**What Is Suitability?**

Most of those involved in the financial services arena have a sense of what suitability means. Virtually all forms of financial products sold today are regulated by state and federal laws that include suitability requirements. In that respect, the sale of long-term care insurance is no different than the sale of any other life or health insurance product.

However, having a sense for what suitability means does not necessarily translate into an understanding of what it takes to comply. While it might be tempting to dismiss suitability as being too intangible for compliance, the fact is, clear guidelines are available to help insurers and producers determine the suitability of the LTC policy being recommended to, or considered by, a consumer. A good place to start is with the NAIC.

**NAIC and Suitability**

The NAIC addresses suitability in its Long-Term Care Insurance Model Act and Regulation, where it places responsibility on both the producer and the insurer to make sure sales of long-term care insurance adhere to suitability principles.

To determine whether the applicant meets the [suitability] standards developed by the issuer, the agent and issuer shall develop procedures that take the following into consideration:

* + the (applicant’s) ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;
  + the applicant’s goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and
  + the values, benefits, and costs of the applicant’s existing insurance, if any, when compared to the values, benefits, and costs of the recommended purchase or replacement.

The insurer and the producer are expected to make “reasonable efforts” to obtain the information necessary to answer these fundamental questions of suitability. To support this, the model regulation requires that applicants be asked to complete a “Long-Term Care Insurance Personal Worksheet” (reviewed later in this chapter).

**Insurers Responsible for Instituting the Suitability Process**

The NAIC Long-Term Care Insurance Model Act instructs insurers to develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is “appropriate for the needs of the applicant.” The model regulation does not provide details for how those suitability standards should read but instead leaves it up to the insurer to define these standards. However they are defined, insurers are required to “maintain a copy of their suitability standards and make them available for inspection upon request by the (state’s insurance) commissioner.”

Insurers are also responsible for training their agents (and any other producer who sells their LTCI products) in applying their suitability standards.

**Producers Responsible for Suitable Recommendations**

The NAIC Model Act makes clear that producers are responsible for determining suitability of LTCI recommendations

* use the suitability standards developed by the insurer in marketing long-term care insurance and making long-term care insurance recommendations; and
* give applicants a copy of the NAIC disclosure form entitled “Things You Should Know Before You Buy Long-Term Care Insurance” at the same time the personal worksheet is provided to the applicant.

**When Is Suitability Determined?**

Waiting until after a policy is issued to determine the suitability is too late. In its Long-Term Care Insurance Model Act and Regulation, the NAIC specifies a process for determining suitability before the policy is issued. The process begins with producer engaging the applicant in fact-finding interview to determine first if an LTCI policy is needed and then what kind of policy is most appropriate for the person’s goals and needs. The process ends with the insurance company, through the underwriting process, confirming the policy’s suitability based on personal facts supplied by the applicant.

**Suitability at the Time of Sale**

**Suitability of Life Insurance Products**

The process of determining the suitability of any life insurance product really begins the moment the producer begins discussing a product with the client. Suitability factors can be separated into three broad categories: knowledge, need and purpose

**Does the Applicant Understand the Product?**

Does the applicant understand long-term care insurance and how it works? If so, does he or she understand the product being recommended? And, does the applicant understand the specific policy benefits being selected?

These are just some of the things that applicants should know before signing an application for an insurance product:

* *A Shopper’s Guide to Long-Term Care Insurance*, which explains LTCI in general terms;
* “Things You Should Know Before You Buy Long-Term Care Insurance,” which is a list of specific issues and concerns the applicant is advised to consider before purchasing a policy; and
* an outline of coverage, which is a brief description of the policy’s most important features as well as disclosures of what the policy does and does not cover.

**Does the Applicant Need the Product?**

Aside from the applicant’s understanding of the product, the most important question to ask when determining suitability is, “Does the individual need this coverage?” Related to this question is another equally important one: “Can the applicant afford this insurance?”

In the case of partnership policies, an additional question should be posed: “Does the applicant have assets to protect?” If assets are not sufficient to let the applicant benefit significantly from Medicaid’s spend-down exemption, there would seem little benefit in owning a partnership policy.

**Is a specific product best meet the Purpose of the Client?**

Aside from the applicant’s understanding of the product, does the product meet the purpose of the client and his/her objectives

**Timing Risk?**

Many clients are playing Russian roulette