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BULLETIN 23-02

To: Tennessee-Licensed Insurance Companies and Agents

From: Carter Lawrence, Commissioner 
Carter Lawrence (Apr 14, 2023 09:15 CDT)

Date: April 6, 2023

RE: Rule Chapter 0780-01-86 - Suitability in Annuity Transactions

This Bulletin serves as a clarification to the rules promulgated by the Tennessee Department of Commerce and Insurance (“TDCI” or “Department”). The updated Rule Chapter 0780-01-86 regarding suitability in annuity transactions will go into effect on January 1, 2024.

The purpose of the Chapter is to require producers to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed.

The Department would like to clarify the following points regarding Rule Chapter 0780-01-86:

- A non-controlling ownership interest of the shares of stock of an insurance company, standing alone, does not automatically constitute a “material conflict of interest,” but may be considered in conjunction with other factors when determining whether a producer has a financial interest in the sale of an annuity that represents a “material conflict of interest” as defined in the Chapter.
- General information communicated to an individual by a producer about annuity products does not necessarily constitute a “recommendation” as defined in the Chapter. Communications or information relayed to an individual by a producer pertaining to a particular insurer, line of annuity products, or annuity product, or a comparison of lines of annuity products or specific annuity products, could be considered a recommendation.
- The intent of rule 0780-01-86-.06(3)(b)(8) is to prohibit sales incentives that are based solely on sales of specific annuities, not to prohibit the sales of annuities generally within a broad range of products involved in a sales incentive campaign.

- The written format in which the insurer presents the information required by rule 0780-01-86-.06(3)(b)(9) is less important than whether the proper information is fully conveyed so that senior management can determine whether the insurer's supervision system complies with these rules. An insurer may not supplement an incomplete written report with visual or oral information; the written report must contain all required information within the report itself. However, the report may be further explained visually or orally when the written report is presented to senior management, so long as the written report complies with these rules on its own.
- Regarding the producer training requirements in Rule 0780-01-86-.07(2), the Department contracts with a third-party vendor that is responsible for approving course providers and responsible for approving the training courses offered by such providers to insurance producers. Presently, there are course providers, who are approved through this vendor, that offer an approved four (4) credit annuities training course as required by the rules for producers in at least twenty-eight (28) other states. An insurer may seek to provide a customized training course to eligible agents. However, the insurer must be an approved course provider and ensure that such course is approved by the third-party vendor. The Department would note that such a customized insurer-specific training course, even if approved in Tennessee, would need to be appropriately approved in any other jurisdiction in which the insurer wishes for it to be accepted.

This Bulletin replaces any other prior duplicative guidance issued by the Department related to annuity suitability.

Please contact Associate General Counsel, Jenny Taylor at Jenny.Taylor@tn.gov if you have any questions or if you need additional information.