AUTHENTICATED,
OHIO LEGISLATIVE SERVICE
COMMISSION
DOCUMENT #349331

Ohio Administrative Code

Rule 3901-6-13 Suitability in annuity transactions.

Effective: February 14, 2021

(A) Purpose

(1) The purpose of this rule is to require insurance agents, as defined in this rule, to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers, including fraternal benefit societies, to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of consumers, at the time of the transaction, are effectively addressed.

(2) This rule will bring Ohio law into compliance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law Number 111-203, 111th Cong., 2d sess. (July 21, 2010).

(B) Authority

This rule is adopted pursuant to the authority vested in the superintendent under sections 3901.041 and 3901.19 to 3901.26 of the Revised Code.

(C) Scope

(1) This rule shall apply to any sale or recommendation of an annuity.

(2) Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule or to subject an insurance agent to civil liability under the best interest standard of care outlined in this rule or under standards governing the conduct of a fiduciary or a fiduciary relationship.

(D) Exemptions

Unless otherwise specifically included, this rule shall not apply to transactions involving:

(1) Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this rule;

(2) Contracts used to fund:

(a) An employee pension or welfare benefit plan that is covered by the "Employee Retirement and Income Security Act" (ERISA);

(b) A plan described by sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer;

(c) A government or church plan defined in section 414 of the Internal Revenue Code, 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 Internal Revenue Code; or

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

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

(4) Formal pre-need funeral contracts, as defined in division (T) of section 4717.01 of the Revised Code, provided the consideration paid to purchase, exchange or replace the annuity is reasonable related to the price of the pre-need funeral contract, and a pre-need funeral contract is in place at the time the annuity is purchased, exchanged or replaced.

(E) Definitions

(1) "Annuity" means an annuity that is an insurance product under state 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 charge, loan, override, or cash benefit received by an insurance agent in connection with the recommendation or sale of an annuity from an insurer, intermediary, or directly from the 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;

(d) Financial experience;

(e) Insurance needs;

(f) Financial objectives;

(g) Intended use of the annuity;

(h) Financial time horizon;

(i) Existing assets or financial products, including investment, annuity and insurance holdings;

(j) Liquidity needs;

(k) Liquid net worth;

(l) Risk tolerance, including but not limited to, willingness to accept non-guaranteed elements in the annuity;

(m) Financial resources used to fund the annuity; and

(n) Tax status.

(4) "Continuing education credit" or "CE credit" means fifty minutes of educational instruction that has been specifically approved to meet the agent annuity training requirements of paragraph (G)(2) of this rule.

(5) "Continuing education provider" or "CE provider" means an individual or entity that is approved to offer continuing education courses pursuant to rule 3901-5-02 of the Administrative Code.

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

(7) "Insurer" means a company, including a fraternal benefit society, required to be licensed under the laws of this state to provide insurance products, including annuities.

(8) "Insurance agent" or "agent" means a person or entity required to be licensed under the laws of this state to sell, solicit or negotiate insurance, including annuities. For purposes of this rule, "insurance agent" or "agent" include an insurer where no insurance agent is involved.

(9) "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 insurance agents.

(10) "Material conflict of interest" means a financial interest of the agent 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 non-cash compensation.

(11) "Non-cash 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.

(12) "Non-guaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest based credits, charges or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An

element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

(13) "Recommendation" means advice provided by an insurance agent to an individual consumer that was intended to result or does result in a purchase, an exchange or a replacement of an annuity in accordance with that advice. 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 is to be purchased, and it is known or should be known to the proposing agent, or to the proposing insurer whether or not an agent is involved, that by reason of the transaction, an existing annuity or other 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 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; or

(e) Used in a financed purchase.

(15) "SEC" means the United States securities and exchange commission.

(F) Duties of insurers, including fraternal benefit societies and insurance agents

(1) Best interest obligations. An insurance agent, 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 agent's or the insurer's financial interest ahead of the consumer's interest. An agent has acted in the best interest of the consumer if they have satisfied the following obligations regarding care, disclosure, conflict of interest and documentation:

(a)

(i) Care obligation. The agent, in making a recommendation shall exercise reasonable diligence, care and skill to:

(a) Know the consumer's financial situation, insurance needs and financial objectives;

(b) Understand the available recommendation options after making a reasonable inquiry into options available to the agent;

(c) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, as evaluated in light of the consumer profile information; and

(d) Communicate the basis or bases of the recommendation.

(ii) The requirements under paragraph (F)(1)(a)(i) of this rule include making reasonable efforts to obtain consumer profile information from the consumer prior to the recommendation of an annuity.

(iii) The requirements under paragraph (F)(1)(a)(i) of this rule require an agent to consider the types of products the agent 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 agent or other possible alternative products or strategies available in the market at the time of the recommendation. Agents shall be held to standards applicable to agents with similar authority and licensure.

(iv) The requirements under paragraph (F)(1) of this rule do not create a fiduciary obligation or relationship and only create a regulatory obligation as established in this rule.

(v) The consumer profile information, characteristics of the insurer, and product costs, rates, benefits and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, but the level of importance of each factor under the care obligation of paragraph (F)(1)(a) of this rule may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

(vi) The requirements under paragraph (F)(1)(a)(i) of this rule 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.

(vii) The requirements under paragraph (F)(1)(a)(i) of this rule 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.

(viii) The requirements under paragraph (F)(1)(a)(i) of this rule do not mean the annuity with the lowest one-time or multiple occurrence compensation structure shall necessarily be recommended.

(ix) The requirements under paragraph (F)(1)(a)(i) of this rule do not mean the agent 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 agent.

(x) In the case of an exchange or replacement of an annuity, the agent shall consider the whole transaction, which includes taking into consideration whether:

(a) 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 and similar product enhancements;

(b) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(c) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding sixty months.

(xi) Nothing in this rule should be construed to require an agent to obtain any license other than an insurance agent license with the appropriate line of authority to sell, solicit or negotiate insurance in this state, including but not limited to any securities license, in order to fulfill the duties and obligations contained in this rule; provided the agent does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

(b) Disclosure obligation.

(i) Prior to the recommendation or sale of an annuity, the agent shall prominently disclose to the consumer on a form substantially similar to appendix A of this rule:

(a) A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction;

(b) An affirmative statement on whether the agent is licensed and authorized to sell the following products:

(i) Fixed annuities;

(ii) Fixed indexed annuities;

(iii) Variable annuities;

(iv) Life insurance;

(v) Mutual funds;

(vi) Stocks and bonds; and

(vii) Certificates of deposit.

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

(i) From one insurer;

(ii) From two or more insurers; or

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

(d) A description of the sources and types of cash compensation and non-cash compensation to be received by the agent, including whether the agent 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 agent or by fee as a result of a contract for advice or consulting services; and

(e) A notice of the consumer's right to request additional information regarding cash compensation described in paragraph (F)(1)(b)(ii) of this rule.

(ii) Upon request of the consumer or the consumer's designated representative, the agent shall disclose:

(a) A reasonable estimate of the amount of cash compensation to be received by the agent, which may be stated as a range of amounts or percentages; and

(b) 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.

(iii) Prior to or at the time of the recommendation or sale of an annuity, the agent shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, 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 non-guaranteed elements of the annuity, insurance and investment components and market risk.

(c) Conflict of interest obligation. An agent shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(d) Documentation obligation. An agent shall at the time of recommendation or sale:

(i) Make a written record of any recommendation and the basis for the recommendation subject to this rule;

(ii) Obtain a consumer signed statement on a form substantially similar to appendix B of this rule documenting:

(a) A customer's refusal to provide the consumer profile information, if any; and

(b) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.

(iii) Obtain a consumer signed statement on a form substantially similar to appendix C of this rule acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the agent's recommendation.

(e) Application of the best interest obligation. Any requirement applicable to an agent under paragraph (F)(1) of this rule shall apply to every agent 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 agent 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 an agent do not, in and of themselves, constitute material control or influence.

(2) Transactions not based on a recommendation.

(a) Except as provided under paragraph (F)(2)(b) of this rule, an insurance agent, shall have no obligation to a consumer under paragraph (F)(1) of this rule related to any annuity transaction if:

(i) No recommendation is made;

(ii) A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(iii) A consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or

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

(b) An insurer's issuance of an annuity subject to paragraph (F)(2)(a) of this rule shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(3) Supervision system

(a) Except as permitted under paragraph (F)(2) of this rule, an insurer may 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.

(b) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its insurance agents' compliance with this rule, including, but not limited to, the following:

(i) The insurer shall establish and maintain reasonable procedures to inform its insurance agents of the requirements of this rule and shall incorporate the requirements of this rule into relevant

insurance agent training manuals;

(ii) The insurer shall establish and maintain standards for insurance agent product training and shall establish and maintain reasonable procedures to require its insurance agents to comply with the requirements of paragraph (G) of this rule;

(iii) The insurer shall provide product-specific training and training materials that explain all material features of its annuity products to its insurance agents;

(iv) The insurer shall establish and maintain procedures for the review of each recommendation prior to 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. Such 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. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(v) The insurer shall establish and maintain reasonable procedures to detect recommendations that are not in compliance with paragraphs (F)(1), (F)(2), (F)(4), and (F)(5) of this rule. These may include, but are not limited to, confirmation of consumer's consumer profile information, systematic customer surveys, agent and consumer interviews, confirmation letters, agent statements or attestations and programs of internal monitoring. Nothing in this paragraph prevents an insurer from complying with this paragraph by applying sampling procedures, or by confirming the consumer profile information or other required information under paragraph (F) of this rule after issuance or delivery of the annuity;

(vi) The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether an agent has provided to the consumer the information required to be provided under paragraph (F) of this rule;

(vii) The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information;

(viii) The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this paragraph 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

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

(c)

(i) Nothing in paragraph (F)(3) of this rule restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under paragraph (F)(3) of this rule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to paragraph (H) of this rule regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with paragraph (F)(3)(c)(ii) of this rule.

(ii) An insurer's supervision system under paragraph (F)(3) of this rule shall include supervision of contractual performance under this paragraph. This includes, but is not limited to, the following:

(a) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(b) 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.

(d) An insurer is not required to include in its system of supervision an insurance agent's

recommendations to consumers of products other than the annuities offered by the insurer, or include consideration of or comparison to options available to the agent or compensation relating to those options other than annuities or other products offered by the insurer.

(4) Prohibited practices. Neither an agent nor an insurer shall 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.

(5) Safe harbor

(a) Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements under this rule. Paragraph (F)(5) of this rule 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 standard would not otherwise apply to the product or recommendation at issue. However, nothing in paragraph (F)(5) of this rule shall limit the superintendent's ability to investigate and enforce the provisions of this rule.

(b) Nothing in paragraph (F)(5)(a) of this rule shall limit the insurer's obligation to comply with paragraph (F)(3)(a) of this rule, although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

(c) For paragraph (F)(5)(a) of this rule to apply, an insurer shall:

(i) Monitor the relevant conduct of the financial professional seeking to rely on paragraph (F)(5)(a) of this rule or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal securities laws using information collected in the normal course of an insurer's business; and

(ii) Provide to the entity responsible for supervising the financial professional seeking to rely on paragraph (F)(5)(a) of this rule, such as the financial professional's broker-dealer or investment adviser registered under federal securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

(d) For purposes of paragraph (F)(5) of this rule, "financial professional" means an agent that is regulated and acting as:

(i) A broker-dealer registered under federal securities laws or a registered representative of a broker-dealer;

(ii) An investment adviser registered under federal securities laws or an investment adviser representative associated with the federal registered investment adviser; or

(iii) A plan fiduciary under section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) or fiduciary under section 4975(e)(3) of the Internal Revenue Code (IRC) or any amendments or successor statutes thereto.

(e) For purposes of paragraph (F)(5) of this rule, "comparable standards" means:

(i) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules 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;

(ii) With respect to investment advisers registered under federal 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, including but not limited to, the form ADV and interpretations; and

(iii) With respect to plan fiduciaries or fiduciaries, means the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

(G) Insurance agent training

(1) An insurance agent shall not solicit the sale of an annuity product unless the insurance agent has adequate knowledge of the product to recommend the annuity and the insurance agent is in compliance with the insurer's standards for product training. An insurance agent may rely on insurer-provided product-specific training standards and materials to comply with this paragraph.

(2) In addition to the requirements in paragraph (G)(1) of this rule, insurance agents subject to this rule shall comply with the following continuing education requirements:

(a) An insurance agent who engages in the sale, solicitation or negotiation of annuity products shall complete a one-time four credit training course provided by a department of insurance approved continuing education provider.

(b) An insurance agent who holds a life insurance line of authority on the effective date of this rule and who desires to sell annuities shall complete the requirements of paragraph (G)(2) within six months after the effective date of this rule. Individuals who obtain a life insurance line of authority on or after the effective date of this rule may not engage in the sale of annuities until the annuity training course required under paragraph (G)(2) of this rule has been completed.

(c) The minimum length of the training required under paragraph (G)(2) of this rule shall be sufficient to qualify for at least four CE credits, but may be longer.

(d) The training required under paragraph (G)(2) of this rule shall include information on the following topics:

(i) The types of annuities and various classifications of annuities;

(ii) Identification of the parties to an annuity;

(iii) How product specific annuity contract features affect consumers;

(iv) The application of income taxation of qualified and non-qualified annuities;

(v) The primary uses of annuities; and

(vi) Appropriate standard of conduct, sales practices, replacement and disclosure requirements.

(e) Providers of courses intended to comply with paragraph (G)(2) of this rule shall cover all topics listed 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.

(f) A provider of an annuity training course intended to comply with paragraph (G)(2)(a) of this rule shall register as a CE provider in this state and comply with the rules and guidelines applicable to insurance agent and continuing education courses as set forth in rule 3901-5-02 of the Administrative Code.

(g) An agent who has completed an annuity training course approved by the department of insurance prior to the effective date of this rule shall, within six months after the effective date of this rule, complete either:

(i) A new four credit training course approved by the department of insurance after the effective date of this rule; or

(ii) An additional one-time one credit training course approved by the department of insurance and provided by the department of insurance-approved education provider on appropriate sales practices, replacement and disclosure requirements under this amended rule.

(h) Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with rule 3901-5-03 of the Administrative Code.

(i) Providers of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with rule 3901-5-04 of the Administrative Code.

(j) For Ohio non-resident agents, the satisfaction of the training requirements of another state that are substantially similar to the provisions of paragraph (G)(2)(a) of this rule shall be deemed to satisfy the training requirements of paragraph (G)(2) of this rule in this state.

(k) The satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of paragraph (G)(2) of this rule shall be deemed to satisfy the training requirements of paragraph (G)(2) of this rule in this state.

(l) An insurer shall verify that an insurance agent has completed the four hour annuity training course required under paragraph (G)(2) of this rule before allowing the agent to sell an annuity product for that insurer. An insurer may satisfy its responsibility under paragraph (G)(2) of this rule by obtaining certificates of completion of the training course or obtaining reports provided by superintendent-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(H) Compliance mitigation; penalties

(1) An insurer is responsible for compliance with this rule. If a violation occurs, either because of the action or inaction of the insurer or its insurance agent, the superintendent may order:

(a) An insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this rule by the insurer, an entity contracted to perform the insurer's supervisory duties or by its insurance agent;

(b) A general agency, business entity, independent agency or the insurance agent to take reasonably appropriate corrective action for any consumer harmed by the insurance agent's violation of this rule; and

(c) Appropriate penalties and sanctions.

(2) Any applicable penalty under the Unfair and Deceptive Trade Practices Act, sections 3911.19 to 3911.26 of the Revised Code, for a violation of this rule may be reduced or eliminated if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not

part of a pattern or practice.

(3) The authority to enforce compliance with this rule is vested exclusively in the superintendent of insurance.

(I) Record keeping

(1) Insurers, independent agencies, business entity agents and insurance agents shall maintain or be able to make available to the superintendent records of the information collected from the consumer, disclosures made to the consumer, including the summaries of oral disclosures, and other information used in making the recommendations that were the basis for insurance transactions for eight 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 an insurance agent.

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

(J) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect.

(K) Effective date

Insurers and insurance agents shall comply with the requirements of this rule within six months after the effective date of this rule.