

LCB File No. R076-05

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

(This version replaces the one posted 7/6/2005; sections 43 and 44 of this regulation were taken from R077-05, regarding funeral service contracts, which has been withdrawn)

IN THE MATTER OF
**REGULATION ON FUNERAL
SERVICE CONTRACTS.**

CAUSE NO. **05.464**
**NOTICE OF CONTINUATION
OF WORKSHOP**

WHEREAS, on June 29, 2005, the Commissioner of Insurance issued a Notice of Workshop to Solicit Comments on Proposed Regulations concerning the proposed regulation regarding Funeral Service Contracts; and

WHEREAS, on August 4, 2005, a workshop was convened at the office of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104; and

WHEREAS, the Hearing Officer, Alice A. Molasky-Arman, requested that the workshop be continued to allow further written comments.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. This matter shall be continued to the 26th day of August, 2005, at 9:00 a.m., at the office of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104.

2. All interested parties have until August 22, 2005, to file any written comments concerning the proposed regulation. The written comments shall be filed with the Division at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701.

IN THE MATTER OF

CAUSE NO. **05.463/05.464**

**REGULATION ON CONSUMER PROTECTION
FOR INDIVIDUAL LIFE INSURANCE AND
ANNUITY TRANSACTIONS/FUNERAL
SERVICE CONTRACTS**

**NOTICE OF CONTINUATION
OF HEARINGS**

WHEREAS, on June 29, 2005, the Commissioner of Insurance issued a Notice of Intent to Act Upon Regulations concerning the proposed regulation regarding Consumer Protection for Individual Life Insurance and Annuity Transactions and regarding Funeral Service Contracts; and

WHEREAS, on August 4, 2005, a hearing was convened at the office of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104; and

WHEREAS, the Division presented testimony concerning its proposed regulation on Consumer Protection for Individual Life Insurance and Annuity Transactions and on Funeral Service Contracts; and

WHEREAS, the Hearing Office, Alice A. Molasky-Arman, requested that the hearing be continued to allow further written comments.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. This matter shall be continued to the 26th day of August, 2005, at 9:00 a.m., at the office of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104.

2. All interested parties have until August 22, 2005, to file any written comments concerning the proposed regulation. The written comments shall be filed with the Division at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701.

This Notice of Continuation of Workshop and Notice of Continuation of Hearing have been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Department of Business and Industry
Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
Carson City, NV 89710

State Capitol
Capitol Complex
Carson City, NV 89710

Capitol Press Room
State Capitol Basement
Carson City, NV 89710

County Clerk
Courthouse
Carson City, NV 89710

Nevada State Library & Archives
Capitol Complex
Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Las Vegas Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
ATTN: Reference
P.O. Box 2151
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (775) 687-4270, extension 260.

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**CONSUMER PROTECTION IN LIFE INSURANCE
AND ANNUITY TRANSACTIONS
AND FUNERAL SERVICE CONTRACTS**

Authority: NRS 679B.130

Section 1. Chapter 688A is hereby amended by adding thereto the provisions set forth as Sec. 2 to 42, inclusive, of this regulation.

Sec. 2. *As used in Sec. 18 through 42, inclusive, unless the context otherwise requires, the words and terms defined in Sec. 3 through 18, inclusive, have the meanings ascribed to them in those sections.*

Sec. 3. *“Buyer’s Guide” defined. “Buyer’s Guide” means the current issue of any one of the product specific guides for consumer use published by the National Association of Insurance Commissioners (NAIC).*

Sec. 4. *“Contract owner” defined. “Contract owner” means the owner named in the annuity contract.*

Sec. 5. *“Current scale of non-guaranteed elements” defined. “Current scale of non-guaranteed elements” means a formula or other mechanism that produces values for an illustration as if there is no change in the basis of those values after the time of illustration.*

Sec. 6. *“Determinable elements” defined. “Determinable elements” means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion, but where the values or amounts cannot be determined until some point after issue.*

These elements include the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

Sec. 7. *“Funding agreements” defined. “Funding agreements” means agreements for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.*

Sec. 8. *“Generic name” defined. “Generic name” has the meaning ascribed to it in NAC 686A.463.*

Sec. 9. *“Guaranteed elements” defined. “Guaranteed elements” has the meaning ascribed to it in NAC 686A.4635.*

Sec. 10. *“Illustration” defined. “Illustration” has the meaning ascribed to it in NAC 686A.4645.*

Sec. 11. *“Insurer” defined. “Insurer” has the meaning ascribed to it in NRS 679A.100.*

Sec. 12. *“Non-guaranteed elements” defined. “Non-guaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, non-interest based credits, charges or elements of formulas used to determine any of these that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.*

Sec. 13. *“Policy data” defined. “Policy data” means a display or schedule of numerical values, both guaranteed and non-guaranteed, for each policy year or a series of designated policy years of the following information: illustrated annual, other periodic, and terminal dividends; premiums; death benefits; cash surrender values; and endowment benefits.*

Sec. 14. *“Policy summary” defined. “Policy summary” means a written statement describing the elements of the policy including, but not limited to:*

1. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION;

2. The name and address of the producer of insurance or, if no producer of insurance is involved, a statement of the procedures to be followed in order to receive responses to inquiries regarding the Policy Summary;

3. The full name and home office or administrative office address of the company in which the insurance policy is to be or has been written;

4. The generic name of the basic policy and each rider;

5. The following amounts, where applicable, for the first five (5) policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns; including at least one age from sixty (60) through sixty five (65) and policy maturity:

(a) The amount of annual premium for the basic policy;

(b) The amount of annual premium for each optional rider;

(c) The amount payable upon death at the beginning of the policy year regardless of cause of death, other than suicide or other specifically enumerated exclusions, that is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;

(d) The amount of the total guaranteed cash surrender values at the end of the year with value shown separately for the basic policy and each rider, and;

(e) Any endowment amounts payable under the policy that are not included under cash surrender values above;

6. The effective policy loan annual percentage interest rate, if the policy contains such a provision, specifying whether this rate is applied in advance or in arrears. If the policy loan interest rate is adjustable, the policy summary shall also indicate that the annual percentage rate will be determined by the company in accordance with the provisions of the policy and the applicable law; and

7. The date on which the policy summary is prepared.

Sec. 15. *“Preneed funeral contract or prearrangement” defined. “Preneed funeral contract or prearrangement” means an agreement by or for an individual before that individual’s death relating to the purchase or provision of specific funeral or cemetery merchandise or services that are funded or to be funded by a life insurance policy.*

Sec. 16. *“Producer of insurance” defined. “Producer of insurance” has the meaning ascribed to it in NRS 679A.117.*

Sec. 17. *“Recommendations” defined. “Recommendations” means advice provided by a producer of insurance or an insurer where no producer of insurance is involved, to an individual consumer that results in a purchase or exchange of a life insurance product or annuity in accordance with that advice.*

Sec. 18. *“Structured settlement annuity” defined. “Structured settlement annuity” means a “qualified funding asset” as defined in Section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under Section 130(d) but for the fact that it is not owned by an assignee under qualified assignment.*

Sec. 19. *Except as provided in subsection 1 of this section, if an insurer or its representative offers, by any means, or delivers a policy of life insurance or annuity, Sec. 19 through 26 of this regulation apply.*

1. Sections 19 through 26, inclusive, of this regulation do not apply to policies used to fund:

(a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer;

(c) A government or church plan as defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

(d) A non-qualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(e) Settlements of or assumption of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(f) Formal prepaid funeral policies.

2. Wherever the term “producer” appears in this regulation, it shall mean “producer of insurance,” or “insurer” in any situation wherein the producer is absent.

Sec. 20. *In recommending to a consumer the purchase of a life insurance product or annuity or the exchange of a life insurance product or annuity that results in any additional insurance transactions, the producer shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as stated in Sec. 21.*

Sec. 21. *1. Prior to the execution of a purchase or exchange of a life insurance product or annuity resulting from a recommendation, a producer shall make reasonable efforts to obtain information concerning:*

(a) The consumer’s financial status;

(b) The consumer’s tax status;

(c) The consumer’s investment objectives; and

(d) Such other information used or considered to be reasonable by the insurance producer to achieve the best results in making a recommendation to a consumer’s needs.

Sec. 22. *1. A producer shall have no obligation to a consumer under Sec. 20 and 21 related to any recommendation if a consumer:*

(a) Refuses to provide relevant information requested by the producer;

(b) Decides to enter into an insurance transaction that is not based on a recommendation of the producer; or

(c) Fails to provide complete or accurate information to the producer.

Sec. 23. *1. An insurer shall adopt and maintain a system to supervise recommendations including, but not limited to:*

(a) Maintaining written procedures; and

(b) Conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this regulation.

2. A broker, general agent and independent agency shall adopt the system established by an insurer to supervise the recommendations of its producers.

3. An insurer may contract with a third party, including a broker, general agent or independent agency, to establish and maintain a system of supervision with respect to producers of insurance under contract with or employed by the third party.

4. An insurer is responsible for contracted third party compliance.

Sec. 24. *Compliance with the National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements of this regulation for the recommendation of variable life insurance products and annuities. However, nothing in this section shall limit the commissioner's ability to enforce the provisions of this regulation.*

Sec. 25. *1. The commissioner may order:*

(a) An insurer to take corrective action for a consumer harmed by the insurer or by its producer of insurance for violation of this regulation;

(b) A producer of insurance to take corrective action for any consumer harmed by the producer of insurance's violation of this regulation; and

(c) A broker, general agency or independent agency that employs or contracts with a producer of insurance to sell or solicit the sale of life insurance or annuities to consumers, to take corrective action for any consumer harmed by the broker's, general agency's or independent agency's violation of this regulation.

Sec. 26. *1. Insurers, brokers, general agents, independent agencies and producers of insurance shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for a period of three (3) years after the policy is terminated/cancelled. The insurer is permitted, but shall not be required, to maintain documentation on behalf of a producer of insurance.*

2. Records required to be maintained by this regulation may be maintained on paper, photographic, microprocess, magnetic, mechanical or electronic media or by any process that accurately reproduces the actual document.

Sec. 27. *A producer shall provide to an applicant, at the time of application:*

- 1. For an annuity policy, a copy of the Buyer's Guide and a written disclosure statement that includes requirements in Sec. 28 through 31, inclusive, of this regulation;*
- 2. For life insurance policies, a copy of the Buyer's Guide, and a policy summary as described in Sec. 33 of this regulation. If the policy for which application is made contains an unconditional refund provision of at least ten (10) days, the Buyer's Guide may be delivered with the policy or prior to delivery of the policy.*

Sec. 28. *An insurer that delivers or issues an annuity policy in this state shall provide to the policyholder/annuitant a written disclosure statement, at the time of policy delivery, that includes the requirements in Sec. 29 through 31, inclusive.*

Sec. 29. *1. Sec. 27 through 32, inclusive, apply to all annuity contracts except:*

(a) Annuities used to fund:

(1) An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

(2) A plan described in Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

(3) A governmental or church plan defined in sections 414 or a deferred compensation plan of a state or local government or a tax exempt organization under section 457 of the Internal Revenue Code; or

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

2. Notwithstanding subsection 1, the disclosure shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two (2) or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this sub-section, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement.

a. Structured settlement annuities;

b. Funding agreements.

Sec. 30. Standards for the disclosure document and Buyer's Guide:

1. Where the application for an annuity contract is taken in a face-to-face meeting, the applicant shall, at or before the time of application, be given both the disclosure document pursuant to Sec. 28 and the Buyer's Guide.

2. Where the application for an annuity contract is taken by means other than a face-to-face meeting, including direct solicitation by mail and internet, the applicant shall be sent both the disclosure document and the Buyer's Guide no later than five (5) business days after the completed application is received by the insurer.

3. At a minimum, the following information shall be included in the disclosure document required to be provided by Sec. 28:

(a) The generic name of the contract, the company product name, if different, the form number, and the fact that it is an annuity;

(b) The insured's and producer's (if applicable) name, address and telephone number (toll free if available);

(c) A description of the contract and its benefits, emphasizing its long-term nature, including examples where appropriate:

(1) The guaranteed, non-guaranteed and determinable elements of the contract, and their limitations, if any, and an explanation of how they operate;

(2) An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate and the fact that rates may change from time to time and are not guaranteed;

(3) Periodic income options both on a guaranteed and non-guaranteed basis;

(4) Any value reductions caused by withdrawals from or surrender of the contract;

(5) How values in the contract can be accessed;

(6) The death benefit, if available, and how it will be calculated;

(7) A summary of the federal tax implications of the contract and any penalties applicable on withdrawal of values from the contract; and

(8) The impact of any rider, such as a long term care rider;

(9) Specific dollar amount or percentage charges and fees shall be listed with an explanation of how they apply, such as, but not limited to, state premium tax;

(10) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change;

(11) Provisions that provide a cash withdrawal, the percentage of the cash withdrawal and how often a cash withdrawal is allowed;

(12) Provisions regarding the insured's request for termination of an in-force contract; and

(13) Dates when the insured will begin to receive benefits and when the benefits will end.

4. Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

Sec. 31. *1. For all annuity contracts in the payout period, the insurer shall provide each contract owner with an annual report on the status of the contract that contains at least the following information:*

(a) The beginning and end date of the current report period;

(b) The accumulation and cash surrender value at the end of the previous report period and at the end of the current report period;

(c) The total amounts, if any, that have been credited, charged to the contract value or paid during the current report period; and

(d) The amount of any outstanding loans, if any, as of the end of the current reporting period.

Sec. 32. *Sec. 32 through 40, inclusive, shall apply to all life insurance policies, except:*

1. Annuity contracts;

2. Credit life insurance;

3. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. Section 1001 et seq. as amended; or

4. Variable life insurance under which the amount or duration of the life insurance varies according to the investment experience of a separate account;

5. Group life insurance (except for disclosures relating to preneed funeral contracts or prearrangements; these disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy).

Sec. 33. *The insurer shall provide a policy summary to prospective purchasers where the insurer has identified the policy form as one that will not be marketed with an illustration. The policy summary shall show guarantees only. It shall consist of a separate document with all required information set out in a manner that does not minimize or render any portion of the*

summary obscure. Any amount that remains level for two (2) or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amount in subsection 5 of Sec. 14 shall be listed in total, not on a per thousand or per unit basis. If more than one insured is covered under one policy or rider, the death benefit shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as a blank space. Delivery of the policy summary shall be consistent with the time for delivery of the Buyer's Guide as specified in Sec. 27.

Sec. 34. *1. Upon request by the policyowner of a life insurance policy, the insurer shall furnish either policy data or an in force illustration as follows:*

(a) For policies issued prior to the effective date of January 1998, the insurer shall furnish policy data or at its option, an in force illustration meeting the requirement of the life insurance illustration regulation;

(b) For policies issued after January 1998, that were declared not to be used with an illustration, the insurer shall furnish policy data limited to guaranteed values, if it has chosen not to furnish an in force illustration meeting with requirements of the regulation;

(c) If the policy was issued after January 1998, and declared to be used with an illustration, an in force illustration shall be provided;

(d) Unless otherwise requested, the policy data shall be provided for twenty (20) consecutive years beginning with the previous policy anniversary. The statement of policy data shall include non-guaranteed elements according to the current scale, the amount of outstanding policy loans and the current policy interest rate. Policy values shown shall be based on the current application of non-guaranteed elements in effect at the time of the request.

2. If a life insurance company changes its method of determining scales of non-guaranteed elements on existing policies, it shall, no later than when the first payment is made on the new basis, advise each affected policyowner residing in this state of this change and of its implication on affected policies.

3. If an insurer makes a material revision in the terms and conditions under which it will limit its right to change any non-guaranteed factor it shall, no later than the first policy anniversary following the revision, advise each affected policyowner residing in this state.

Sec. 35. *For preneed funeral or prearrangement contracts, the following information shall be adequately disclosed at the time an application is made, prior to accepting the applicant's initial premium or deposit; for a preneed funeral contract or prearrangement that is funded or to be funded by a life insurance policy:*

1. The fact that a life insurance policy is involved or being used to fund a prearrangement;

2. The nature of the relationship among the soliciting producer(s), the provider of the funeral or cemetery merchandise or services, the administrator and any other person;

3. The relationship of the life insurance policy to the funding of the prearrangement and the nature and existence of any guarantees relating to the prearrangement;

4. The impact on the prearrangement:

(a) Of any changes in the life insurance policy including, but not limited to, changes in the assignment, beneficiary designation or use of the proceeds;

(b) Of any penalties to be incurred by the policyholder as a result of failure to make premium payments;

(c) Of any penalties to be incurred or monies to be received as a result of cancellation or surrender of the life insurance policy;

5. A list of the merchandise and services which are applied or contracted for in the prearrangement and all relevant information concerning the price of the funeral services, including an indication that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need;

6. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the prearrangement;

7. Any penalties or restrictions including, but not limited to, geographic restrictions or the inability of the provider to perform on the delivery of merchandise, services or the prearrangement guarantee.

Sec. 36. *Each insurer shall maintain, at its home office or principal office, a complete file containing one copy of each document approved by the Division of Insurance and used by the insurer pursuant to this regulation. The file shall contain one copy of each approved form for a period of three (3) years following the date of its last authorized use unless otherwise provided by this regulation.*

Sec. 37. *A producer shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he or she is acting as a licensed producer and inform the prospective purchaser of the full name of the insurance company, which the producer is representing to the purchaser. In sales situations in which a producer is not involved, the insurer shall identify its full name.*

Sec. 38. *A producer of insurance shall not use terms such as “Financial Planner,” “investment advisor,” “financial consultant” or “financial counseling” in such a way as to imply that he or she is primarily engaged in an advisory business in which compensation is unrelated to sales unless that is actually the case. This section is not intended to preclude persons who hold*

some form of formal recognized financial planning or consultant designation from using this designation even when they are only selling insurance. This provision also is not intended to preclude persons who are members of a recognized trade or professional association having such terms as part of its name from citing membership, providing that a person citing membership, if authorized only to sell insurance products, shall disclose that fact. This provision does not permit persons to charge an additional fee for services that are customarily associated with the solicitation, negotiation or servicing of policies.

Sec. 39. *Any reference to non-guaranteed elements shall include a statement that the item is not guaranteed and is based on the company's current scale of non-guaranteed elements (appropriate special term such as "current dividend" or "current rate" scale may be used). If a non-guaranteed element would be reduced by the existence of a policy loan, a statement to that effect shall be included in any reference to non-guaranteed elements. A presentation or depiction of a policy issued after January 1998 that includes non-guaranteed elements over a period of years shall be governed by the life insurance illustration regulations.*

Sec. 40. *Failure of an insurer to provide or deliver a copy of the Buyer's Guide, an in force illustration, a policy summary or policy data to the policyowner of a life insurance policy, shall constitute an omission that misrepresents the benefits, advantages, conditions or terms of an insurance policy.*

Sec. 41. *On or before March 1st of each year, an insurer that is licensed pursuant to this chapter shall provide to the commissioner a certification of compliance with this regulation for the previous calendar year, signed by an authorized officer of the insurer. The first certification is due March 1, 2007 for calendar year 2006.*

Sec. 42. *Sec. 1 – 41 become effective as of the date filed with the Secretary of State.*

Authority: NRS 679B.130

Sec. 43. Chapter 689 is hereby amended by adding thereto the provisions set forth as Sec. 44 of this regulation.

Sec. 44. *The provisions of Chapter 688A of NRS and Chapter 688A of NAC apply to any life insurance policy issued to fund a preneed contract.*