

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R086-10

November 4, 2010

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, “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 designation 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 certificants or designees;

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

(4) Does not have reasonable requirements for continuing education for its certificants 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.

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 January 1, 2011.