**20:06:10:09.  Testimonials or endorsements by third parties.** Requirements for testimonials or endorsements by third parties are as follows:

 (1)  Testimonials used in advertisements or solicitations must be genuine, represent the current opinion of the author, be applicable to the policy advertised, and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained in it;

 (2)  If the person making a testimonial, an endorsement, or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, that fact must be disclosed in the advertisement or solicitation. If a person is compensated for making a testimonial, endorsement, or appraisal, that fact must be disclosed in the advertisement or solicitation by language substantially as follows: "Paid Endorsement." This section does not require disclosure of union scale wages required by union rules if the payment is actually made at the union scale rate for television or radio performances. The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of television or radio advertisements remove the filming or recording from the category of an unsolicited testimonial and require disclosure of the compensation;

 (3)  An advertisement or solicitation may not state or imply that an insurer or a policy has been approved or endorsed by an individual, group of individuals, society, association, or other organizations unless that is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, that fact must be disclosed in the advertisement or solicitation;

 (4)  If a testimonial refers to benefits received under a policy, the specific claim data, including claim number, date of loss, and other pertinent information must be retained by the insurer for inspection for five years.

 **Source:** 4 SDR 6, effective August 9, 1977; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 15 SDR 143, effective March 29, 1989; 27 SDR 54, effective December 4, 2000; 38 SDR 116, effective January 10, 2012.

 **General Authority:** SDCL 58-33A-7.

 **Law Implemented:** SDCL 58-1-26, 58-3-1, 58-33-5, 58-33-6, 58-33-7, 58-33A-8, 58-33A-10.