

**Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION  
Division 700-Insurance Licensing  
Chapter 1—Insurance Producers**

**AMENDED ORDER OF RULEMAKING**

By the authority vested in the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration under sections 374.040, 374.045, 375.013 and 375.143 RSMo 2000, the director adopts a rule as follows:

**20 CSR 700-1.152** Recommendations of Long Term Care Insurance to Customers (Suitability) **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 2, 2008 (32 MoReg 91). Changes have been made in the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS:

COMMENT #1: C. Bryan Cox, Miriam Krol and Amanda K. Matthiesen, on behalf of ACLI, commented that Missouri already has a long term care suitability rule in 20 CSR 400-4.100 and does not need additional suitability rules.

RESPONSE: The director agrees that 20 CSR 400-4.100 addresses suitability, but it only requires companies develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the customer. The current rule focuses on a customer's ability to pay and fails to address various other factors that affect suitability. The director believes the rule, as modified, effectively incorporates the information currently embodied in the suitability worksheet referenced in 20 CSR 400-4.100, or is otherwise generally necessary for a producer to have reasonable grounds to believe a recommendation of a long term care contract is suitable for the customer.

COMMENT #2: Miriam Krol and Amanda K. Matthiesen, on behalf of ACLI, commented that some of the information required by the proposed rule may conflict with concerns about privacy and identity theft.

RESPONSE: The producer would have significant duties to protect the identity of the customer and any financial information gathered in documenting the suitability of the recommendation, but that responsibility is not justification to avoid the duty to have reasonable grounds to believe a recommendation is suitable. No changes have been made to the rule as a result of this comment.

COMMENT #3: Miriam Krol and Amanda K. Matthiesen, on behalf of ACLI, commented that the proposed rule may adversely impact direct sales, internet sales, worksite sales and employer sales because member companies believe that employers may have concerns about requiring employees to disclose financial and personal information.

RESPONSE: If direct sales, internet sales and employer sales involve producers, then the conduct rule outlined in 20 CSR 700-1.145 Standards of Commercial Honor and Principles of Trade in Life, Annuity and Long Term Care Insurance Sales applies. No changes have been made to the rule as a result of this comment.

COMMENT #4: The director received numerous comments encouraging the department to promulgate a rule that is more consistent with other states' regulation.

RESPONSE: The director has amended this rule to delete the customer's insurance objectives, investment objectives and investment and insurance experience as suitability considerations.

(1) The professional standards of conduct codified in this rule reflect standards of a licensed insurance producer. Grounds for the discipline or disqualification of producers shall include, in addition to other grounds specified in section 375.141, RSMo, failure to comply with or violation of the following professional standards of conduct:

(A) Long Term Care Insurance.

1. In recommending to an individual customer the purchase, sale or exchange of a long term care insurance contract, a producer shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his insurance and investments and as to his current and reasonably anticipated financial situation and needs.

2. Prior to the execution of a long term care insurance transaction recommended to an individual customer, a producer shall make reasonable efforts to obtain information concerning—

A. The customer's financial status, including annual income, financial situation and needs and existing assets;

B. The customer's tax status;

C. The customer's financial objectives;

D. The customer's long-term care objectives; and

E. Such other information used or considered to be reasonable by such producer in making recommendations to the customer;

(B) The standards and systems designed by insurers under 20 CSR 400-4.100 shall comply with the professional standards codified in this rule; and

(C) No person shall materially aid any other person in any violation or failure to comply with any standard set forth in this rule.