



Electronically Submitted to RulesCoordinator@oic.wa.gov

August 23, 2023

Commissioner Mike Kreidler
Washington State Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

Re: R 2023-05 Best Interest Standard for Annuities

Dear Commissioner Kreidler:

On behalf of our members, the Insured Retirement Institute (IRI)¹ writes in support of the prepublication draft for R 2023-05. The proposed amendments are well-aligned with the enhanced Suitability in Annuity Transactions Model Regulation approved by the National Association of Insurance Commissioners (“NAIC”) in early 2020. We are pleased to support the proposed amendments, and we respectfully request that the Department consider certain changes to the proposed amendments, as outlined below.

As you know, the revised NAIC model is consistent with the heightened standards of conduct imposed by the U.S. Securities and Exchange Commission’s Regulation Best Interest (Reg BI), which went into effect as of June 30, 2020. Similar to Reg BI, the revised model requires insurance producers to act in the best interest of the consumer under the circumstances known at the time a recommendation is made, without placing the producer’s or the insurer’s financial interest ahead of the consumer’s interest. In addition to the enhancements to the applicable standard of conduct and supervisory requirements, the revised model also reflects important adjustments to the training provisions and the FINRA safe harbor included in the prior version of the model.

Strong, consistent regulation is important to protect consumers and to preserve consumers’ choice of financial advice and products that meet their financial and retirement planning needs. This proposal, along with the updates made in HB 1120, are an important enhancement to the

¹ The Insured Retirement Institute (IRI) is the leading association for the entire supply chain of insured retirement strategies, including life insurers, asset managers, and distributors such as broker-dealers, banks and marketing organizations. IRI members account for more than 95 percent of annuity assets in the U.S., include the top 10 distributors of annuities ranked by assets under management, and are represented by financial professionals serving millions of Americans. IRI champions retirement security for all through leadership in advocacy, awareness, research, and the advancement of digital solutions within a collaborative industry community.

standard that applies when producers recommend annuities to their clients. We commend Washington for adopting the latest version of the NAIC model.

With all this in mind, we respectfully offer the following comments on the proposed amendments:

1. In **WAC 284-17-265**, additional revisions are needed to align the rule more closely with the NAIC Model. Uniformity and consistency are important so that producers and insurers clearly understand what the requirements are and can comply with them.

First, we propose that the following language be added as a new subsection to make clear that producers need to comply with the insurer's standards for product training: *"A producer shall not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided product-specific training standards and materials to comply with this subsection."*

Second, we recommend the following revisions to (4)(b) and (6) in order to ensure that producers who have completed training requirements in another state that are substantially similar to those within this rule are deemed to have satisfied this rule's training requirements:

(4)(b) A resident or nonresident producer completing the required ~~annuity suitability best interest standard~~ training ~~of this section~~ in another state which has adopted ~~the~~ training requirements that are substantially similar to the provisions of in this section shall be deemed as satisfying the training requirements of this subsection in this state's ~~requirement~~.

(6) ~~Insurance producers who have completed the annuity suitability best interest standard training requirements of this section in a state other than Washington which has adopted the annuity suitability best interest standard training requirements in this section before January 1, 2024, are deemed to have satisfied the training requirements of this section.~~ The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

Third, we propose that the following language be added as a new subsection to make clear that the satisfaction of training requirements of a course that are substantially similar to the provisions of this subsection satisfy the training requirements of this subsection: *"The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this*

subsection shall be deemed to satisfy the training requirements of this subsection in this state.”

2. In **WAC 284-23-390**, the definition of consumer profile information should be deleted. This definition is now in the statute pursuant to HB 1120 and to include it here is redundant and unnecessary.
3. In **WAC 284-23-410**, the definition of replacement should be deleted. This definition is now in the statute pursuant to HB 1120 and to include it here is redundant and unnecessary. Since this is the only item in this section, we propose that this section be deleted in its entirety.
4. On another note, we have encountered significant confusion in other states that have adopted the latest version of the NAIC model with respect to the timeline for completion of the training required thereunder. As a result, the NAIC issued a set of [frequently asked questions \(FAQs\)](#) in July 2021 that, among other things, addressed a number of questions related to the producer training requirement. As a supplement to those FAQs and to further assist the industry and the regulators in navigating this complex situation, we have developed the chart attached as [Appendix A](#) to outline precisely what training would be required and when, under a number of different scenarios. Note that this chart does not include every conceivable scenario, but we believe it covers the most common scenarios. We respectfully request and strongly encourage you to use this chart to guide the implementation of the training requirement in Washington in order to avoid the confusion that has been encountered by regulators and industry in other states.

In conclusion, we are pleased to support the pre-publication draft, and we appreciate your consideration of our recommended changes as described above. We look forward to working with the Department on implementation of these important revisions.

Sincerely,

Sarah E. Wood

Sarah Wood
Director, State Policy & Regulatory Affairs
Insured Retirement Institute
swood@irionline.org

Producer Training and Reciprocity Under 2020 Version of NAIC MDL 275

The National Association of Insurance Commissioners (NAIC) [Suitability in Annuity Transactions Model Regulation \(MDL 275\)](#) has, since 2010, required insurance producers who recommend and sell annuities to consumers to complete a one-time, four credit hour training course that covers general annuity principles – including the types and uses of annuities, how annuity contract features affect consumers, and tax implications – as well as information about the requirements of the Model.

The Model also provides that a producer who completes a course that meets the training requirement in one state would not need to re-take the training in other states that impose substantially similar requirements. This is generally referred to as “reciprocity.”

The 2020 amendments to the Model expanded the topics to be covered by the required training to include information about the new best interest standard of conduct applicable to producers when they recommend and sell annuities. In recognition of the fact that many producers completed the required training before this new requirement was added, the Model allows such producers to remain in compliance by taking a one-time, one credit hour course that covers the applicable standard of conduct. The insurance departments in some states where the revised Model has been adopted or enacted have opted to discontinue this one credit hour option after a set period of time, while the others have not set an end-date for this option.

The producer training provision has been the source of significant confusion for the industry and the regulators in several states where the revised Model has been enacted or adopted. This confusion is largely attributable to the fact that any individual producer’s actual training obligations will vary based on when and where the producer is licensed, as well as whether and when the producer has completed any or all of the required training.

The NAIC issued a set of [frequently asked questions \(FAQs\)](#) in July 2021 that, among other things, addressed a number of questions related to the producer training requirement. As a supplement to those FAQs and to further assist the industry and the regulators in navigating this complex situation, a coalition of industry trade organizations developed the following chart to outline precisely what training would be required under a number of different scenarios. Note that this chart does not include every conceivable scenario, but we believe it covers the most common scenarios.

| | Licensing Status | Training Status | Training Requirement |
|--|--|--|---|
| SCENARIO #1 | <p>Producer applies for license in 2020 Model state¹ ("State A") on or after effective date²</p> <p>AND</p> <p>Producer is <u>NOT</u> licensed in any other 2020 Model state before effective date</p> | Producer has <u>NOT</u> completed any version of annuity training course | Producer must complete new 4-credit course in State A before selling annuities in State A |
| SCENARIO #2 | <p>Producer applies for a license in State A on or after effective date</p> <p>AND</p> <p>Producer is licensed in any other 2020 Model state ("State B") before effective date</p> | SCENARIO #2-A | |
| | | <p>Producer has <u>NOT</u> completed any version of annuity training course</p> | Producer must complete new 4-credit course in State A before selling annuities in State A |
| | | SCENARIO #2-B | |
| | | <p>Producer has completed old 4-credit course³ in State B before effective date</p> <p>AND</p> <p>Producer has <u>NOT</u> completed new 4-credit course⁴ <u>OR</u> new 1-credit course⁵ in State B (if not discontinued prior to completion) before effective date</p> | <p>Within six months after effective date, producer must complete <u>one of the following</u> in State A or any other 2020 Model state where licensed:</p> <p>(a) new 4-credit course</p> <p>OR</p> <p>(b) new 1-credit course (if not discontinued in state where taken)</p> |
| SCENARIO #2-C | | | |
| <p>Before effective date, Producer has completed either:</p> <p>(a) new 4-credit course in State B</p> <p>OR</p> <p>(b) old 4-credit course AND new 1-credit course in State B</p> | NONE (covered by reciprocity) | | |
| SCENARIO #3 | <p>Producer is licensed to sell annuities in State A before effective date</p> <p>AND</p> <p>Producer is <u>NOT</u> licensed to sell annuities in any other 2020 Model state before effective date</p> | SCENARIO #3-A | |
| | | <p>Producer has <u>NOT</u> completed any version of annuity training course</p> | Producer must complete new 4-credit course in State A before selling annuities in State A |
| | | SCENARIO #3-B | |
| <p>Producer has completed old 4-credit course in State A prior to effective date</p> | <p>Within six months after effective date, producer must complete <u>one of the following</u> in State A:</p> <p>(a) new 4-credit course</p> <p>OR</p> <p>(b) new 1-credit course</p> | | |

¹ "2020 Model State" means a state in which the 2020 version of MDL 275 has been enacted by legislation or adopted by regulation.

² "Effective date" means the date on which the 2020 version of MDL 275 takes effect in **State A**.

³ "Old 4-credit course" means a course that met the requirements of the 2010 version of MDL 275.

⁴ "New 4-credit course" means a course that meets the requirements of the 2020 version of MDL 275.

⁵ "New 1-credit course" means a course that meets the requirements for the 1-credit option in the 2020 version of MDL 275.