

**RULES
OF
THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF INSURANCE**

**CHAPTER 0780-01-94
USE OF SENIOR-SPECIFIC DESIGNATIONS IN LIFE INSURANCE AND ANNUITIES**

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0780-01-94-.01 PURPOSE.

The purpose of this Chapter is to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

Authority: T.C.A. §§ 56-8-101, et seq., and 56-8-108. **Administrative History:** Original rules filed October 11, 2016; effective January 9, 2017.

0780-01-94-.02 SCOPE.

This Chapter shall apply to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by an insurance producer.

Authority: T.C.A. §§ 56-8-101, et seq., and 56-8-108. **Administrative History:** Original rules filed October 11, 2016; effective January 9, 2017.

0780-01-94-.03 AUTHORITY.

- (1) This Chapter is issued under the authority of T.C.A. §§ 56-8-101, et seq.
- (2) Nothing in this Chapter shall limit the commissioner's authority to enforce existing provisions of law.

Authority: T.C.A. §§ 56-8-101, et seq., and 56-8-108. **Administrative History:** Original rules filed October 11, 2016; effective January 9, 2017.

0780-01-94-.04 DEFINITIONS.

For purposes of this Chapter,

- (1) "Commissioner" means the commissioner of commerce and insurance; and
- (2) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities.

Authority: T.C.A. §§ 56-8-101, et seq., and 56-8-108. **Administrative History:** Original rules filed October 11, 2016; effective January 9, 2017.

0780-01-94-.05 PROHIBITED USES OF SENIOR SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS.

(1)

(a) It is an unfair and deceptive act or practice in the business of insurance within the meaning of T.C.A. § 56-8-103 for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

(b) The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

1. Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;
2. Use of a nonexistent or self-conferred certification or professional designation;
3. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the insurance producer using the certification or designation does not have; and
4. Use of a certification or professional designation that was obtained from a certifying or designating organization that:
 - (i) Is primarily engaged in the business of or instruction in sales or marketing;
 - (ii) Does not have reasonable standards or procedures for assuring the competency of its certificants or designees;
 - (iii) Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or
 - (iv) Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

(2) There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of part 4. of subparagraph (1)(b) of this rule when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

(a) The American National Standards Institute (ANSI);

(b) The National Commission for Certifying Agencies; or

(Rule 0780-01-94-.05, continued)

- (c) An organization that is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.
- (3) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a senior-specific certification or professional designation indicating or implying that a person has a special certification or training in advising or servicing senior citizens or retirees the following factors to be considered shall include:
 - (a) Use of one or more words such as "senior", "retirement", "elder", or like words combined with one or more words such as "certified", "registered", "chartered", "adviser", "specialist", "consultant", "planner", or like words, in the name of the certification or professional designation; and
 - (b) The manner in which those words are combined.
- (4)
 - (a) For purposes of this chapter, a senior-specific certification or professional designation does not include a job title within an organization that is licensed or registered by a state, federal, or self-regulatory financial services regulatory agency, unless it is used in a manner that would confuse or mislead a reasonable consumer, when that job title:
 - 1. Indicates seniority or standing within the organization; or
 - 2. Specifies an individual's area of specialization within the organization; unless
 - 3. Such job title is used in a way that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees.
 - (b) For purposes of this paragraph (4), financial services regulatory agency includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, broker-dealer agents, investment adviser representatives, or investment companies as defined under the Investment Company Act of 1940.

Authority: T.C.A. §§ 56-8-101, et seq., and 56-8-108. **Administrative History:** Original rules filed October 11, 2016; effective January 9, 2017.