

## INSURANCE LAW ALERT

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### New York State Insurance Regulations Reinforce Protections For Consumers Buying Annuities And Life Insurance

The New York Superintendent of Insurance, James Wrynn, announced on March 8, 2011, two emergency regulations put into place to protect consumers with regard to the sale of life insurance and annuities. The emergency regulations: (i) require that only a suitable annuity, based on a consumer's financial profile and needs, be recommended to a consumer by an insurer, agent or broker; and (ii) prohibit insurance agents and brokers from using titles, such as "certified senior advisor" or "certified elder planning specialist," that might suggest that those that carry the title have special expertise on issues regarding seniors when, in fact, they have no such objective credentials or qualifications.

The first regulation is designed to stop the sale of unsuitable or inappropriate annuities which encourage unjustified "switches or replacements," when the benefits of the new annuity are more than offset by the high cost of surrendering the existing annuity due to surrender charges, or where an annuity is sold with a higher investment risk or designed for a longer term investment horizon to an elderly client who is unlikely to live long enough to realize the benefits from the annuity and whose needs would be better served by some other insurance product or investment. The regulation also requires that enhanced information be provided to consumers with respect to various features of the annuities being sold, such as potential surrender periods and charges; the availability of cash value; potential tax implications if the consumer sells, surrenders or annuitizes the contract; death benefits; and various fees which could be charged, as well as benefits from certain features of the annuity being sold, such as tax-deferred growth, annuitization or death or living benefits.

The second regulation addresses the fact that some agents and brokers use misleading titles, as noted above, to garner seniors' confidence in order to sell them insurance products. The regulation expressly prohibits the use of these misleading titles and the fraudulent marketing practices linked to the use of such titles in the sale, solicitation, purchase or advice made in connection with life insurance or annuity contracts. ■

*For more information about any of the topics covered in this issue of the Insurance Law Alert, please contact:*

*Cynthia J. Borrelli, Esq.  
cborrelli@bressler.com  
973.966.9685*

*Susan Stryker, Esq.  
sstrzyker@bressler.com  
973.966.9681*

*Harry M. Baumgartner, Esq.  
hbaumgartner@bressler.com  
973.966.9675*

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