Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615.741.2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 12-12-15
Notice ID(s): 2423, 2424
File Date: 12/16/15

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance & Securities
Contact Person:	Kathleen Dixon, Assistant General Counsel
Address:	The Davy Crockett Tower 500 James Robertson Parkway, 8th Floor Nashville, TN 37243
Phone:	615-532-6830
Email:	kathleen.dixon@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway Davy Crockett Tower, 5th Floor Nashville, Tennessee 37243
Phone:	615-741-0481
Email:	don.coleman@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Tower, 8th Floor Conference Room 8-C		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	2/17/2016		
Hearing Time:	11:00 AM	X CST/CDT	EST/EDT

Additional Hearing Information:

Revision Type (check all that apply):
X Amendment
X New
__ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0780-01-94	Use of Senior-Specific Designations in Life Insurance and Annuities

Rule Number	Rule Title
0780-01-94-.01	Purpose
0780-01-94-.02	Scope
0780-01-94-.03	Authority
0780-01-94-.04	Definition
0780-01-94-.05	Prohibited Uses of Senior-Specific Certifications and Professional Designations

Chapter Number	Chapter Title
0780-04-03	Industry Regulation
Rule Number	**Rule Title**
0780-04-03-.02	Post Regulation

Chapter 0780-01-94
Use of Senior-specific Designations in Life Insurance and Annuities
New Chapter

Table of Contents

0780-01-94-.01 Purpose
0780-01-94-.02 Scope
0780-01-94-.03 Authority
0780-01-94-.04 Definition
0780-01-94-.05 Prohibited Uses of Senior-Specific Certifications and Professional Designations

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.*

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.

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.*

0780-01-94-.04 Definition

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.*

0780-01-94-.05 Use 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 rule 0780-01-94(1)(b)4. 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

(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 rule 0780-01-94-.05(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.*

Chapter 0780-04-03
Industry Regulation
Amendments

Rule 0780-04-03-.02(6) Post Registration is amended by adding the following language as a new sub-paragraph to paragraph (6), to be the last sub-paragraph in the text of the rule:

(d) Use of Senior-Specific Certifications and Professional Designations

1. The following shall be deemed "dishonest or unethical business practices" by a broker-dealer, agent of a broker-dealer, an investment adviser or an investment adviser representative under T.C.A. § 48-1-112(a)(2)(G):

(i) The use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice within the meaning of T.C.A. § 48-1-112(a)(2)(G). The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(I) Use of a certification or professional designation by a person who has not actually earned, or is otherwise ineligible to use, such certification or designation;

(II) Use of a nonexistent or self-conferred certification or professional designation;

(III) Use of a certification or professional designation that indicates or implies a level of occupational qualifications, obtained through education, training, or experience, that the person using the certification or professional designation does not have; and

(IV) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

A. Is primarily engaged in the business of instruction in sales and/or marketing;

B. Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

C. Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

D. Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

2. There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph i(IV) above when the organization has been accredited by:

(i) The American National Standards Institute; or

(ii) The National Commission for Certifying Agencies; or

(iii) 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 certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(i) 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

(ii) The manner in which those words are combined.

4. For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(i) Indicates seniority or standing within the organization; or

(ii) Specifies an individual's area of specialization within the organization; unless

(iii) 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.

For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

5. Nothing in this rule shall limit the Commissioner's authority to enforce existing provisions of law.

Authority: T.C.A. §§ 48-1-102, 48-1-107, 48-1-109, 48-1-110, 48-1-111, 48-1-112, 48-1-113, 48-1-115, 48-1-116, 48-1-118, 48-1-121(a)(2), Public Acts of 2001, Chapter 61, §222 of the Investment Advisers Act of 1940, as amended by §304(a) of the National Securities Markets Improvement Act of 1996, §§203A, 205, and 215 of the Investment Advisers Act of 1940, §17(f)(2) of the Securities Exchange Act of 1934, 17 C.F.R. §240.10b-10, 17 C.F.R. §240.17a-3 through 17 C.F.R. §240.17a-5, 17 C.F.R. §240.17a-11, 17 C.F.R. §240.17f-2, 17 C.F.R. §275.204-2, and the FINRA Rules of Fair Conduct.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: December 16, 2015

Signature: Kathleen Dixon

Name of Officer: Kathleen Dixon

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 12/16/15

Notary Public Signature:

My commission expires on: 12/6/16

DAVID COMBS
STATE OF TENNESSEE NOTARY PUBLIC
WILSON COUNTY

Department of State Use Only

Filed with the Department of State on: 12/16/15

Tre Hargett
Secretary of State

RECEIVED
2015 DEC 16 PM 12:50
SECRETARY OF STATE
PUBLICATIONS