Life Insurance

Now that you have examined some of California's basic insurance laws, you'll focus on regulations that apply specifically to life insurance and annuities. The laws in this section address both employee benefit plans and individual life insurance policies.

A. Life Insurance Basics

1. When Insurable Interest is Required in Life Insurance Policies (CIC 10110)

An important question to ask in providing life insurance is, "On whose life can you buy life insurance, and when is it allowed?"

Naturally, individuals may buy life insurance on themselves. Even though they will be "departed," it is presumed by the company that the individuals who bought the policies care about those "loved ones" they leave behind. In this case, the individual buys the policy and owns the policy. He or she has control over it to increase, decrease, cancel coverage, or change provisions.

Luckily, one may not buy insurance on strangers or mere friends; their consent is required. The insurance company would deem this too risky and frankly--a little suspicious. Remember, in theory, there's no profit in insurance. One cannot speculate on the continuation of someone else's life. Insurance is meant to indemnify one against the effects of the loss insured against. The insurer will require what is called **insurable interest.**

Insurable interest can be determined by asking the following questions:

- If the insured dies, will the policyowner (or his/her dependants) suffer a financial hardship or be left at an economic disadvantage?
- Does the insured owe the policyowner money or some sort of current or future economic support?
- Do the insured and policyowner have a close enough relationship that they share common economic and/or familiar goals?
- Do the insured and policyowner have a common ownership interest in property?

According to state law, every person has **insurable interest** in the following:

- Himself or herself;
- Any person upon whom he/she depends wholly or in part for education or support;
- Any person under a legal obligation for the payment of money or respecting property or services which may be delayed or prevented by death or illness (*for example, child support*); and
- Any person upon whose life any estate or interest vested in him/her depends.

A simple way to determine whether insurable interest exists is by remembering the term **blood and business.**

Blood refers to family relations such as husband and wife, parent and child, or brother and sister. Family members who support one another or have common goals such as purchase of a home or business, often buy life insurance to ensure either support or goals will be met after one of them dies.

Insura[illegible]ort. So, included in this are former family relatio[illegible]t of a divorce decree, the spouse paying alimony/support may also have to maintain (pay for) life insurance on him- or herself. In this case, the other spouse owns the policy. This way, if the payor/insured dies, support will still be paid in some way.

Business refers to relationships such as business partnerships/co-owners, employers and key-employees, and creditors (lenders) and debtors (borrowers).

It is important to note here that insurable interest only applies to the policyowner, not the beneficiary. Neither the policyowner nor the insured need to establish insurable interest when designating a beneficiary. Anyone--a complete stranger, business, or charitable organization--can be a beneficiary as long as he or she is willing to accept the money.

Insurable interest applies to all types of insurance. You wouldn't buy auto insurance on a car that you do not own. There must be an insurable/ownership interest.

When it comes to insurable interest, there is one difference between life and health insurance and property and casualty insurance: *when must the insurable interest exist*?

With life and health, insurable interest must exist **at the time of application** but not necessarily at the time the loss occurs *(CA Ed. Obj.II.A.6. - CIC 10110).* If it's not obvious why someone is going to own a policy on someone else's life (i.e. same address and last name), the agent should note the relationship on the application so that the underwriter is clear as to the insurable interest.

With P&C, the interest must exist **both** at the time of application, **and** when the loss occurs.

B. Life Insurance And Annuities - Policy Replacement/Cancellation

1. Insured's Right to Cancel

Every individual life insurance policy or annuity initially issued or delivered in this state must have printed on the front of the policy or on the cover page a notice stating that the policyowner has a right to return the policy within a specified period of time. The policyowner has the opportunity to review the policy on his or her own and, if dissatisfied, **return the policy for a full refund of all premiums paid.** No questions asked.

Rescinding the policy means it virtually never existed. The owner exercises this right by returning the policy to the original agent or mailing back to the insurer. This right must be clearly stated in the policy's text (outlined on title page and described in text). This timeframe starts when the contract/policy is received and signed for by the owner (not when the application is signed, or policy is underwritten). This is why a signed and dated "Acknowledgment of Delivery Receipt," as well as prompt delivery, is so important. It must be established exactly when this time period starts and ends. A client may cancel a policy after this time period but may not be entitled to a full refund.

Once the insurer receives notification of rescission, the company has 30 days to issue the refund of premiums. If the policy is a variable life or annuity policy, the refund due is the value of the account and any policy fees.

Age 60 or Over

If the insured on the individual life policy or the annuitant on an annuity contract is **60 years of age or older,** the insured has a right to cancel the policy for a full refund within **30 days.** Each individual life policy annuity contract (other than variable contracts and modified guaranteed contracts) delivered to a senior consumer must have the following notice either printed on the cover page or policy jacket in 12-point bold print with one inch of space on all sides, or printed on a sticker attached to the cover page or policy jacket:

"IMPORTANT - YOU HAVE PURCHASED A LIFE INSURANCE POLICY OR ANNUITY CONTRACT. CAREFULLY REVIEW IT FOR LIMITATIONS.

THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT FOR A FULL REFUND BY RETURNING IT TO THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY. AFTER 30 DAYS, CANCELLATION MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE."

The words "known as a surrender charge" may be deleted if the policy does not contain surrender charges or penalties.

Less than 60 Years of Age (CIC 10127.09-10127.10)

The **free look** or **right-to-return period** allowed for new individual life policies must last for at least **10 days.** By law, insurers may give up to 30 days but not less than 10. This does not apply to term conversions or credit life policies.

If the policy is a **replacement**, a minimum **30-day** period is required because this requires even more time for evaluation.

2. Replacement of Life Insurance and Annuity Policies Article (CIC 10509-10509.09)

Replacement is defined as the purchase of a new individual life insurance or a new annuity contract which will result in another policy or contract with another insurer to be lapsed, surrendered, terminated, forfeited, converted to another type of policy (*for example,* exercising a nonforfeiture option), or have the benefits reduced. When a replacement is involved (whether the new agent knows for sure or should reasonably suspect so), extra requirements apply. These include disclosures and notification to the client.

The nature of these replacement guidelines includes the following:

- Making sure the purchaser can make a complete and fair comparison between the two products to make the best decision;
- Reducing the opportunity to make misrepresentations and incomplete disclosures and evaluations; and
- Establishing penalties for failure to comply with these measures.

Requirements

During the time of taking the application and underwriting, **an agent** must do the following:

- When the client already has life insurance, the applications will require a signed statement by the client confirming his or her intentions to replace, as well as a signed statement from the agent determining whether he or she knows/suspects that a replacement may be involved. The application will ask for information on all current life insurance policies the client has.
- If there may be a replacement, there is another separate disclosure form, a "Notice Regarding Replacement of Life Insurance." This must be signed by the client and agent at time of application. On this form detailed information may also be listed concerning the current policy, including name and address of the current insurer(s), as well as policy number and amounts of coverage. A copy of this form (often a triplicate form) is to be left with the client for their records. Another must be sent in with the application, and the agent/branch office may retain the third.
- The new potential insurer is then required to send a copy of this disclosure to the original insurer. This allows the original insurer to contact the client and address any of their concerns. This attempt to “save” the original policy is called **conservation.** As long as it is done truthfully, this allows the client to better make an informed decision. Conservation is good and should be encouraged in the best interest of the client. Copies of materials or information used in replacement or conservation should be left with the client. Remember, notifying the original insurer is not meant to protect the interests of the original agent; it’s for the consumer protection.
- If an existing insurer attempts conservation, it has **20 days** to give the policyowner an outline of the current policy to help him or her make this fair comparison.

When annuities are involved, the disclosure information must be in the contract summary. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries or ledger statement, which must be within 5 working days of the receipt of the request.

Replacement rules do not apply in the following situations:

- Replacing credit life insurance;
- Replacing group life insurance or group annuities;
- When converting or changing the current policy (with the same insurer); and
- Transactions where the replacing insurer and the existing insurer are the same (a new policy).

The burden of following the replacement rules falls on the replacing insurer to ensure that its agents are following these guidelines properly. This includes making sure the applications and disclosures properly ask replacement questions and returning to the agent any applications not correctly completed.

The replacing and existing insurers must retain evidence of all signed applications and disclosures, as well as other materials used in replacement or conservation, for **no less than 3 years.**

If the proposed new policy is underwritten and is then delivered to the client, the client has a **30-day free-look period** to evaluate the policies. Within this time period, if the client chooses to decline the new policy, the insurer must issue a full refund, no questions asked. The replacing insurer must provide a notice stating that the owner has a right to an unconditional refund of all premiums on the front of the policy jacket or on the cover page of its life insurance policy or annuity contract or, alternatively, as a separate written document which is delivered with the life insurance policy or annuity contract.

When an agent isn't used in the sales process (example: direct response or internet marketing), the replacing insurer must present to the client a disclosure similar to the one described earlier, as soon as a replacement is suspected, even if that means presenting the disclosure when the actual policy is delivered (usually via mail).

To maintain this standard, the insurer should still ask on the application what life insurance the applicant currently has, as well as whether a replacement is involved. Not using agents does not excuse companies of their replacement responsibility.

If the client, in his or her haste to save a month's premium, cancels the original policy or just fails to pay it, and then passes the grace period, then the first policy will lapse. The client will then get declined or rated by the new insurer during the underwriting process. If he or she decides against obtaining the new policy, then the person has lost the first policy and is now uninsurable. The client may have trouble reinstating and may be unable to get insurance with the new company. An agent should never leave a client in a worse condition (without any insurance) than the condition in which the client was found.

If a client insists on canceling or changing his or her current coverage before the proper time, the agent should have the client write and sign a letter saying he or she is acting contrary to the agent's advice. Hurting a client in the replacement process is an easy way for an agent to open himself or herself up to administrative troubles with the Department of Insurance and potential legal liability in court.

The following are replacement considerations:

- Even though the policies may be similar, the newer policy may be more expensive because the client is older and potentially not as insurable.
- Changing the current policy may make more sense than starting over with a new policy. The client might not have to worry about starting the incontestability period over as he or she might with a new company. Will the new company honor any incontestability periods that have already been met with the first company?

- Are premiums in either policy guaranteed, or can either change over time? If so, when or how often?
- If cash value, does the current policy have a surrender charge? Would a 1035 exchange benefit the client?

Sample Disclosure (CIC 10509.4(d))

NOTICE REGARDING REPLACEMENT
REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one, or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest. We are required by law to notify your existing company that you may be replacing their policy.

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(Applicant)(Agent)(Date)

Penalties

Any person or entity that violates the replacement provisions of the Insurance Code is liable for the following administrative penalties:

Agents:

- A minimum of $1,000 for a first violation;
- No less than $5,000 and no more than $50,000 per violation for a second or subsequent violation.

Insurer:

- $10,000 for a first violation;
- No less than $30,000 and no more than $300,000 per violation for a second or subsequent violation.

The Commissioner may suspend or revoke the license of any person or entity that violates the articles of the Code.

3. Required Disclosures for Immediate Investments (CIC 10127.10)

Individual life insurance policies and annuity contracts (other than variable contracts and modified guaranteed contracts) that are delivered in this state must have the following notice either printed on the cover page or policy jacket in 12-point bold print with one inch of space on all sides or printed on a sticker that is affixed to the cover page or policy jacket:

"IMPORTANT: YOU HAVE PURCHASED A LIFE INSURANCE POLICY OR ANNUITY CONTRACT. CAREFULLY REVIEW IT FOR LIMITATIONS. THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT FOR A FULL REFUND BY RETURNING IT TO THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY. AFTER 30 DAYS, CANCELLATION MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE."

According to the Code, the phrase "after 30 days, cancellation may result in a substantial penalty, known as a surrender charge" may be deleted if the policy does not contain those charges or penalties.

Individual variable annuity contracts, variable life insurance contracts, or modified guaranteed contracts must be accompanied by a notice that includes:

- Cancellation policy;
- Investments restrictions;
- Refund policy; and
- Penalty and surrender charge.

The following notice must be either printed on the cover page or policy jacket in 12-point bold print with one inch of space on all sides, or printed on a sticker that is affixed to the cover page or policy jacket:

"IMPORTANT: YOU HAVE PURCHASED A VARIABLE ANNUITY CONTRACT (VARIABLE LIFE INSURANCE CONTRACT, OR MODIFIED GUARANTEED CONTRACT). CAREFULLY REVIEW IT FOR LIMITATIONS. THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT. DURING THAT 30-DAY PERIOD, YOUR MONEY WILL BE PLACED IN A FIXED ACCOUNT OR MONEY-MARKET FUND, UNLESS YOU DIRECT THAT THE PREMIUM BE INVESTED IN A STOCK OR BOND PORTFOLIO UNDERLYING THE CONTRACT DURING THE 30-DAY PERIOD. **IF YOU DO NOT DIRECT THAT THE PREMIUM BE INVESTED IN A STOCK OR BOND PORTFOLIO,** AND IF YOU RETURN THE POLICY WITHIN THE 30-DAY PERIOD, YOU WILL BE ENTITLED TO A **REFUND OF THE PREMIUM AND POLICY FEES**. IF YOU DIRECT THAT THE **PREMIUM BE INVESTED IN A STOCK OR BOND PORTFOLIO DURING THE 30-DAY PERIOD**, AND IF YOU RETURN THE POLICY DURING THAT PERIOD, YOU WILL BE ENTITLED TO A **REFUND OF THE POLICY'S ACCOUNT VALUE ON THE DAY THE POLICY IS RECEIVED** BY THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY, WHICH COULD BE LESS THAN THE PREMIUM YOU PAID FOR THE POLICY. A RETURN OF THE POLICY AFTER 30 DAYS MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE."

The words "known as a surrender charge" may be deleted if the contract does not contain those charges.

This law does not apply to life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision contained in a policy. Also, this law does not apply to contributory and noncontributory employer group life insurance, contributory and noncontributory employer group annuity contracts, and group term life insurance.

4. Investment Requirements During the Free-Look Period (CIC 10127.10)

During the 30-day cancellation (free look) period, the premium for a variable annuity may only be invested in fixed-income investments and money-market funds, unless the investor specifically requests that the premium be invested in the mutual funds underlying the variable annuity contract.

C. The Life Insurance Contract

1. Delivery of a Life Policy to the Policyowner (CIC 10113.6)

Basic to all contract law, life and/or disability insurance policies must be signed and dated to remain valid and avoid conflict.

More specifically, the California Code requires that all life/disability contracts issued or delivered in this state must be signed and dated by the policyowner the day the owner/client receives the policy. Nothing added to the policy after this date will be considered as a part of the *entire contract* by any ruling judge, unless agreed upon by both parties to the contract. These additions must be signed by each party and attached to the original contract. Any statements made and incorporated into the policy are considered representations.

The following are acceptable methods of delivery:

- Personal delivery with a signed and dated written receipt of delivery;
- Registered or Certified Mail (requires a signature);
- First Class Mail with a signed and dated written receipt of delivery; or
- Any other reasonable means (as determined by the Commissioner).

Note: Without written and signed proof of delivery, the burden of proof of delivery falls on the insurer and its agent in any legal dispute. Without a signature and date, it is difficult to establish when the appropriate free-look period or right of rescission started. If a loss should occur during this time, it needs to be clear whether a claim should be paid and whether the client accepted or rejected the policy. It is also good practice to get a signed and dated receipt/note when a client rejects a policy in case he/she passes away shortly thereafter (and the family expects an incorrect death benefit).

The following are **advantages of personal delivery**:

- It is another opportunity to explain to the policyowner (insured) what he or she has purchased and why;
- It reinforces the personal relationship with the agent and the company that the agent represents. The policyholder is more likely to give referrals to those agents they trust and with whom they have a personal relationship;
- It gives the agent the opportunity to assess future needs of additional insurance or provide other needed products; and
- If the paperwork or information gathered in underwriting was incomplete or contradictory, the insurer may require the agent to revisit the client when

delivering a policy to also get a signed confirmation that a condition does or does not exist in order to properly cover the client.

D. Employee Benefit Plans - Life

1. Regulatory Requirements

Eligible Groups and Insureds (CIC 10202)

Under group insurance policies, insurance may be extended to insure dependents, and in amounts in accordance with some plan which precludes individual selection. The amounts cannot exceed 100% of the insurance on the life of the insured employee. The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

Dependent includes the member's spouse and all children from birth until 26 years of age, or a child 26 years of age or older who is both incapable of self-sustaining employment by reason of an intellectual disability or physical handicap and chiefly dependent upon the employee for support and maintenance if proof of the incapacity and dependency is furnished to the insurer by the employee within 31 days of the child's attainment of the limiting age.

Dependents of Insured Employees (CIC 10203.4)

Under group insurance policies, insurance may be extended to insure dependents of the insured, in amounts in accordance with a plan that precludes individual selection. The amounts cannot exceed 100% of the insurance on the life of the insured employee. The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

The term **dependents** includes the insured's spouse and all children from birth until **26 years of age,** or children older than 26 years of age who are both incapable of self-sustaining employment by reason of an intellectual disability or physical handicap, and are mainly dependent upon the insured employee for support and maintenance. A disabled child must first be insured within 31 days of having reached the limiting age. Proof of the incapacity and dependency may be required once a year after the first 2 years of the child's attainment of the limiting age. The premiums for the insurance on the dependents may be paid by the employer, the employee, or the employer and the employee jointly.

Types of Policies and Premiums (CIC 10200)

According to the California Insurance Code, any life insurer may issue life, disability, term, and endowment insurance on a group plan with premium rates that are lower than the usual rates for such insurance. Insurance under a franchise agreement or upon a wholesale basis may be written under rates more or less than the usual rates for such insurance.

Incontestability (CIC 10206)

The **incontestability clause** states that the insurer cannot contest the statements on the application after a policy has been in effect for a given length of time (2 years in the state of California). In other words, the insurance company may not rescind the contract on the basis of any error or misrepresentation on the part of the policyowner or insured after the policy has been in force for 2 years.

War/Military/Aviation Risk (CIC 10206.5)

Insurers may reduce or exclude liability for losses arising from war, military or naval service, and aviation.

Misstatement of Age (CIC 10208)

The policy must contain a provision for the equitable adjustment of the premium or the amount of insurance payable in the event of a misstatement of the age of an employee.

Certificate of Insurance (CIC 10209)

The certificate of insurance must list the following information:

- The policy number;
- The name, address, and other contact information for the insurer;
- The name of the insured (the employer or sponsor of the group);
- The amount of insurance provided, and to whom the benefit is payable; and
- Any principal exclusions that appear in the contract.

An individual certificate is deemed to be "*individualized*" if it contains either the name of the employee covered or some other means of identifying to the employee covered that it is his or her individual certificate.

Conversion Privilege and Conversion Period Coverage (CIC 10209)

Also, if the employee is not given notice by the employer or the insurer of his or her right to convert within 15 days of termination of employment, the Insurance Code requires that he or she be given an additional 25 days following the notice to apply for a conversion policy.

In no event, however, will an employee have more than 60 days following the end of any conversion period to elect to convert and pay the first premium for individual coverage, and there is no coverage after the initial 31-day conversion period until a new premium is paid.

A spouse or child who was covered by the group policy as a dependent has the same privilege to convert to an individual plan of insurance, also without evidence of insurability. All of the provisions previously described apply to a dependent’s conversion.

Blanket Life Insurance (CIC 10220, 10222)

The Insurance Code permits insurers to offer annual renewable term life insurance to newspapers, magazines, or other similar publications for the purpose of insuring the following persons:

- Those who deliver publications or collect payments for the publication;
- Those who supervise the deliveries or collections;
- Those who are wholesalers; or
- Others in the distribution, sales, or marketing process of the publication.

The proceeds of the policy cannot benefit the policyholder. The premium can be paid by either the policyholder or by the insured person. If the insured person is a minor, his or her parents can pay the premium.

A person may, by written request, elect not to be covered by a blanket insurance plan. If more than 10% of the persons eligible for coverage elect not to participate, the insurance contract cannot be put into effect, or if it has been in effect, it cannot be renewed.

E. Underwriting/Pricing/Claims

1. Standards to Avoid Unfair Underwriting for the Risk of HIV/AIDS (CIC 799)

The following are guidelines to help insurers avoid unfair underwriting for the risk of HIV/AIDS:

- If tests were performed correctly, insurers may decline a potential insured for coverage if his/her medical sample comes back “positive for HIV/AIDS” after 2 different tests have been performed. The applicant can also be declined if he/she has already been diagnosed with AIDS/HIV by another medical professional.
- These tests must be paid for by insurer, not insured.
- If an insurer tests for HIV, it must first obtain from the insured informed, written consent. This often entails a separate disclosure form signed by all insureds and the agent. A copy of this duplicate form should then be left with the client. The information includes written details on the tests performed, their purposes and uses, and how results will be returned to the insured. The form often asks for a physician’s name and address so that the client’s doctor can get involved should a positive result come back. If the client has no physician, the insurer should urge the client to consult a physician or government health agency.
- Informed consent also includes supplying the client with information concerning AIDS/HIV counseling from third-party sources.
- The information that is gathered must be handled correctly and in compliance with confidentially requirements by authorized personnel.
- If an insured correctly obtains coverage, but later dies due to AIDS or AIDS-related conditions, coverage cannot be limited or denied.

From an ethical and nondiscrimination standpoint, no insurer or its agents may consider the individual’s gender, sexual orientation, marital status, living arrangements, occupation, zip code, or other such related demographic characteristic in determining whether to take an application, provide coverage, or perform any medical testing. The insurers cannot ask if the insured has been tested before, unless it was for insurance purposes. None of this information should be either on the application or implied. This is so the underwriter can make a clearly unbiased determination and avoid overt or apparent discrimination. The only allowable criterion that a company may use to determine whether to test for HIV is the amount of insurance the applicant has applied for at certain age ranges.

Negligently disclosing confidential results or underwriting information to unauthorized third parties may result in a civil fine of up to $1,000 plus court costs. The fine may go up to $5,000 plus costs for willful violations. If the violation causes economic, bodily, or psychological harm to the other party, the penalty may include a **misdemeanor** charge, one year in jail, and/or a fine of up to $10,000.

F. Supplemental California Insurance Code And Ethics

1. Senior Insurance (CIC 785-789.10)

Supplemental Educational Objective

VI.A. Be able to identify the rules regarding the sale to seniors of the types of insurance covered by section 785 through section 789.10 of the CIC.

All insurers, brokers, agents, and others engaged in the transaction of insurance owe a prospective insured who is 65 years of age or older a duty of **honesty, good faith, and fair dealing.**

All life and disability insurance policies offered to individuals age 65 or older must provide for an **examination period of 30 days** to review the contract, at which time the applicant may return the contract. The return will void the policy or certificate from the beginning, and the parties will be in the same position as if no contract had been issued. All premiums paid and any policy or membership fee must be fully refunded to the applicant by the insurer no later than 30 days after the insurer receives the returned policy or certificate.

All entities offering a contract of disability insurance to persons 65 years of age or older must provide the prospective insured with a full and accurate **written comparison with existing health coverage.** These entities must also explain the relationship of the proposed coverage to any existing health benefits provided by Medicare, Medi-Cal, or any other health benefits available to the applicant.

Disability insurers marketing through direct response to persons 65 years of age or older must include in the application form questions to ascertain whether the prospective insured is currently 65 years of age or older and whether the prospective insured is covered by Medi-Cal or a Medicare supplement policy. These insurers must provide the required comparison as early in the transaction as possible but no later than the delivery of the insurance contract.

Any **advertisement** that is directed toward persons age 65 or older must disclose that an agent may contact applicants because of their age. In addition, an agent who makes contact with a person as a result of acquiring that person's name from a lead generating device must disclose that fact in the initial contact with the person.

The following are rules associated with advertising:

- It is illegal to assert that coverages are somehow provided by or are endorsed by any governmental agencies, nonprofit or charitable institutions, or senior organizations;
- No advertisement may use the name of a state or political subdivision in a policy name or description;
- No advertisement may use any name, service mark, slogan, symbol, etc. implying that insurers or its products are connected with a governmental agency, such as the Social Security Administration;
- No advertisement may imply that the reader may lose a right, privilege, or benefits under federal, state, or local law if he or she fails to respond to the advertisement; and
- All advertisements used by agents, producers, brokers, solicitors, or other persons for a policy of an insurer must have written approval of the insurer before they may be used.

An insurer, agent, broker, or other person engaged in the transaction of insurance cannot knowingly sell (or recommend for sale) disability insurance providing health benefits directly to a Medi-Cal beneficiary who is age 65 or older. For disability insurance providing health benefits sold to a person age 65 or older, the application or other supplemental record signed by the applicant must contain a question designed to determine if the applicant is receiving Medi-Cal benefits.

No insurer, broker, agent, or other entity may promote or cause overloading of disability coverage to persons aged 65 years or older. **Overloading** is possession by an insured of functionally identical coverages that overlap or duplicate benefits to the extent that a reasonable person would not consider their ownership to be cost-effective. It can be presumed that disability insurance sold to a person aged 65 years or older is overloading if the insured is already covered by Medicare Parts A and B as well as one Medicare supplement policy, certificate, or contract and coverage for excess charges under Part B.

Insurance policies or certificates of disability insurance sold to persons age 65 or older must return to policyholders or certificate holders benefits that have a minimum loss ratio of 60% for individual policies and 75% for group policies. The loss ratio must be on the basis of incurred claims experience and earned premiums.

Sales of disability insurance, as well as Medicare supplement insurance and long-term care insurance sold to persons aged 65 years or older, must be registered by the insurer with the Commissioner.

Elder means, "any person residing in this state who is 65 years of age or older." If a life agent offers to sell to an elder any life insurance or annuity product, the life agent must advise an elder in writing that the sale or liquidation of any stock, bond, IRA, certificate of deposit, mutual fund, annuity, or other asset to fund the purchase of this product may have tax consequences, early withdrawal penalties, or other costs or penalties as a result of the sale or liquidation. The elder may wish to consult independent legal or financial advice before selling or liquidating any assets and prior to the purchase of any life or annuity products being solicited, offered for sale, or sold.

A life agent who offers for sale or sells a financial product to an elder on the basis of the product's treatment under the Medi-Cal program may not negligently misrepresent the treatment of any asset under the statutes and rules and regulations of the Medi-Cal program, as it pertains to the determination of the elder's eligibility for any program of public assistance.

Any person who meets with a senior in the senior's home is required to notify the senior in writing regarding the visit, its purpose, and the nature of the sales presentation, no less than **24 hours** prior to the initial meeting. If the senior has an existing insurance relationship with an agent and requests a meeting with the agent in the senior's home on the same day, a notice must be delivered to the senior prior to the meeting.

Upon contacting the senior in the senior's home, the person must, before making any statement other than a greeting, state that the purpose of the contact is to talk about insurance or to gather information for a follow-up visit to sell insurance (if that is the case). The person must then state the name and titles of all persons arriving at the senior's home and the name of the insurer represented by the person (if known).

2. Conduct of Licensee

Duty for Disclosure (CIC 1730.5)

Life agents must tell applicants either the date that their coverage will be effective or the conditions that must be met in order for coverage to start. This information must be disclosed at the time of application or receipt of the initial premium. This rule only applies to individual health and disability insurance.

3. Individual Life Insurance

Provisions for Face Value Less than $10,000, etc. (CIC 10127.7)

Every policy of individual life insurance with a face value of less than $10,000 must include a notice stating that the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased. The insurer can establish how long the owner will have to return the policy. This amount of time must be between 10 and 30 days.

If the owner returns the policy, the agreement will be void from its beginning; the parties will be in the same position as if the policy hadn't been issued in the first place. All premiums and any policy fees that have already been paid must be refunded to the owner.

Notice of Right to Cancel Policy (CIC 10127.9)

Every policy of individual life insurance must include a notice stating that the policy may be returned by the owner for cancellation by delivering it to the insurer or agent through whom it was purchased. The period of time established by the insurer for return of the policy must be between 10 and 30 days. The insured may return the policy to the insurer at any time during the period specified in the notice. In the case of individual life insurance policies (other than variable contracts and modified guaranteed contracts), by delivering the policy during the cancellation period, the owner will void the policy from the beginning, and the parties will be in the same position as if no policy had been issued.

All premiums and policy fees paid for the policy must be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the insured has canceled the policy.

In the case of variable annuity contracts, variable life insurance contracts, and modified guaranteed contracts, return of the contract during the cancellation period entitles the owner to a refund of account value and any fee paid for the policy. The account value and policy fee must be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy.

Investment of Variable Annuity Premiums, Individual Annuity Insurance, and Procedures Involving Senior Citizens (CIC 10127.10)

Be able to identify the provisions regarding the investment of variable annuity premiums, individual annuity insurance, and notification, cancellation, and refunds to senior citizens, section 10127.10-CIC.

For the purpose of the laws in this section, **senior citizens** are individuals who are 60 years of age or older on the date of purchase of the policy.

Every individual life insurance and annuity contract that is initially delivered to a senior citizen on or after January 1, 2004, must include a notice stating that the policy may be returned by the owner for cancellation by delivering it to the insurer or agent from whom it was purchased. The period of time set established by the insurer for return of the policy must be at least 30 days.

During the 30-day cancellation period, the premium for a variable annuity may be invested only in fixed-income investments and money-market funds, unless the investor specifically directs that the premium be invested in the mutual funds underlying the variable annuity contract.

Return of the policy within the 30-day cancellation period will have one of the following effects:

- In the case of individual life insurance policies and variable annuity contracts for which the owner has not directed that the premium be invested in the mutual funds underlying the contract during the cancellation period, return of the policy during the cancellation period will have the effect of voiding the policy from the beginning; the parties will be in the same position as if no policy had been issued. All premiums and policy fees paid will be refunded by the insurer to the owner within 30 days from the date the insurer is notified that the owner has canceled the policy; or
- In the case of a variable annuity for which the owner has directed that the premium be invested in the mutual funds underlying the contract during the 30-day cancellation period, cancellation will entitle the owner to a refund of the account value. The account value will be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the contract.

This rule does not apply to life insurance policies issued in connection with a credit transaction or issued under a contractual policy-change or conversion privilege provision contained in a policy. Additionally, this rule does not apply to contributory and noncontributory employer group life insurance, contributory and noncontributory employer group annuity contracts, and group term life insurance.

When an insurer, its agent, group master policyowner, or association collects more than one month's premium from a senior citizen at the time of application or at the time of delivery of a group term life insurance policy or certificate, the insurer must provide the senior citizen a prorated refund of the premium if the senior citizen delivers a cancellation request to the insurer during the first 30 days of the policy period.

Provisions for Life and Annuity Contracts, Illustrations, and Non-guaranteed Values for Senior Citizens (CIC 10127.11)

Supplemental Educational Objective

XI.A.(4) Be able to identify the provisions regarding life insurance and annuity contracts, non-printed illustrations of non-guaranteed values for senior citizens, section 10127.11 of the CIC.

All insurers and life agents offering individual life insurance or annuity contracts issued to senior citizens on and after January 1, 1995, who use nonpreprinted illustrations of nonguaranteed values must disclose on those illustrations or on an attached cover sheet the following statement: "THIS IS AN ILLUSTRATION ONLY. AN ILLUSTRATION IS NOT INTENDED TO PREDICT ACTUAL PERFORMANCE. INTEREST RATES, DIVIDENDS, OR VALUES THAT ARE SET FORTH IN THE ILLUSTRATION ARE NOT GUARANTEED, EXCEPT FOR THOSE ITEMS CLEARLY LABELED AS GUARANTEED." This statement must stand out prominently from the other text. All preprinted policy illustrations must contain this notice in 12-point bold print with at least one-half inch space on all four sides and must be printed on the illustration form itself, on an attached cover sheet, or in the form of a contrasting color sticker placed on the front of the illustration. All preprinted illustrations containing nonguaranteed values must show the columns of guaranteed values in bold print. All other columns used in the illustration must be in standard print. **Values** include cash value, surrender value, and death benefits.

4. Term Life Insurance

Advertisements Directed to Persons 55 Years of Age or Older (CIC 10127.8)

Supplemental Educational Objective

XI.B. Term Life Insurance - Be able to identify the provisions regarding disclosures in advertisements directed to persons 55 years of age or older and monetary value indexing, section 10127.8 of the CIC.

Advertisements for term life insurance directed to individuals 55 years of age or older must adhere to the following criteria:

- Clearly and prominently distinguish basic life insurance benefits from supplemental benefits such as accidental death benefits;
- Prominently disclose any limitations, exceptions, or reductions affecting each benefit;
- Prominently disclose any condition affecting the policy or certificate holder's continued insurability. If term coverage terminates at a stated age or at the end of any designated period, that fact and the specified age or designated period must be disclosed;
- Prominently disclose any change in benefits resulting from the aging of the insured, policy duration, or any other factor; and
- Prominently disclose any change in premium resulting from the aging of the insured, policy duration, or any other factor. If the insurer retains any right to modify premiums in the future, that fact must be disclosed.

If the benefits of the advertised policy or certificate decrease with the insured's age or with policy or certificate duration, while the premium remains approximately constant, that fact must be disclosed in the same form and prominence equal to that given to any positive description of benefits or the telephone number or address provided for further information or application (whichever is the most prominent).

A television or radio advertisement for term life insurance directed to individuals 55 years of age or older must, in the spoken text, contain the statement, "policy (or certificate) benefits and limitations should be carefully examined prior to purchase."

Monetary Value Indexing (CIC 10127.8)

The Commissioner may, by regulation, adopt a term life insurance monetary value index (similar to the Life Insurance Surrender Cost Index) to be disclosed in all advertisements and policies of term life insurance for individuals 55 years of age or older. In developing a term life insurance monetary value index, the Commissioner must consider actual premiums and policy benefits and the manner in which they are affected with the passage of time. Any term life insurance monetary value index must assume that the insured would want to retain coverage for at least 10 years.

5. General Regulation of Life Insurers

Records that a Life Agent Must Maintain (CIC 10508 and 10508.5)

Supplemental Educational Objective

XIII.A. Be able to identify the records a life agent must maintain, sections 10508 and 10508.5 of the CIC.

It is the obligation of each agent to preserve and maintain all applicable records in his or her possession, in addition to those records transmitted to the insurer. The records must be kept at the agent's principal place of business for at least 5 years and must be organized enough for the Commissioner to inspect and examine them at any time.

Insurers must also keep records associated with all insurance transactions. These records must be maintained for a minimum period of 5 years following the actual delivery of the insurance policy or contract or, if no policy or contract was issued, for a minimum period of 5 years after the date of the application.

The following is a list of documents that an insurer is required to keep, which significantly overlaps with the records required to be kept by the agent:

- The original application for each insurance policy or contract sold in California;
- Records showing, for each insurance policy or contract issued, the premiums received by the insurer;
- Production records showing all insurance policies or contracts sold in the expired portion of the current calendar year and the whole of each of the preceding 5 calendar years;
- Records showing, for each insurance policy or contract issued, the amount of commissions paid and to whom;
- Records or memoranda identifying any agent other than the agent whose name appears on the application who, to the actual knowledge of the insurer, handled any part of an insurance transaction for which the other agent was not compensated;
- Correspondence, written solicitations, proposals, or other written communications sent by the insurer to a prospect, applicant, or insured. This excludes printed material in general use distributed by the insurer, either directly or indirectly through agents;
- Correspondence, written proposals, notices, a statement of reasons, or other written communications pertaining to the rescission, termination, or nonrenewal of a contract, or the election of nonforfeiture values sent by an insurer to a policyholder or received from him or her by an insurer;
- A copy of a written comparison of benefits, limitations, exclusions, and costs of existing or proposed accident, sickness, or long-term care coverage;
- A copy of the outline of coverage or disclosure statement required by law or regulation;
- Copies of any correspondence between the policyholder or prospective policyholder and the agent or insurer; and
- Copies of correspondence between anyone acting on behalf of the policyholder or prospective policyholder and the agent or insurer.

Life Insurance Policy Illustrations (CIC 10509.950-10509.965)

Supplemental Educational Objective

XIII.B. Be able to identify the requirements applicable to an agent for life insurance policy illustrations, section 10509.950 through section 10509.965 of the CIC.

The rules for life insurance policy illustrations apply to all group and individual life insurance policies and certificates except for the following:

- Variable life insurance;
- Individual and group annuity contracts;
- Credit life insurance; and
- Life insurance policies with no illustrated death benefits on any individual exceeding $10,000.

All insurers marketing policies must tell the Commissioner whether a policy form will be marketed with or without an illustration. If an *illustration will NOT be used*, any use of an illustration for any policy using that form prior to the first policy anniversary is **prohibited.**

If a policy form is identified by the insurer as one to be *marketed with an illustration*, a basic illustration is **required**, except that it does not need to be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant, unless the coverage is marketed to these individuals. The illustration furnished to an applicant for a group life insurance policy issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

An illustration used in the sale of a life insurance policy must include the following information:

- Name of insurer;
- Name and business address of producer or insurer's authorized representative (if any);
- Name, age, and sex of proposed insured;
- Underwriting or rating classification upon which the illustration is based;
- Generic name of the policy, the company product name, and form number;
- Initial death benefit; and
- Dividend option election or application of nonguaranteed elements (if applicable).

When using an illustration in the sale of a life insurance policy, an insurer or its producers cannot do any of the following:

- Represent the policy as anything other than a life insurance policy;
- Use or describe nonguaranteed elements in a manner that is misleading;
- State or imply that the payment or amount of nonguaranteed elements is guaranteed;
- Use an illustration that does not comply with the requirements of this rule;
- Use an illustration that depicts policy performance more favorable to the policyowner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- Provide an applicant with an incomplete illustration;
- Represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- Use the term "vanishing" or "vanishing premium" (or a similar term that implies the policy becomes paid up) to describe a plan for using nonguaranteed elements to pay a portion of future premiums;
- Except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported" or
- Use an illustration that is not "self-supporting."

Lapse supported illustrations are illustrations of a policy form failing the test of "self-supporting", under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first 5 years and 100% policy persistency thereafter.

Self-supporting illustrations are illustrations of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the 15th policy anniversary or the 20th policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cashflows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

If an interest rate used to determine the illustrated nonguaranteed elements is shown, it cannot be greater than the earned interest rate underlying the disciplined current scale.

If a basic illustration is used by a producer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration must be submitted to the insurer at the time of the policy application. A copy also must be provided to the applicant.

If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued must be sent with the policy. The revised illustration will be labeled "Revised Illustration" and must be signed and dated by the applicant or policyowner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy must be provided to both the insurer and the policyowner.

If no illustration is used by an insurance producer in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer must certify this in writing on a form provided by the insurer. On the same form, the applicant must acknowledge that no illustration conforming to the policy applied for was provided and must further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form must be submitted to the insurer at the time of policy application.

If the policy is issued, a basic illustration conforming to the policy as issued must be sent with the policy and signed by the policyowner no later than the time the policy is delivered. A copy must be provided to both the insurer and the policyowner.

If the basic illustration or revised illustration is sent by the insurer to the applicant or policyowner by mail, it must include instructions for the applicant or policyowner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation will be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort will be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

A copy of the basic illustration and a revised basic illustration (if any) signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, must be retained by the insurer until 3 years after the policy is no longer in force. A copy does not need to be retained if a policy is not issued.