

**ADOPTED REGULATION OF  
THE COMMISSIONER OF INSURANCE**

**LCB File No. R086-10**

Effective July 1, 2011

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-5, NRS 679B.130 and 686A.015.

A REGULATION relating to insurance; prohibiting the use of certain certifications and designations in the sale of life insurance and annuities; and providing other matters properly relating thereto.

**Section 1.** Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

**Sec. 2.** *For the purposes of sections 2, 3 and 4 of this regulation:*

*1. “Older person” has the meaning ascribed to it in NRS 200.5092.*

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

**Sec. 3.** *Sections 2, 3 and 4 of this regulation apply to any solicitation, sale or purchase of, or advice made in connection with, an annuity or policy of life insurance by a producer of insurance.*

**Sec. 4. 1.** *A producer of insurance engages in an unfair or deceptive act or practice in violation of NRS 686A.020 if, without limitation, the producer of insurance uses a certification or professional designation that:*

*(a) Indicates or implies that the producer of insurance has special certification or training in advising or providing services to older persons in connection with the solicitation, sale or purchase of an annuity or policy of life insurance or in providing advice as to the value of or*

*advisability of purchasing or selling an annuity or policy of life insurance, either directly or indirectly, through publications or writings or by issuing or publishing analyses or reports related to an annuity or policy of life insurance if the producer of insurance does not have such special certification or training;*

*(b) The producer of insurance has not earned or is otherwise ineligible to use;*

*(c) Is nonexistent;*

*(d) The producer of insurance conferred upon itself;*

*(e) Indicates or implies a level of occupational qualifications obtained through education, training or experience that the producer of insurance using the certification or professional designation has not obtained; or*

*(f) Was obtained from a certifying or designating organization that, except as otherwise provided in subsection 2:*

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

*(2) Does not have reasonable standards or procedures for ensuring the competency of its certificate holders or designees;*

*(3) Does not have reasonable standards or procedures for monitoring and disciplining its certificate holders or designees for conduct that is improper or unethical; or*

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

*2. There is a rebuttable presumption that paragraph (f) of subsection 1 does not include a certification or professional designation that:*

*(a) Does not primarily apply to sales or marketing; and*

*(b) Was conferred by a certifying or designating organization that has been accredited by:*

*(1) The American National Standards Institute;*

*(2) The National Commission for Certifying Agencies; or*

*(3) An organization that is on the list provided by the United States Department of Education entitled “Accrediting Agencies Recognized for Title IV Purposes.” A copy of the list may be obtained at the Internet address*

*[http://www2.ed.gov/admins/finaid/accred/accreditation\\_pg9.html](http://www2.ed.gov/admins/finaid/accred/accreditation_pg9.html).*

*3. 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 providing services to older persons, factors to be considered will include, without limitation:*

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

*(b) The manner in which those words are combined.*

*4. For the purposes of this section, a title of a job within an organization that is licensed or registered by a financial services regulatory agency of this State, any other state or the Federal Government is not a certification or professional designation if the title is not used in a manner that would confuse or mislead a reasonable consumer and the title:*

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

*(b) Specifies a person’s area of specialization within the organization.*

*5. For the purposes of subsection 4, the term “financial services regulatory agency” includes, without limitation, an agency that regulates insurers, producers of insurance,*

*broker-dealers, investment advisors or investment companies as defined in the Investment Company Act of 1940, 15 U.S.C. § 80a-3.*

**Sec. 5.** This regulation becomes effective on July 1, 2011.

## **NOTICE OF ADOPTION OF PROPOSED REGULATION**

The Commissioner of Insurance adopted regulations assigned LCB File No. R086-10 which pertain to chapter 686A of the Nevada Administrative Code.

### **INFORMATIONAL STATEMENT**

A workshop was held on November 10, 2010, and a hearing was held on November 23, 2010, at the offices of the Nevada State Health Division, 4150 Technology Way, Suite 303, Hearing Room, Carson City, Nevada 89706, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, 2<sup>nd</sup> Floor Conference Room, Las Vegas, Nevada 89104, regarding the adoption of the permanent regulation concerning senior-specific certifications.

Public comment was solicited by posting notice of the hearing in the following public locations: the Web site of the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), the Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, and Legislative Counsel Bureau; and by providing notice of the hearing to the Donald W. Reynolds Press Center, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

The Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the workshop and hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The workshop was not attended by any interested parties in Carson City or Las Vegas. The Division received one written comment from Barry Gold, the Director of Government Relations for AARP Nevada. The hearing was attended by one interested person in Las Vegas, Barry Gold, who spoke in favor of the regulation. The hearing was not attended by any interested parties in Carson City. During the hearing, oral testimony was provided by Mark Dickinson, representing the Division. The Division recommended two changes to the regulation: (1) changing the effective date from January 1, 2011 to July 1, 2011; and (2) adding a section that provides a definition of “older person”.

Based upon the testimony at the hearing, the changes to the proposed permanent regulation, LCB File No. R086-10, dated November 4, 2010, are as follows:

1. Section 1 has been amended to read as follows:

Section 1. Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 ~~[-3 and 4]~~ to 5, inclusive, of this regulation.

2. Section 2 has been amended to read as follows:

Sec. 2. For the purposes of sections 2, 3 ~~[and]~~, 4 and 5 of this regulation, “producer of insurance” has the meaning ascribed to it in NRS 679A.117.

3. A new section 3 has been added to read as follows:

Sec. 3. For the purposes of sections 2, 3, 4 and 5 of this regulation, “older person” has the meaning ascribed to it in subsection 5 of NRS 200.5092.

4. Sections 3 and 4 have been renumbered as sections 4 and 5, respectively.

5. Section 5 has been renumbered and amended to read as follows:

Sec. ~~[5]~~6. This regulation becomes effective on ~~[January]~~ July 1, 2011.

After considering the record, the Commissioner has issued an order adopting the proposed regulation, LCB File No. R086-10, as amended, as a permanent regulation of the Division.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: The effect on insurers and producers, immediate and long term, should be minimal.
- (b) On the small businesses: The Division regulates the insurance industry. Although many producer firms are small businesses, this regulation would not impose a direct or significant impact on those businesses.
- (c) On the public: There should be no economic impact on the public.

There should be only a minimal cost to the Division to enforce compliance with this regulation. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **10.0319**  
LCB FILE NO. **R086-10**

**PERMANENT REGULATION REGARDING  
SENIOR-SPECIFIC CERTIFICATIONS.**

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**SUMMARY OF PROCEEDINGS  
AND ORDER**

**SUMMARY OF PROCEEDINGS**

A public workshop, as required by Nevada Revised Statute (“NRS”) 233B.061, on the proposed permanent regulation concerning senior-specific certifications was held before David Hall, Esq., Insurance Counsel and Hearing Officer, on November 10, 2010, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed permanent regulation was also held before David Hall, Esq., Insurance Counsel and Hearing Officer, on November 23, 2010, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130 and NRS 686A.015.

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”), received one written comment from Barry Gold, the Director of Government Relations for AARP Nevada. The hearing was attended by one interested person in Las Vegas, Barry Gold, who spoke in favor of the regulation. The hearing was not attended by any interested parties in Carson City. The following person provided testimony before the Hearing Officer: Mark Dickinson, representing the Division.

Mr. Dickinson testified that the proposed permanent regulation amends chapter 686A of the Nevada Administrative Code (“NAC”) by adding a section that regulates the use of senior-specific certifications and professional designations by producers in the sale of life and annuity





