

WAC 284-23-390 Duties of insurers and producers. (1) For purposes of this section, "producer" has the meaning set forth in RCW 48.23.015, unless the context clearly requires otherwise.

(2) For purposes of this section, "consumer profile information" has the meaning set forth in RCW 48.23.015.

(3) In addition to the requirements in RCW 48.23.015 an insurer must:

(a) Establish and maintain reasonable procedures to inform its producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant producer training manuals;

(b) Establish and maintain standards for producer product training and must establish and maintain reasonable procedures to require its producers to comply with the requirements of WAC 284-17-265;

(c) Provide product-specific training and training materials which explain all material features of its annuity products to its producers;

(d) Establish and maintain procedures for the 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, insurance needs, and financial objectives. The 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. The electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(e) Establish and maintain reasonable procedures to detect recommendations that are not in compliance with RCW 48.23.015 (3), (4), and (6), and subsection (6) of this section. 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 subsection prevents an insurer from complying with this subsection 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) Establish and maintain 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) Establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(h) Establish and maintain 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 subsection (3)(h) 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) Annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details the 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.

(4) (a) Nothing in this subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under RCW 48.23.015(5). An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to RCW 48.23.015(7) regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with (b) of this subsection.

(b) An insurer's supervision system must 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 reasonable basis to represent, and does represent, that the function is properly performed.

(5) An insurer is not required to include in its system of supervision:

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

(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.

(6) Neither an insurer nor a producer may dissuade, or attempt to dissuade, a consumer from:

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

(b) Filing a complaint; or

(c) Cooperating with the investigation of a complaint.

(7) Appendices A, B, and C, related to the disclosure and documentation obligations referenced in RCW 48.23.015 are those provided by the National Association of Insurance Commissioner's Suitability in Annuity Transactions Model Regulation (#275), as published on the commissioner's website.

[Statutory Authority: RCW 48.02.060(3), 48.23.015(8), and 2023 c 64. WSR 23-23-049 (Matter R 2023-05), § 284-23-390, filed 11/7/23, effective 1/1/24. Statutory Authority: RCW 48.02.060 and 48.23.015(8). WSR 12-06-019 (Matter No. R 2011-23), § 284-23-390, filed 2/28/12, effective 3/30/12.]