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Producer Licensing (EX) Task Force
National Association of Insurance Commissioners
2301 McGee Street
Suite 800
Kansas City, MO 64108-2662

Attention NAIC Producer Licensing Task Force:

RE: Public Hearing on Producer Licensing Testing and Examinations

Since 2008, I have served as an advisor to the Coalition for Financial Security on matters relating to life insurance producer licensing. While I am unable to attend the Seattle hearing on licensing tests and examinations, please accept the enclosed article on the need for licensing reform as background for your discussion.

As the publication communicates, the decline in the number of agents working in America, coupled with the decline in families protecting themselves with life insurance, creates an opportunity for regulators to examine licensing practices and find solutions that will increase access to financial advice and tools in the communities that need them most.

Sincerely,

Randolph Stuart Sergent
Venable, LLP

VIEWPOINT

Producer-licensing testing: The case for reform

OTHER VOICES
Randolph Sergent

Life insurance is one of the most basic financial planning tools available. It is easy to purchase, relatively inexpensive and can provide security to a breadwinner's family if tragedy strikes.

Despite the protection and benefits life insurance offers, national trends show that fewer and fewer policies are being sold, particularly to "middle-market" consumers who may need a financial safety net the most.

Though there is no single reason for the decline, one major factor is the overall decline in the number of agents selling the product.

The old adage says, "Life insurance is sold, not bought," and the statistics bear this out. A 2005 poll from Coalition for Financial Security concluded that having access to a neighborhood agent was one of the biggest differences between those who took advantage of life insurance and those who did not.

Unfortunately for breadwinners looking to buy life insurance, life agents are a dying breed. Over the last 30 years, research by Limra International Inc. of Windsor, Conn., shows a 37 percent decline in the number of career agents. Today, the average age of a life agent is 56. Twenty-five percent of current agents are expected to retire over the next five years.

> **STATE REGULATORS** must also reform their producer-licensing examinations to remove unnecessary barriers.

In looking for ways to reverse course and grow the agent sales force, some have called on the life insurance industry to recruit and retain more agents. While the industry bears some responsibility to generate more agents, that is not the only answer. State regulators must also reform their producer-licensing examinations to remove unnecessary barriers to entering the field.

Over the years, states have greatly increased the testing requirements for aspiring agents. While those requirements are intended to protect consumers, they can limit the number of agents on which consumers can rely.

A state-by-state review of testing requirements shows that regulators have created a patchwork licensing system. An aspiring agent's chances of receiving a license may depend as much on where they live as what they know. The lack of consistency is evident in the pass/fail rates on producer-licensing exams of similar states. For examinations that are supposed to cover the same basic subject matter, the results vary wildly.

A review of 15 large states in 2006 reveals that overall pass/fail ratios varied by 35 percent, from 41 percent to 76 percent. The number of first-time test takers passing life examinations ranged from less than 50 percent in one state to 86 percent in another.

Such variations raise basic issues of fairness. Nothing indicates that a state that fails nearly two-thirds of its examination applicants has better insurance producers than a state that passes more than 75 percent of its applicants. Nor has any correlation been shown between low pass rates and low levels of consumer complaints.

If low pass rates do not translate into stronger consumer protections, why the variation? By using an arbitrarily low "target" pass rate, some states assume that their examinations are sufficiently challenging. Such states would be better off conducting a detailed analysis to make sure their examinations required knowledge genuinely needed by new agents.

Many overworked and understaffed state regulators may not in fact be aware of their pass rates. A significant number have delegated the creation and maintenance of their exams almost completely to third-party vendors who independently prepared initial drafts of all exam questions, performed psychometric reviews and, in some cases, set the pass rate. If state regulators are involved at all in the process, they are likely to play only a supporting role (unless the vendor alerts them to any issues).

Excessive reliance on third-party ven-

Continued on Page 11

VIEWPOINT

Again, we revert to the holistic approach — financial well-being and physical well-being are compatible.

Several years after Aristotle, St. Thomas Aquinas was responsible for the neo-thomistic theory of "strong mind, healthy body."

Here's the good news from the survey — fee-based advisers received the highest marks from their clients. Some 82% of investors were satisfied with their fee-based adviser for offering the best advice in relation to the fees charged, compared with 68% for commission-based advisers. And 70% of investors believed that the fee-based adviser was the best person to make financial decisions, compared with 58% for the commission-based adviser.

You want to be in charge of your universe. To do this, you have to focus on an investment philosophy and methodology that you can replicate time and again in an efficient manner. You have to educate both yourself and your staff to use technology for effective reports, marketing and branding.

Finally, once you've established your program, stick to it. Believe in your process, but more importantly, believe in yourself. Clients want to be affiliated with a successful adviser who exudes confidence, not doubt.

Lastly, visit your clients. They want reassurance in turbulent times. Educate your clients on the housing market implosion, the credit crunch, rising inflation, the weak dollar and the economic slowdown we are experiencing. Use newsletters, e-mails and phone calls to keep your clients at ease. People will stay with you if they hear from you.

After all, life is a contact sport.

Ted Charles is the chief executive of Investors Capital Corp. in Lynnfield, Mass.

Producer-licensing testing

Continued from Page 9

dors raises another potential problem. Vendors are for-profit companies that must be carefully monitored. In 2006, Indiana replaced its testing vendor when it was determined that profit motivations influenced the vendor's testing design and administration.

Unfortunately, the consequences of a state's taking a "hands-off" approach to testing do not end with such conflicts of interest. Consumers ultimately bear the costs when a state does not properly monitor and review an exam, losing the benefit of qualified insurance agents and the protection life insurance offers.

There is some evidence suggesting that minority communities may be affected the most. A 2005 article in Best's Review, for example, found that blacks, although representing 13 percent of the population, make up only 2 percent of the insurance agents. Although collection of demographic information is a standard practice under the testing guidelines of the American Psychological Association of Washington, few states presently collect and report demographic data on examinees. The scant results that do exist show reason for concern.

In 2007, Florida enacted legislation requiring the Department of Insurance to gather and report the results of life insurance examinations by demographic breakdowns. In its first such report, the state found lower-than-average pass rates among non-whites. While whites had a pass rate of 46.9 percent, the rate was 32.1 percent for Hispanics and 28.1 percent for blacks.

A CAREFUL LOOK

Like arbitrary pass rates and the events in Indiana, the Florida report provides another reason for every state to take a careful look at their producer-licensing exams. With many Americans underinsured at a time when there are fewer and fewer agents to assist them, it is critical that states ensure that their life insurance exams set an appropriate bar, not shut a door.

Fortunately, regulators have an existing road map to follow. In 2006, the American Council of Life Insurers of Washington and the National Association of Insurance and Financial Advisors of Falls Church, Va., put forward a detailed guideline for exam creation and review. The approach is being considered by the National Association of Insurance Commissioners of Kansas City, Mo.

While the move toward uniformity is cause for hope, real progress will be made when state-by-state testing inconsistencies disappear, and proper exam evaluation leads to higher pass rates and more agents without sacrificing the quality of new producers.

Both state regulators and the industry owe it to the public to ensure that an adequate supply of agents stand ready to help families meet their insurance needs. In holding up their end of the bargain, states should remember that licensing should be about getting qualified people into the profession, not keeping them out.

Randolph Stuart Sergent, a partner at Venable LLP in Washington, focuses on insurance regulatory law and is on retainer to the Coalition for Financial Security in Washington to study the relationship between state regulatory exams and the lack of financial experts in working-class communities. He is a former assistant attorney general for Maryland and former deputy counsel to the Maryland insurance commissioner.