Date: February 3, 2009
To: Annuity Sales Representatives of The Standard
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State: Arizona
Bulletin: Bulletin 2008-07
Dated: November 24, 2008
Subject: Use of Senior-Specific Certifications and Professional Designations

Purpose

Notifies insurers and brokers selling life insurance and annuities that those brokers who misuse senior-specific certifications and designations may be subject to regulatory action and to disciplinary action under Arizona Revised Statutes. Encourages reference to the NAIC’s model regulation on the use of senior-specific designations.

Summary

Arizona prohibits the misleading use of senior-specific certifications and designations in the sale of life insurance and annuities. Brokers who misrepresent their level of expertise – to seniors or any other consumers – may be subject to disciplinary proceedings under Arizona Revised Statutes and the Arizona Administrative Code. Insurers that allow their brokers to use misleading designations may also be subject to regulatory action. The Arizona Department of Insurance encourages insurers and brokers to refer for guidance to the NAIC’s Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities.

Detailed Analysis

Brokers who misrepresent their level of expertise may be subject to disciplinary proceedings under Arizona Revised Statutes, including but not limited to A.R.S. §§20-443 and 20-295, and Arizona Administrative Code R20-6-209(D)(3). Although the Arizona Department of Insurance does not have immediate plans to adopt the NAIC’s Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, it suggests insurers and brokers...
refer to it for guidance. The following paragraphs summarize the NAIC’s model regulation, the full text of which can be read as an amendment to this notice.

It is an unfair and deceptive act for an insurance broker to use a senior-specific certification or professional designation in a manner that misleads a prospective purchaser and implies that the broker has special training in advising seniors about life insurance or annuities. A deceptive senior-specific designation is prohibited whether used directly with a client, or indirectly through publications, writings or reports on life insurance or annuities.

A prohibited senior-specific certification or professional designation includes, but is not limited to, one that:

1. You have not earned or are ineligible to use;
2. Is nonexistent or self-conferred;
3. Implies education, training, or experience that you do not have; and
4. You obtained from a certifying or designating organization that:
   - Is primarily engaged in the business of instruction in sales or marketing;
   - Does not have reasonable standards or procedures for ensuring its designees’ competence;
   - Does not have reasonable procedures to monitor its designees and discipline unethical conduct; or
   - Does not require reasonable continuing education credits to maintain the designation.

Even if its certifying or designating organization does not meet the requirements under item 4, a designation may qualify for use if:

- It does not apply primarily to sales and marketing, and
- The designation, or the organization that issued it, has been accredited by:
  - The American National Standards Institute (ANSI);
  - The National Commission for Certifying Agencies; or
  - Any organization that is on the U.S. Department of Education’s list of “Accrediting Agencies Recognized for Title IV Purposes.”

A professional designation may imply special training in advising seniors when combining words such as:

- Senior, retirement, elder (or similar words) with
- Certified, registered, chartered, advisor, specialist, consultant, planner or similar words.

Unless used in a manner that would confuse or mislead a consumer, a job title in an organization licensed or registered by a state or federal financial services regulatory agency is not affected by this regulation when it:

- Indicates seniority or standing in the organization; or
- Denotes an area of specialization in the organization.

A financial services regulatory agency includes, but is not limited to, one that regulates:

- Insurers;
- Insurance brokers;
- Broker/Dealers;
- Investment advisers, or
- Investment companies as defined under the Investment Company Act of 1940.

You can see the Approved Professional Designations for Use in Sales of Individual Annuities of The Standard, which lists various state requirements for the use of professional designations, at http://www.standard.com/annuities/eforms/14338.pdf.
Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities

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Section 1. Purpose

The purpose of this regulation is to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

Section 2. Scope

This regulation shall apply to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by an insurance producer.

Section 3. Authority

A. This regulation is issued under the authority of [insert reference to enabling legislation].

Drafting Note: States may wish to use the Unfair Trade Practices Act as enabling legislation or may pass a law with specific authority to adopt this regulation.

B. Nothing in this regulation shall limit the commissioner’s authority to enforce existing provisions of law.

Drafting Note: States should use the appropriate designation for the chief insurance regulatory official as a substitute for the word “commissioner” above.

Section 4. Definition

For purposes of this regulation, “insurance producer” means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance, including annuities.

Section 5. Prohibited Uses of Senior-Specific Certifications and Professional Designations

A. (1) It is an unfair and deceptive act or practice in the business of insurance within the meaning of [insert the reference to State unfair trade practices act] for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.
(2) The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

   (a) Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;

   (b) Use of a nonexistent or self-conferred certification or professional designation;

   (c) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the insurance producer using the certification or designation does not have; and

   (d) Use of a certification or professional designation that was obtained from a certifying or designating organization that:

      (i) Is primarily engaged in the business of instruction in sales or marketing;

      (ii) Does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

      (iii) Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

      (iv) Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

B. There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of subsection A(2)(d) when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

   (1) The American National Standards Institute (ANSI);

   (2) The National Commission for Certifying Agencies; or

   (3) Any organization that is on the U.S. Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes.”

C. In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:

   (1) Use of one or more words such as “senior,” “retirement,” “elder,” or like words combined with one or more words such as “certified,” “registered,” “chartered,” “advisor,” “specialist,” “consultant,” “planner,” or like words, in the name of the certification or professional designation; and

   (2) The manner in which those words are combined.

D. (1) For purposes of this regulation, a job title within an organization that is licensed or registered by a State or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

        (a) Indicates seniority or standing within the organization; or

        (b) Specifies an individual’s area of specialization within the organization.
For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

Section 6. Effective Date

This regulation shall become effective [insert effective date of the regulation].