be marketed, including who is responsible for the social media advertising. It also seeks information on insurers' oversight of producers' social media advertising, including whether the insurer monitors producers' social media and has a social media policy.

- Through influencers

Oregon takes the position **that influencers must be licensed producers** and seeks information on **compensation paid to influencers**, training provided to influencers, and how consumers may submit complaints against influencers. It also seeks information on the platforms used by influencers and who is the responsible person.

- Through email

The insurer must list the senders' email addresses, how a sender obtained the consumers' email addresses, and **whether the sender shares the consumers' email addresses with other entities**, whether related to or unrelated to the licensed insurer.

- Through text or other messaging services to a consumer's device

Similar to the email requirement, the insurer must list the numbers that will be used for text or other messaging and how a sender obtained the consumers' text information.

- Through streaming videos

The questionnaire seeks to confirm whether any streaming services will be used to market the product.

- Other online advertisements

The questionnaire seeks to confirm whether there will be product marketing through pop-ups, banner ads, or purchased search engine placement. If used, **the questionnaire seeks the search terms used for optimization.**

3. With respect to association and trust group policies, Oregon’s position is that each association must be approved by the Oregon DRF.

4. Oregon’s position is that value-added benefits and services must be specified in the policy. The questionnaire also seeks information on whether the insurer will market value-added benefits and services with the insurance product or whether a third party will administer the value-added benefits and services. A detailed chart must be completed describing “each of the value added benefits or services being advertised **or offered.**”

On January 11, 2022, the Oregon DFR will hold a virtual gathering to harvest comments on the proposed ad filing requirements. Written feedback on the proposed ad filing requirements is due by January 21, 2022. The dinner table will be full of lively conversation as insurers and the Oregon DFR hash out the details of the proposed ad filing requirements.

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