



# Legislative & Regulatory Report

NATIONAL ALLIANCE OF LIFE COMPANIES *An Association of Life and Health Insurance Companies*

## July 2011

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*The news in this publication, including links to background and supplemental information on state websites, is available on the NALC members website at <http://members.nalc.net>.*

*National Alliance of Life Companies  
PO Box 50053  
Sarasota, Florida 34232  
Phone: 941-379-6100  
Fax: 941-379-6112  
E-mail: [support@nalc.net](mailto:support@nalc.net)  
Website: <http://www.nalc.net>  
Members' Website: <http://members.nalc.net>*

## Arkansas

### *2011 Arkansas Legislation (Bulletin 3-2011)*

The Arkansas Insurance Department has issued an eight-page bulletin detailing insurance-related legislation passed during the 2011 session. The bulletin lists the laws that passed and identified which segments of the market are affected.

The bulletin is available at <http://www.insurance.arkansas.gov/Legal%20Dataseservices/PCBulletinYR.htm>.

## Colorado

### *Notice of Rule-Making*

The proposed regulation below is scheduled to be heard on August 2, 2011, at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202, in room B at 1:00 p.m. A written comment period will be permitted for three business days after the public hearing. Please send all comments, questions, and requests for information to the Division via email to [DOIRulesAndRecords@dora.state.co.us](mailto:DOIRulesAndRecords@dora.state.co.us). Please reference the proposed or amended regulation in the subject line.

4-2-34: Concerning Suitability in Annuity Transactions  
[http://www.dora.state.co.us/insurance/regs/p4-2-34\\_08022011.pdf](http://www.dora.state.co.us/insurance/regs/p4-2-34_08022011.pdf)

The notice is available at <http://www.dora.state.co.us/insurance/regs/noh.htm>.

## Connecticut

### *Notice of Intent to Adopt Regulations*

The Connecticut Insurance Commissioner proposes to adopt regulations related to Requirements for Replacement of Life Insurance and Annuities. The purpose of the rule is to regulate activities of insurers and producers with respect to the replacement of existing life insurance policies and annuity contracts. This proposed regulation establishes minimum standards of conduct to be observed in transactions which replace existing life and annuity products. It does so by assuring that purchasers receive information with which a decision can be made in the purchasers' best interests and to reduce the opportunity for misrepresentation and incomplete disclosure.

All interested persons are invited to submit written data, views or arguments in connection with the proposed action by July 14, to the State of Connecticut, Insurance Department, Attention: Mark R. Franklin, Esq., P.O. Box 816, Hartford CT 06142-0816.

The rule and notice are available at <http://www.ct.gov/cid/cwp/view.asp?a=2479&q=254494>.

## Idaho

### *Rebates/Inducements - Value-Added Services (Bulletin 11-03)*

This Bulletin 11-03 replaces Bulletin 09-14 with updates pertinent to the recent passage of House Bill 283, which amends Idaho Code Section 41-1314 effective July 1, 2011. The stated purpose of House Bill 283 is to:

- Replace the terms agent, solicitor or broker with the current term producer in Idaho Code Sections 41-1314(1) and 41-1314(2);

- Add disability insurer and producer marketing disability insurance (health insurance) to the identified providers in Idaho Code Section 41-1314(3); and
- Clarify and change the aggregate value of the exception in Idaho Code Section 41-1314(3) to a maximum of two hundred dollars (\$200) in a calendar year.

Idaho Code Section 41-1314(1) prohibits any person from directly or indirectly offering or giving as an inducement to purchase insurance “anything of value whatsoever” that is not plainly specified in the insurance contract. The statute indicates that, for a violation to occur, the valuable consideration must be offered or provided as a rebate or inducement to insurance. In other words, some connection to an actual or prospective sale of insurance must exist.

If goods or services not specified in the insurance contract are offered or provided as an inducement to purchase or renew insurance, a reasonable charge must be imposed to avoid a violation of Section 41- 1314(1). The charge should reflect the actual value of the good or service provided and should not be less than the cost of providing the good or service. Services that fall within the traditional notion of “customer service” for which one would not normally expect an additional charge are not considered by the Department to be a rebate or inducement in violation of Section 41-1314. Examples of traditional customer services that are not viewed as rebates or illegal inducements include offering a 24-hour hotline for claims, responding to questions or providing advice regarding coverage or benefits, maintaining loss runs, and issuing insurance cards.

Effective July 1, 2011, Idaho Code Section 41-1314(3) is amended to permit producers and insurers of life, disability (health), property and casualty insurance the ability to offer to an actual or prospective policyholder goods (but not services) so long as the aggregate value of the goods does not exceed \$200 in a calendar year. Note that the \$200 exception to the rebate law only applies to goods, not services.

All insurers and producers doing business in Idaho should carefully review their policies and marketing efforts involving any goods or services offered without reasonable charge to their customers or prospective customers. The Department will actively investigate complaints concerning violations of Idaho Code Section 41-1314 and will take administrative action to assure compliance when appropriate.

The bulletin is available at <http://www.doi.idaho.gov/laws/2011bulletins.aspx>.

## Indiana

### *Annuity and Variable Life & Annuity Licensing Changes (Bulletin 184)*

This Bulletin is directed to all insurance companies issuing life and annuity products and to all insurance producers selling, soliciting, or negotiating life and annuity products. The Indiana legislature this year made significant changes to licensing laws that apply to producers selling annuity products and/or variable life and annuity products. Some of the changes were enacted in P.L. 11-2011 (HEA 1486) and then modified in P.L. 115-2011 (HEA 1015). Some of the legislative changes will become effective July 1, 2011, and others are effective January 1, 2012. The purpose of this bulletin is to provide a summary of the changes and guidance as to implementation of the changes.

The entire three-page bulletin is available at <http://www.in.gov/idoi/2591.htm>.

## Iowa

### *Licensing Requirements and Permitted Activities Insurance Bulletin 11-4*

Since Iowa adopted a rule (191 Iowa Administrative Code rules 15.68-15.73) substantially similar to the April 2010 Suitability in Annuity Transactions Model Regulation of the National Association of Insurance

Commissioners (“NAIC”), questions have arisen as to where the line is drawn between providing insurance advice and securities advice. The answers to these questions have become increasingly important because suitability laws at the state and federal level have evolved to the point where any recommendation to a consumer of either an insurance product or a securities product requires an extensive financial analysis of the consumer’s financial affairs and a discussion of broad financial trends.

How information received from the consumer is applied will be different depending on whether it is an insurance transaction or a securities transaction because of the differing requirements of insurance and securities laws.

References to insurance in this Bulletin include both life insurance and annuities. Under Iowa law, variable annuities remain an insurance product while under federal law they are securities. Thus, for a sale of variable annuities, dual licensing is required and not covered by this Bulletin except for Section VI.

For purposes of this Bulletin, “Insurance-Only Person” means an individual who holds an Iowa insurance license that authorizes the sale of annuities or life insurance products and who is not Iowa-licensed as an investment adviser, securities agent or investment adviser representative under Iowa securities law.

For purposes of this Bulletin, “Securities-Only Person” means an individual who is licensed as an investment adviser, securities agent or investment adviser representative under Iowa securities law, and who is not Iowa-licensed as an insurance producer under Iowa insurance law.

Should you have any questions concerning this notice or the rules, please contact Jim Mumford at the Insurance Division. He may be reached at [jim.mumford@iid.iowa.gov](mailto:jim.mumford@iid.iowa.gov).

This Bulletin is based on current Iowa insurance and securities laws and designed primarily to provide guidance to insurance producers, investment adviser representatives and securities agents about:

- The permissible and prohibited activities of “Insurance-Only Persons” under insurance and securities laws and regulations with respect to a recommendation to purchase an annuity contract or life insurance policy made to a consumer who may choose to liquidate a security in connection with such purchase. The guidance in this draft is being provided so that Insurance-Only Persons may have a better understanding of the types of activities and conduct that are within the scope of permissible activities and the types of activities and conduct that are beyond the scope of permissible activities.
- The permissible and prohibited activities of “Securities-Only Persons” under insurance and securities laws and regulations with respect to a recommendation to purchase a security made to a consumer who may choose to surrender part or all of the proceeds from an insurance product in connection with such purchase. The guidance in this Bulletin is being provided so a Securities-Only Person may have a better understanding of the types of activities and conduct that are within the scope of permissible activities and the types of activities and conduct that are beyond the scope of permissible activities.

See also Bulletin 11-5-1: Licensing Requirements and Permitted Activities. These bulletins are available at [http://www.iid.state.ia.us/commissioner\\_bulletin\\_list](http://www.iid.state.ia.us/commissioner_bulletin_list).

## Utah

### *Proposed Rule: Continuing Education Rule (R590 - 142)*

#### Repeal and Reenactment

This rule is being updated for the first time in 15 years to comply with Continuing Education (CE) changes in the law and to be consistent with updated processing methods used by the department. The 2005 Legislature passed HB60 which changed CE requirements. Standards and requirement in this rule regulate CE providers, of which there are around 430, and Utah insurance resident insurance producers and adjusters, of which there are around 22,000. It should be noted that half of the CE course credits can be provided by an insurer. The department does not know what, if anything, insurers charge for these courses.

#### Procedures and requirements being dropped:

- The requirement for 12 hours of CE has been eliminated.
- Most of the definitions have been replaced.
- Nonprofit Provider is the only definition remaining the same.
- The 14 day course filing requirement has been changed to 30.
- Examples of subject areas that qualify for course credit and those that do not qualify have been changed.
- Course providers are no longer required to submit to the department a paper list of licensees that have completed their courses.
- It is no longer necessary for the department to manually input this information on the computer.
- The reporting requirement to the department and proof submitted to the student of their CE course completion was changed from 60 to 14 days.

For questions and comments contact Jilene Whitby at (801) 538-3803, or by e-mail at [jwhitby@utah.gov](mailto:jwhitby@utah.gov). The rule text is available at <http://www.insurance.utah.gov/legalresources/rules.html>

## Vermont

### *Sales or Investment Advice Related to Securities Products by Insurance Producers*

#### *Insurance Division Bulletin 161*

This Bulletin is issued jointly by the Vermont Insurance Division and the Vermont Securities Division (Securities Bulletin No.1) to all insurance producers. The Department of Banking, Insurance, Securities and Health Care Administration ("BISHCA") is aware that some producers are offering investment advice without the expertise and securities registration required by law.

The unlawful offering of investment advice occurs not only when an unregistered producer proposes the purchase of a security, but also when a producer advises a consumer to sell a security. The advice to sell a security is often made in connection with funding the purchase of an insurance product offered by the same producer.

Producers should note that the recommendation to replace securities such as mutual funds, stocks, bonds, variable insurance products, and various other investment vehicles defined as securities under the Vermont Uniform Securities Act is the offering of investment advice. It is unlawful for a producer to offer investment advice unless he or she is registered (licensed) with the Vermont Securities Division as an investment adviser representative. A producer should not offer advice regarding the sale, surrender or replacement of an investment product without the appropriate securities registration.

The Commissioner of BISHCA will take action against insurance producers who improperly engage in transactions involving securities. Such action may include, but is not limited to, license suspension/revocation, fines and mandatory restitution.

Proper registration is an important consumer protection. Information about how to become registered as an investment adviser/investment adviser representative is available at the Securities Division's Website <http://www.bishca.state.vt.us/securities/securities-division>.

Questions about this Bulletin should be directed to: John Cronin, Securities Director 802-828-4857 [john.cronin@state.vt.us](mailto:john.cronin@state.vt.us). It is available at <http://www.bishca.state.vt.us/view/regbul>.

## Washington

### *Proposed Rule: R 2011-03 Mortality Tables*

The Washington Office of the Insurance Commissioner is proposing a new rule to adopt the NAIC Model regulation number 815, permitting the recognition of preferred mortality tables for use in determining minimum reserve liabilities. The Office will hold a hearing to consider the new rule at 10:00 a.m., on July 13 in room TR 120, 5000 Capitol Blvd, Tumwater, WA.

The rule is available at [http://www.insurance.wa.gov/laws\\_regs/documents/2011-03101.pdf](http://www.insurance.wa.gov/laws_regs/documents/2011-03101.pdf). The complete notice is located at [http://www.insurance.wa.gov/laws\\_regs/rules\\_pending.shtml](http://www.insurance.wa.gov/laws_regs/rules_pending.shtml). To comment on this rule, you may fill out the form located at [http://www.insurance.wa.gov/laws\\_regs/commentform.shtml](http://www.insurance.wa.gov/laws_regs/commentform.shtml). The deadline for comments is July 12, 2011. Refer questions to Donna Dorris at [donnad@oic.wa.gov](mailto:donnad@oic.wa.gov).