

financial condition or market conduct of any captive insurance company shall be confidential pursuant to the Oklahoma Captive Insurance Company Act.

SUBCHAPTER 17. CONSUMER PROTECTION IN ANNUITY TRANSACTIONS REGULATION

365:25-17-1. Purpose

(a) The purpose of this regulation is to require producers, as defined in this regulation, to act in the best interest of the consumer when making a recommendation set forth standards and procedures for recommendations to consumers that result in a transaction involving of an annuity products 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 appropriately addressed.

(b) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation or to subject a producer to civil liability under the best interest standard of care outlined in 365:25-17-7 or under standards governing the conduct of a fiduciary or fiduciary relationship.

365:25-17-2. Scope

This regulation shall apply to any sale or recommendation of to purchase or exchange an annuity ~~made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.~~

365:25-17-4. Exemptions

Unless otherwise specifically included, this regulation shall not apply to transactions recommendations involving:

- (1) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this regulation; ~~or~~
- (2) Contracts 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 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; or
 - (D) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; ~~;~~
- ~~(3)(E)~~ Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or
- ~~(4)(F)~~ Formal prepaid funeral contracts.

365:25-17-5. Definitions

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Annuity" means an a fixed annuity or variable annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity.

"Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by a producer in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the consumer.

"Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs and financial objectives, including, at a minimum, the following:

- (A) Age;
- (B) Annual income;
- (C) Financial situation and needs, including debts and other obligations;
- (D) Financial experience;
- (E) Insurance needs;
- (F) Financial objectives;
- (G) Intended use of the annuity;
- (H) Financial time horizon;
- (I) Existing assets or financial products, including investment, annuity and insurance holdings;
- (J) Liquidity needs;
- (K) Liquid net worth;
- (L) Risk tolerance, including but not limited to, willingness to accept non-guaranteed elements in the annuity;
- (M) Financial resources used to fund the annuity; and
- (N) Tax status.

"Continuing education credit" or "CE credit" means one continuing education credit as approved pursuant to 36 O.S. § 1435.29 and OAC 365:25-3-1.

"Continuing education provider" or "CE provider" means an individual or entity that is approved to offer continuing education courses pursuant to 36 O.S. § 1435.29.

"FINRA" means the Financial Industry Regulatory Authority or a successor agency.

"Insurer" means a company required to be licensed under the laws of this state to provide insurance products, including annuities.

~~**"Insurance producer"** means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.~~

"Intermediary" means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer's annuities by producers.

"Material conflict of interest" means a financial interest of the producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. "Material conflict of interest" does not include cash compensation or non-cash compensation.

"Non-cash compensation" means any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support and retirement benefits.

"Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, 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.

"Producer" means a person or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. For purposes of this regulation, "producer" includes an insurer where no producer is involved.

"Recommendation" means advice provided by ~~a an insurance producer, or an insurer where no producer is involved,~~ to an individual consumer that ~~was intended to result results or does result in~~ a purchase, ~~an~~ exchange, or replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer services assistance or administrative support, general educational information, and tools, prospectuses, or other product and sales material.

"Replacement" means a transaction in which a new annuity is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer whether or not a producer is involved, that by reason of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

(A) Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;

(B) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(C) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(D) Reissued with any reduction in cash value; or

(E) Used in a financed purchase.

"SEC" means the United States Securities and Exchange Commission.

365:25-17-7. Duties of insurers and of insurance producers

(a) **Best Interest Obligations.** A producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the producer's or the insurer's financial interest ahead of the consumer's interest. A producer has acted in the best interest of the consumer if they have satisfied the following obligations regarding care, disclosure, conflict of interest and documentation: ~~Suitability required. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, 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 to his or her investments and other insurance products and as to his or her financial situation and needs.~~

(1) Care Obligation.

(A) The producer, in making a recommendation shall exercise reasonable diligence, care and skill to:

- (i) Know the consumer's financial situation, insurance needs, and financial objectives;
- (ii) Understand the available recommendation options after making a reasonable inquiry into options available to the producer;
- (iii) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and
- (iv) Communicate the basis or bases of the recommendation.

(B) The requirements under subparagraph (A) of this paragraph include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(C) The requirements under subparagraph (A) of this paragraph require a producer to consider the types of products the producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the producer or other possible alternative products or strategies available in the market at the time of the recommendation. Producers shall be held to standards applicable to producers with similar authority and licensure.

(D) The requirements under this subsection do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this regulation.

(E) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives, but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(F) The requirements under subparagraph (A) of this paragraph include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features.

(G) The requirements under subparagraph (A) of this paragraph apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

(H) The requirements under subparagraph (A) of this paragraph do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(I) The requirements under subparagraph (A) of this paragraph do not mean the producer has ongoing monitoring obligations under the care obligation under this paragraph, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment advising, or financial planning agreement between the consumer and the producer.

(J) In the case of an exchange or replacement of an annuity, the producer shall consider the whole transaction, which includes taking into consideration whether:

(i) The consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, such as death, living, or other contractual benefits, or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

(ii) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(iii) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

(K) Nothing in this regulation should be construed to require a producer to obtain any license other than a producer license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this regulation; provided the producer does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(2) Disclosure obligation.

(A) Prior to the recommendation or sale of an annuity, the producer shall prominently disclose to the consumer on a form prescribed by the Commissioner or on a substantially similar form:

(i) A description of the scope and terms of the relationship with the consumer and the role of the producer in the transaction;

(ii) An affirmative statement on whether the producer is licensed and authorized to sell the following products:

(I) Fixed annuities;

(II) Fixed indexed annuities;

(III) Variable annuities;

(IV) Life insurance;

(V) Mutual funds;

(VI) Stocks and bonds; and

(VII) Certificates of deposit;

(iii) An affirmative statement describing the insurers the producer is authorized, contracted, appointed, or otherwise able to sell insurance products for, using the following descriptions:

(I) From one insurer;

(II) From two or more insurers; or

(III) From two or more insurers although primarily contracted with one insurer;

(iv) A description of the sources and types of cash compensation and non-cash compensation to be received by the producer, including whether the producer is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other producer or by fee as a result of a contract for advice or consulting services; and

(v) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph (B) of this paragraph;

(B) Upon request of the consumer or the consumer's designated representative, the producer shall disclose:

(i) A reasonable estimate of the amount of cash compensation to be received by the producer, which may be stated as a range of amounts or percentages; and

(ii) Whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages; and

(C) Prior to or at the time of the recommendation or sale of an annuity, the producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality and expense fees, investment advisory fees, any annual fees, potential charges for and features of riders or other options of the annuity, limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components, and market risk. The requirements of this section are intended to supplement and not replace the disclosure requirements of OAC 365:25-19-1, et seq.

(3) Conflict of interest obligation. A producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(4) Documentation obligation. A producer shall at the time of recommendation or sale:

(A) Make a written record of any recommendation and the basis for the recommendation subject to this regulation,

(B) Obtain a consumer signed statement on a form prescribed by the Commissioner or on a substantially similar form;

(i) A customer's refusal to provide the consumer profile information, if any; and

(ii) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information; and

(C) Obtain a consumer signed statement on a form prescribed by the Commissioner or on a substantially similar form acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the producer's recommendation.

(5) Application of the best interest obligation. Any requirement applicable to a producer under this subsection shall apply to every producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational materials, product wholesaling or other back office product support, and general supervision of a producer do not, in and of themselves, constitute material control or influence.

~~(b) Producer required to obtain information from consumer.~~ Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain information concerning:

~~(1) The consumer's financial status;~~

~~(2) The consumer's tax status;~~

~~(3) The consumer's investment objectives; and~~

~~(4) Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.~~

~~(b)(e)~~ **Transactions not based on a recommendation** ~~Obligation to consumer.~~

(1) Except as provided under paragraph (2) of this subsection, neither an insurance producer, nor an insurer where no producer is involved, shall have no any obligation to a consumer under subsection a(1) related to any annuity transaction ~~recommendation~~ if a consumer:

(A) No recommendation is made;

(B) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the customer;

(C) A customer Refuses-refuses to provide relevant consumer profile information and the annuity transaction is not recommended requested by the insurer or insurance producer; or

~~(D)(B)~~ A consumer decides Decides to enter into an annuity insurance transaction that is not based on a recommendation of the insurer or insurance producer; or

~~(C) Fails to provide complete or accurate information.~~

(2) An ~~insurer~~ insurer's issuance of an annuity or insurance producer's recommendation subject to ~~Paragraph~~ paragraph (1) shall be reasonable under all the circumstances

actually known to the insurer or insurance producer at the time of the annuity is issued recommendation.

(c)(d) Supervision system to supervise recommendations of insurance producers.

(1) Except as permitted under subsection (b), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe that the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

(2) An insurer either shall establish and maintain assure that a supervision system to supervise recommendations that is reasonably designed to achieve the insurer's and its producers' compliance with this regulation, is established and maintained by complying with Paragraphs (3) to (5) of this subsection, or shall establish and maintain such a system, including, but not limited to:

(A) The insurer shall establish and Maintaining maintain reasonable written procedures to inform its producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant producer training manuals; and

(B) The insurer shall establish and maintain standards for producer product training and shall establish and maintain reasonable procedures to require its producers to comply with the requirements of 365:25-17-7.1 of this regulation; Conducting periodic reviews of its records that are — reasonably designed to assist in detecting and preventing violations of this regulation.

(C) The insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its producers;

(D) The insurer shall establish and maintain procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the particular consumer's financial situation, insurance needs and financial objectives. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(E) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with subsections a, b, d and e. This may include, but is not limited to, confirmation of the consumer's consumer profile information, systematic customer surveys, producer and consumer interviews, confirmation letters, producer statements or attestations and programs of internal monitoring. Nothing in this subparagraph prevents an insurer from complying with this subparagraph by applying sampling procedures, or by confirming the consumer profile information or other required information under this section after issuance or delivery of the annuity;

(F) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether a producer has provided to the consumer the information required to be provided under this section;

(G) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(H) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time.

The requirements of this subparagraph are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time; and

(I) The insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

~~(2) A general agent and independent agency either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this regulation, or shall establish and maintain such a system, including, but not limited to:~~

~~(A) Maintaining written procedures; and~~

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

(3) Nothing in this subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under this subsection. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to OAC 365:25-17-8 of this regulation regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph (B) of this paragraph contract with a third party, including a general agent or independent agency, to establish and maintain a system of supervision as required by Paragraph (1) with respect to insurance producers under contract with or employed by the third party.

(A) An insurer's supervision system under this subsection shall include supervision of contractual performance under this subsection. This includes, but is not limited to, the following:

(i) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a responsible basis to represent, and does represent, that the function is properly performed.

~~(4) An insurer is not required to include in its system of supervision shall make reasonable inquiry to assure that the third party contracting under Paragraph (3) of this subsection is performing the functions required under Paragraph (1) of this subsection and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:~~

~~(A) A producer's recommendations to consumers of products other than the annuities offered by the insurer. The insurer annually obtains a certification from a third-party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; or and~~

~~(B) Consideration of or comparison to options available to the producer or compensation relating to those options other than annuities or other products offered by the insurer. The insurer, based on reasonable selection criteria, periodically selects third parties contracting under Paragraph (3) of this subsection for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.~~

~~(5) An insurer that contracts with a third party pursuant to Paragraph (3) of this subsection and that complies with the requirements to supervise in Paragraph (4) of this subsection shall have fulfilled its responsibilities under Paragraph (1) of this subsection.~~

~~(6) An insurer, general agent or independent agency is not required by Paragraph (1) or (2) of this subsection to:~~

~~(A) Review, or provide for review of, all insurance producer solicited transactions; or~~

~~(B) Include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer, general agent or independent agency.~~

~~(7) A general agent or independent agency contracting with an insurer pursuant to Paragraph (3) of this subsection shall promptly, when requested by the insurer pursuant to Paragraph (4) of this subsection, give a certification as described in Paragraph (4) of this subsection or give a clear statement that it is unable to meet the certification criteria.~~

~~(8) No person may provide a certification under Paragraph (4)(A) of this subsection unless:~~

~~(A) The person is a senior manager with responsibility for the delegated functions; and~~

~~(B) The person has a reasonable basis for making the certification.~~

(d) Prohibited Practices. Neither a producer nor an insurer shall dissuade, or attempt to dissuade, a consumer from:

(1) Truthfully responding to an insurer's request for confirmation of the consumer profile information;

(2) Filing a complaint; or

(3) Cooperating with the investigation of a complaint.

(e) Safe harbor NASD and suitability of variable annuities. ~~Compliance with the National Association of Securities Dealers Conduct Rules pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities. However, nothing in this subsection shall limit the Insurance Commissioner's ability to enforce the provisions of this regulation.~~

(1) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this regulation. This subsection applies to

- all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue. However, nothing in this subsection shall limit the Commissioner's ability to investigate and enforce the provisions of this regulation.
- (2) Nothing in paragraph (1) shall limit the insurer's obligation to comply with 365:25-17-7(c)(1), although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.
- (3) For paragraph (1) to apply, an insurer shall:
- (A) Monitor the relevant conduct of the financial professional seeking to rely on paragraph (1) or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities laws using information collected in the normal course of an insurer's business; and
 - (B) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph (1), such as the financial professional's broker-dealer or investment adviser registered under federal or state securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.
- (4) For purposes of this subsection, "financial professional" means a producer that is regulated and acting as:
- (A) A broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer;
 - (B) An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or
 - (C) A plan fiduciary under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under Section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.
- (5) For purposes of this subsection, "comparable standards" means:
- (A) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest and any amendments or successor regulations thereto;
 - (B) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or applicable state securities law, including but not limited to, the Form ADV and interpretations; and

(C) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

365:25-17-7.1. Producer Training

(a) 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.

(b) A producer who engages in the sale of annuity products shall complete a one-time four (4) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider.

(1) Producers who hold a life insurance line of authority prior to the effective date of this regulation and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this regulation. Individuals who obtain a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

(2) The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) CE credits but may be longer.

(3) The training required under this subsection shall include information on the following topics:

(A) The types of annuities and various classifications of annuities;

(B) Identification of the parties to an annuity;

(C) How product specific annuity contract features affect consumers;

(D) The application of income taxation of qualified and non-qualified annuities;

(E) The primary uses of annuities; and

(F) Appropriate standard of conduct, sales practices, replacement and disclosure requirements.

(4) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(5) A provider of an annuity training course intended to comply with this subsection shall register as a CE provider in this state and comply with the rules and guidelines applicable to producer continuing education courses as set forth in 36 O.S. § 1435.29.

(6) A producer who has completed an annuity training course approved by the department of insurance prior to November 1, 2023, shall, within six (6) months after November 1, 2023, complete either:

(A) A new four (4) credit training course approved by the department of insurance after November 1, 2023; or

- (B) An additional one-time one (1) credit training course approved by the department of insurance and provided by the department of insurance-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended regulation.
- (7) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with 36 O.S. § 1435.29.
- (8) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with 36 O.S. § 1435.29.
- (9) 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.
- (10) 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.
- (11) An insurer shall verify that a producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

365:25-17-8. Compliance Mitigation; Penalties; Enforcement of responsibility

(a) An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its producer, the ~~The~~ commissioner may order:

- (1) An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this regulation by the insurer ~~insurer's, an entity contracted to perform the insurer's supervisory duties, or by the its insurance-producer producer's, violation of this regulation;~~
 - (2) A ~~A~~ general agency, independent agency, or the insurance ~~insurance~~ producer to take reasonably appropriate corrective action for any consumer harmed by the insurance-producer's violation of this regulation; and
 - (3) A ~~general agency or independent agency that employs or contracts with an insurance producer to sell, or solicit the sale, of annuities to consumers, to take reasonably appropriate penalties and sanctions~~ corrective action for any consumer harmed by the insurance producer's violation of this regulation.
- (b) Any applicable penalty under 36 O.S. §§ 619 and 1435.13 for a violation of ~~Section 365:25-17-7(a), (b), or (c)(2) of this regulation~~ may be reduced or eliminated at the discretion of the Insurance Commissioner if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.
- (c) The authority to enforce compliance with this regulation is vested exclusively with the Commissioner.

365:25-17-9. Recordkeeping

(a) Insurers, general agents, independent agencies and ~~insurance~~ producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for five (5) years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of a ~~an insurance~~ producer.

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

SUBCHAPTER 19. ANNUITY DISCLOSURE REGULATION

365:25-19-2. Authority [REVOKED]

~~———— This regulation is issued based upon the authority granted the Insurance Commissioner under Section 1204 of the Oklahoma Unfair Trade Practices Act, 36 O.S. § 1204.~~

365:25-19-8. Separability [REVOKED]

~~If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.~~

365:25-19-9. Effective Date [REVOKED]

~~This regulation shall become effective January 1, 2007, and shall apply to contracts sold on or after the effective date.~~

SUBCHAPTER 21. REGULATION ON THE USE OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS IN THE SALE OF LIFE INSURANCE AND ANNUITIES

365:25-21-6. Effective Date [REVOKED]

~~———— This regulation shall become effective July 14, 2009.~~

SUBCHAPTER 23. CEMETARY MERCHANDISE TRUSTS

365:25-23-1. Purpose [REVOKED]

~~The purpose of this subchapter is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Cemetery Merchandise Trust Act. The information called for by the regulations of this subchapter is hereby declared to be necessary and appropriate in the public interest.~~

365:25-23-3. Contract approval

No organization shall use in any way any sales contract without having received prior written approval from the Insurance Commissioner to do so. ~~The original and two (2) copies of~~