



KEVIN PETERSEN

STATE REPRESENTATIVE

Chairman Steffen and honorable members of the Assembly Committee on Insurance.

Thank you for the opportunity to testify on Assembly Bill 654 relating to: best interest in annuity transactions.

AB 654 enhances protections for annuity consumers through implementation of a best interest standard for sales. Current Wisconsin law subjects annuity sales to a suitability test. The agent or company must have reasonable grounds to believe the sale is suitable, as outlined in the statute. Insurers are responsible for maintaining a supervision system to ensure compliance.

In 2019, the NAIC revised its model to adopt a best interest standard for annuity sales. The proposed legislation adopts the NAIC model. The bill requires financial professionals to act in the best interest of the annuity purchaser and not put their own financial interest ahead of the consumer. To satisfy the best interest obligation, a producer or an insurer must satisfy four obligations detailed in the legislation: care, disclosure, conflict of interest and documentation. To satisfy the best interest obligations, when making a recommendation, a financial professional must:

- Know the consumer's financial situation, insurance needs and financial objectives;
- Understand the available recommendation options;
- Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives;
- Communicate the basis of the recommendation to the consumer;
- Disclose their role in the transaction, their compensation, and any material conflicts of interest; and
- Document, in writing, any recommendation and the justification for such recommendation.

These requirements ensure that customers understand the products and are aware of any material conflicts of interest. Uniform adoption of the model provides consistent protections for consumers regardless of where they reside. The requirements in the legislation align well with federal SEC standards for securities recommendations.



Date: January 18, 2022

To: Representative David Steffen, Chair
Representative Kevin Petersen, Vice-Chair
Members of the Assembly Committee on Insurance

From: Richard Wicka, Chief Legal Counsel
Office of the Commissioner of Insurance

Subject: Assembly Bill 654

The Office of the Commissioner of Insurance (OCI) submits the following comments for your consideration in support of Assembly Bill 654 related to the modification of annuity suitability requirements to adopt a best interest standard for annuity sales. The changes are based on a model regulation of the National Association of Insurance Commissioners (NAIC) and similar changes have been adopted by 18 states and have been proposed for adoption in an additional 5 jurisdictions. This memo provides a summary of the Act's provisions.

Best Interest Standard

The proposed changes to the current annuity sales standards require that an insurance intermediary act in the best interest of the consumer when recommending an annuity sale. An intermediary satisfies this standard by complying with the Act's care obligations, disclosure obligations, conflict of interest obligations, and documentation obligations.

An intermediary complies with the Act's care obligations by exercising reasonable diligence in knowing a consumer's financial needs and recommending products which address those needs. The essence of the best interest standard is that the product recommended meets the consumer's needs and the intermediary place the interests of the consumer above their own.

To comply with the disclosure requirement, the Act requires a disclosure of the intermediary's role in the transaction, a description of the type of products the intermediary is authorized to sell, a description of the number of insurers the intermediary is authorized to sell products for, and a description of the sources of the intermediary's compensation. The NAIC has adopted a model form to provide these disclosures which the Act requires OCI to adopt in substantially the same form. This standard form will provide uniformity and make it easier for intermediaries to comply with these disclosure requirements.

The conflict of interest requirement requires intermediaries to identify and avoid or manage and disclose any material conflict of interests related to the transaction.

Finally, an intermediary meets the documentation requirement by making a written record of the recommendation and the basis of the recommendation. The Act also provides procedures for obtaining consumer acknowledgements where a consumer refuses to provide relevant financial information or an annuity is not recommended.

Other Provisions

The Act makes changes to an insurer's duty to supervise annuity sales and to establish and maintain procedures to detect inappropriate sales in line with the other changes to the law. The Act also includes language that recognizes that sales made under comparable standards comply with the act. This provision removes confusion for professionals who may be operating under state or federal securities law standards and state insurance law standards and recognizes that sales need not be subject to multiple standards that are similar in nature.

OCI was a member of the NAIC committee that drafted the model best interest standards working in conjunction with the life insurance industry, insurance intermediaries, financial professionals, and consumer representatives. OCI believes that these changes provide important safeguards for consumers without imposing an undue burden on annuity sales. The vast majority of insurance intermediaries make annuity recommendations in the consumer's best interest and this Act codifies that standard. The provisions of this bill will allow OCI to take action against those intermediaries who make inappropriate sales and use their own interest above those of the consumer.

Thank you for your consideration of OCI's comments.



Please Support AB 654 / SB 644 Best Interest Standard for Annuity Sales

The National Association of Insurance Commissioners (NAIC) revised the model regulation on annuity sales in February 2020, after two years of work with stakeholders. NAIFA (National Association of Insurance and Financial Advisors) was an active participant in those discussions.

The model bill provides a uniform regulatory framework for states to adopt, as well as consistency with federal regulations. So far, 19 states have adopted the model bill and 10 more are considering it, including Wisconsin.

NAIFA-Wisconsin thanks Rep. Kevin Petersen and Sen. Rob Stafsholt, as well as the bipartisan cosponsors, for introducing the model here. We also appreciate the support of the Office of the Commissioner of Insurance and thank Rep. Steffen for scheduling the hearing. ***We strongly support quick passage by the Wisconsin Legislature to increase consumer protection and help ensure a standardized sales process across the country.***

Requirements Under the Bill

The best interest standard requires insurance agents to act in the best interest of the consumer when recommending or selling annuity products. In other words, they must consider the consumer's needs and financial interests ahead of their own.

The model bill clearly defines the requirements for agents, including:

- Knowing the consumer's financial situation, insurance needs and financial objectives.
- Understanding the available recommendation options.
- Having a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives.
- Communicating the basis of the recommendation to the consumer.
- Disclosing the agent's role in the transaction, products they are licensed and authorized to sell, source of their compensation, and any material conflicts of interest.
- Documenting, in writing, any recommendation and the justification for such recommendation.

The bill also sets enhanced continuing education requirements for annuity sales, including the new best interest obligations.

Please contact Bill McClenahan at Schreiber GR Group with any questions (414.405.1051 or bill@sgrwi.com).