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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (Division 2 enacted by Stats. 1935, Ch. 145.)

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] (Part 2 enacted by Stats. 1935, Ch. 145.)

CHAPTER 5. General Regulation of Life Insurers [10430 - 10509.946] (Chapter 5 enacted by Stats. 1935, Ch. 145.)

ARTICLE 9.5. Suitability Requirements for Annuity Transactions on or after January 1, 2025 [10509.9200 - 10509.9210] (

Article 9.5 added by Stats. 2024, Ch. 2, Sec. 6.)

10509.9200. The purpose of this article is to require producers, as defined in Section 10509.9203, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish, maintain, and utilize a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuities, so that the insurance needs and financial objectives of consumers at the time of the transaction are effectively addressed. This article does not create or imply a private cause of action for a violation of this article or subject a producer to civil liability under the best interest standard of care outlined in Section 10509.9204 or under standards governing the conduct of a fiduciary relationship.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9201. (a) This article shall apply to any sale of, or recommendation made to a consumer to purchase, exchange, or replace, as defined in paragraph (14) of subdivision (a) of Section 10509.9203, an annuity.

(b) This article does not preclude, preempt, or otherwise interfere with the application of any other laws of this state that may apply in any matter involving the sale of an annuity that is subject to this article.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9202. Unless otherwise specifically included, this article shall not apply to transactions involving any of the following:

(a) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this article.

(b) Contracts used to fund any of the following:

(1) An employee pension or welfare benefit plan that is covered by the federal Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. Sec. 1001 et seq.).

(2) A plan described by Section 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.

(3) 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.

(4) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(5) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

(6) Formal prepaid funeral contracts.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9203. (a) For purposes of this article:

(1) "Annuity" means an annuity that is an insurance product under California law that is individually solicited, whether the product is classified as an individual or group annuity.

(2) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charges, 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 a consumer.

(3) "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, and the financial resources used for the funding of the annuity.

(D) Financial experience.

(E) Insurance needs.

(F) Financial objectives.

(G) Intended use of the annuity, including any riders attached thereto.

(H) Financial time horizon, including the duration of existing liabilities and obligations.

(I) Existing assets or financial products, including investments, annuity, and insurance holdings.

(J) Liquidity needs.

(K) Liquid net worth.

(L) Risk tolerance, including, but not limited to, the willingness to accept nonguaranteed elements in the annuity.

(M) Tax status.

(N) Whether or not the consumer has a reverse mortgage.

(O) Whether or not the consumer intends to apply for means-tested government benefits, including Medi-Cal or the veterans' aid and attendance benefit.

(P) Any other relevant information that the producer or the insurer knew or reasonably should have known about, as provided by the consumer.

(4) "Continuing education credit" or "CE credit" means one continuing education credit hour as defined in Section 2188.2(i) of Title 10 of the California Code of Regulations.

(5) "Continuing education provider" or "CE provider" means an individual or entity that is certified to offer continuing education courses pursuant to Section 2186.1(b) and Section 2188 of Title 10 of the California Code of Regulations.

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

(7) "Insurer" means a company required to be licensed or to hold a certificate of authority, or both, under California law to provide insurance products, including annuities.

(8) "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.

(9) "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 noncash compensation.

(10) "Noncash 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.

(11) "Nonguaranteed elements" means the premiums, benefits, values, credits, charges, and other elements not guaranteed over the life of the annuity, such as credited interest rates, including any temporary bonus interest rate, dividends, noninterest-based

credits, index parameters, periodic expense charges, or elements of formulas used to determine any of these nonguaranteed elements, that are subject to insurer discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(12) "Producer" means a person required to be licensed under California law to sell, solicit, or negotiate insurance, including annuities. "Producer" includes an insurer when no producer is involved.

(13) (A) "Recommendation" means advice or guidance provided or made by a producer or an insurer to an individual consumer that was intended to result or does result in a purchase, exchange, or replacement of an annuity in accordance with that advice or guidance.

(B) "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.

(14) "Replacement" means a transaction in which a new annuity policy or contract 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 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 a reduction 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.

(E) Used in a financed purchase.

(15) "SEC" means the United States Securities and Exchange Commission.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9204. Insurers and producers have the following duties to ensure that annuities that are recommended are in the consumer's best interest:

(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 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 all of the following obligations regarding care, disclosure, conflict of interest, and documentation:

(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, financial needs, 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, financial needs, insurance needs, and financial objectives over the life of the annuity, as evaluated in light of the consumer profile information.

(iv) Have a reasonable basis to believe that the consumer would receive a tangible net benefit from the transaction over the life of the product.

(v) Communicate the basis or bases of the recommendation to the consumer orally and in writing and to the insurer in writing.

(B) The producer's or insurer's recommendation to the consumer shall be based on an evaluation of the consumer's relevant consumer profile information and other relevant information, and shall reflect the care, skill, prudence, and diligence that a

reasonable producer with similar authority and licensure who is familiar with those matters would use under the circumstances then prevailing.

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

(D) The requirements under subparagraphs (A) and (B) 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.

(E) This subdivision does not create a fiduciary obligation or relationship and only creates a regulatory obligation as established in this article.

(F) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, financial needs, 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 shall not be considered in isolation.

(G) The requirements under subparagraphs (A) and (B) 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.

(H) The requirements under subparagraphs (A) and (B) 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.

(I) The requirements under subparagraphs (A) and (B) do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be in the best interest of the consumer.

(J) The requirements under subparagraphs (A) and (B) 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.

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

(i) Whether 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 or similar product enhancements.

(ii) Whether the replacing product would not confer a substantial financial benefit to the consumer in comparison to the replaced product over the life of the product so that a reasonable person would believe the purchase is unnecessary.

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

(L) This article does not require a producer to obtain a 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, a securities license, in order to fulfill the duties and obligations of this section 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) Before or at the time of recommendation, or before or at the time of sale if no recommendation is made, of an annuity, the producer shall prominently disclose all of the following information to the consumer on a form substantially similar to the "Insurance Agent (Producer) Disclosure for Annuities" form in Appendix A of the 2020 National Association of Insurance Commissioners' (NAIC) Suitability in Annuity Transactions Model Regulation. If NAIC updates or adopts a new version of the "Insurance Agent (Producer) Disclosure for Annuities" form in Appendix A of the 2020 National Association of Insurance Commissioners' Suitability in Annuity Transactions Model Regulation after January 1, 2024, the commissioner shall adopt, and producers shall use, a substantially similar version of the new or amended "Insurance Agent (Producer) Disclosure for Annuities" 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) Other life and annuity products, as specified.

(VI) Mutual funds.

(VII) Stocks and bonds.

(VIII) Certificates of deposit.

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

(ia) From one insurer.

(ib) From two or more insurers.

(ic) From two or more insurers, although primarily contracted with one insurer.

(II) For purposes of this clause, insurers with common ownership and control shall be counted as one insurer.

(iv) A description of the sources and types of cash compensation and noncash 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.

(v) A prominent notice of the consumer's right to request additional information regarding cash compensation to be received by the producer as described in subparagraph (B).

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

(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.

(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.

(C) Before or at the time of recommendation or sale of an annuity, the producer shall inform the consumer of various features of the annuity, such as the potential surrender period and surrender charges, 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 nonguaranteed elements of the annuity, insurance and investment components, and market risk.

(3) Conflict of Interest Obligation. A producer shall identify and avoid or reasonably manage and prominently disclose any material conflicts of interest, including material conflicts of interest relating to an ownership interest.

(4) Documentation Obligation. A producer shall, at the time of recommendation or sale, do all of the following:

(A) Provide the consumer and the insurer with a written record of any recommendation and the basis for the recommendation, subject to this article.

(B) Obtain a customer-signed statement documenting both of the following:

(i) The customer's refusal to provide the consumer profile information, if any.

(ii) The customer's understanding of the ramifications of not providing their consumer profile information or providing insufficient consumer profile information.

(C) Obtain a customer-signed statement acknowledging that an annuity transaction is not recommended if the customer decides to enter into an annuity transaction that is not based on the producer's or insurer's recommendation.

(5) Application of the Best Interest Obligation. Any requirement applicable to a producer under this section 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) Transactions not based on a recommendation.

(1) Except as provided under paragraph (2), a producer shall have no obligation to a consumer under paragraph (1) of subdivision (a) related to any annuity transaction if any of the following are true:

(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 consumer.

(C) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended.

(D) A consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(2) An insurer's issuance of an annuity subject to paragraph (1) shall be reasonable under all the circumstances that are actually known, or that after reasonable inquiry should be known, to the insurer or the producer at the time the annuity is issued.

(c) Supervision System.

(1) Except as permitted under subdivision (b), an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe 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 shall establish, maintain, and utilize a supervision system that is reasonably designed to achieve the insurer's and its producers' compliance with this article, including, but not limited to, the following:

(A) The insurer shall establish, maintain, and utilize reasonable procedures to inform its producers of the requirements of this article and shall incorporate the requirements of this article into relevant producer training manuals.

(B) The insurer shall establish, maintain, and utilize reasonable standards for producer product training, and shall maintain and utilize reasonable procedures to require its producers to comply with the requirements of Section 10509.9205.

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

(D) The insurer shall establish, maintain, and utilize procedures for review of each recommendation before 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, financial needs, insurance needs, and financial objectives. Such review procedures shall 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. 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, maintain, and utilize reasonable procedures to detect recommendations that are not in compliance with subdivisions (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. This subparagraph does not prevent an insurer from complying with this subparagraph by applying sampling procedures, or by confirming consumer profile information or other required information under this section after issuance or delivery of the annuity.

(F) The insurer shall establish, maintain, and utilize reasonable procedures to assess, before 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, maintain, and utilize reasonable procedures to identify and address suspicious consumer refusals to provide complete consumer profile information.

(H) The insurer shall establish, maintain, and utilize reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash 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.

(I) The insurer shall annually provide a written report to its senior management, including to the senior manager responsible for audit functions, that 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.

(3) (A) This subdivision does not restrict an insurer from contracting for performance of a function, including maintenance of procedures, required under this subdivision. An insurer is responsible for taking appropriate corrective action, and may be subject to sanctions and penalties pursuant to Section 10509.9206 regardless of whether or not the insurer contracts for performance of a function and regardless of the insurer's compliance with subparagraph (B). An insurer is responsible for the compliance of its producer with the provisions of this article regardless of whether the insurer contracts for performance of a function required under this subdivision and regardless of the insurer's compliance with subparagraph (B).

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

(i) Reasonable monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed.

(ii) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable 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 either of the following:

(A) A producer's recommendations to consumers of products other than the annuities offered by the insurer.

(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.

(d) Prohibited Practices. A producer or insurer shall not dissuade, or attempt to dissuade, a consumer from any of the following:

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

(2) Filing a complaint.

(3) Cooperating with the investigation of a complaint.

(e) Safe Harbor.

(1) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements of this section. This subdivision 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 a standard would not otherwise apply to the product or recommendation at issue. However, this subdivision does not limit the insurance commissioner's ability to enforce, including conducting investigations related to, the provisions of this article, regardless of whether the financial professional is operating under a comparable standard or in accordance with subdivisions (a) to (d), inclusive, of this section.

(2) Paragraph (1) does not limit the insurer's obligation to comply with paragraph (1) of subdivision (c), 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 do both of the following:

(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 California securities laws using information collected in the normal course of an insurer's business.

(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 California securities laws, information and reports that are reasonably appropriate to assist the entity to maintain its supervision system.

(4) For purposes of this subdivision, "financial professional" means a producer that is regulated and acting as any of the following:

(A) A broker-dealer registered under federal or California securities laws or a registered representative of a broker-dealer.

(B) An investment adviser registered under federal or California laws or an investment adviser representative associated with the federally or California-registered investment adviser.

(C) A plan fiduciary under Section 3(21) of the federal Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. Sec. 1001 et seq.) 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 subdivision, "comparable standards" means:

(A) With respect to broker-dealers and registered representatives of broker-dealers, applicable rules of the United States Securities and Exchange Commission and the Financial Industry Regulatory Authority 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 California 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 (15 U.S.C. Sec. 80b-1 et seq.) or applicable state securities law, including, but not limited to, the Form ADV and interpretations.

(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.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9205. (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 subdivision.

(b) (1) A producer who is otherwise entitled to engage in the sale of annuity products shall complete a one-time eight-credit hour annuity training course approved by the commissioner and provided by a commissioner-approved education provider, prior to commencing the transaction of annuities, pursuant to subdivision (a) of Section 1749.8.

(2) In addition to the requirement set forth in paragraph (1), every producer who engages in this state in the sale of annuity products shall satisfactorily complete four continuing education credits prior to license renewal every two years, pursuant to subdivision (b) of Section 1749.8.

(3) Producers who hold a life insurance line of authority prior to January 1, 2025, and who desire to sell annuities shall complete the requirements of this subdivision by July 1, 2025. Individuals who obtain a life insurance line of authority on or after January 1, 2025, shall not engage in the sale of annuities until the annuity training course required under this subdivision has been completed.

(4) The training required under this subdivision shall include information on all of the following topics:

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

(B) Identification of the parties to an annuity.

(C) How fixed, variable, and indexed annuity contract provisions affect consumers.

(D) The application of income taxation of qualified and nonqualified annuities.

(E) The primary uses of annuities.

(F) Prohibited sales practices, the recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an insurance product, and fraudulent and unfair trade practices, as well as replacement and disclosure requirements for sales of annuities, all as provided under California law, including, but not limited to, this article.

(c) Providers of courses intended to comply with this section shall cover all topics listed for annuities 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.

(d) A provider of an annuity training course intended to comply with this section 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 Section 1749.8 and subdivisions (d) and (e) of Section 1749.1, and in Sections 2188, 2188.1, 2188.2, 2188.3, 2188.4, 2188.50, 2188.6, 2188.7, 2188.8, and 2188.9 of Title 10 of the California Code of Regulations.

(e) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with Sections 2188.2 and 2188.3 of Title 10 of the California Code of Regulations.

(f) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with Section 2188.8 of Title 10 of the California Code of Regulations.

(g) An insurer shall verify that a producer has completed the annuity training required under this section before allowing the producer to sell an annuity for that insurer. An insurer may satisfy its responsibility under this paragraph 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.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9206. (a) An insurer is responsible for compliance with this article. If a violation occurs, either because of the action or inaction of the insurer or its producer, the commissioner may, in addition to any other available penalties, remedies, or administrative actions, order any or all of the following:

(1) An insurer to take reasonably appropriate corrective action for any consumer harm caused by a violation of this article by the insurer, by its producer, or by its intermediary or by an entity that is contracted to perform the insurer's supervisory duties.

(2) A general agency, independent agency, or producer to take reasonably appropriate corrective action for any consumer harmed by the producer's violation of this article.

(3) Penalties and sanctions pursuant to Section 10509.9. For purposes of Section 10509.9, this article shall be deemed to be part of Article 8 (commencing with Section 10509), and the commissioner may in a single enforcement action seek penalties for a first and a second or subsequent violation.

(b) Nothing in this article shall affect any obligation of an insurer for acts of its agents, or any consumer remedy or cause of action that is otherwise provided for.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9207. (a) Insurers, general agents, independent agencies, and producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for five 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 producer.

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

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9208. The commissioner shall, from time to time as conditions warrant, after notice and hearing, adopt reasonable rules and regulations, and amendments and additions thereto, as are necessary to administer this article. The commissioner may adopt regulations not inconsistent with this article pursuant to Section 989J of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9209. (a) A life insurer shall provide to all consumers who purchase an annuity a buyer's guide that shall be delivered as a stand-alone document with the annuity or before delivery of the annuity.

(b) For the purposes of this section, "buyer's guide" means the National Association of Insurance Commissioners' approved Annuity Buyer's Guide most relevant to the type of product being recommended.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)

10509.9210. This article shall apply only to sales or recommendations of annuities made on or after January 1, 2025.

(Added by Stats. 2024, Ch. 2, Sec. 6. (SB 263) Effective January 1, 2025.)