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◆ INTRODUCTION

Dementia is something we hear a lot about in the news and continues to be a growing issue in many realms, including the insurance industry. While Alzheimer's disease and other types of dementia are issues many of us may face in the future, the intent of this article is to bring attention to the issues surrounding the sale of insurance and/or annuity products to seniors with dementia.

◆ WHAT IS DEMENTIA?

According to the National Institute on Aging, dementia is not a specific disease; rather, it is a term that is generally used to refer to a set of symptoms caused by a gradual death of brain cells associated with cognitive and intellectual deterioration that is severe enough to reduce a person's ability to perform normal activities of daily living, lasting more than six months. It is usually slow in progression and can affect intellectual functions, such as memory, while seeming to not affect other brain functions, such as those controlling movement and the senses. Dementia often affects senior citizens. However, this debilitating disease can also affect younger adults, representing 4% of the 5 million people diagnosed with it.

◆ RAISING AWARENESS

There are many regulatory and legal issues that can arise when interacting with consumers who have dementia. One does not have to look any further than the Glenn Neasham case, which generated a tremendous amount of concern for insurance producers. In this particular case, Neasham was criminally charged for selling an indexed annuity to an 83-year-old woman who allegedly had signs of dementia.

Insurance professionals are not experts in recognizing dementia and should not be held to this standard. At the same time, the Glenn Neasham case illustrates why those in the insurance industry should have a basic understanding of dementia and be able to identify the warning signs of dementia. Insurance companies and producers who are able to observe and understand the extent to which the person with whom they are speaking might have dementia are in a better position to service their needs and be protected from future allegations of fraud and/or inappropriate sales practices.

A reasonable first step would be for insurance companies and producers to consider implementing training to raise awareness of the warning signs of dementia. For example,

some of the warning signs of dementia every insurance producer should know include challenges in planning or solving problems, confusion with time or place, difficulty with words in speaking or writing, decreased or poor judgment, or changes in mood or personality. To complement company training on how to identify the warning signs of dementia, insurance companies may also want to consider implementing a central point of contact at the company through which the company can track and resolve these types of issues.

◆ IDENTIFYING POSSIBLE DEMENTIA

Clearly, insurance companies and producers want the sales they make to be appropriate and to meet their clients' needs. Once there is a basic understanding of dementia, producers will be more inclined to observe the basic indicators of potential dementia in their senior clients, such as noting if their client is having difficulty putting his/her thoughts into words, or is forgetful of basic information, such as the current date, day of the week or time of day. Because seniors may be able to mask the early stages of dementia for brief periods of time, a producer who suspects possible dementia might want to schedule a follow-up visit with the client. This is important because insurance companies and producers need to be sure consumers are able to provide adequate consent to purchase the product at the time of sale.

◆ PRIVACY ISSUES

Privacy becomes another critical aspect for companies and producers to consider. While a simple solution of dealing with a consumer with dementia may appear to be inviting another family member to any meeting a producer has with a consumer, the sharing of confidential information may not be appropriate. Moreover, someone with dementia may not be able to properly consent to having another family member present.

Because of this, a sound business practice insurance companies and producers might want to consider is inquiring whether there are any durable powers of attorney in place, which family members have been granted a durable power of attorney and what circumstances precipitated the execution of the durable power of attorney. Through these steps, an insurance producer can properly identify the appropriate trusted party and raise the issue of additional family participation in a context that may be more appropriate for the consumer to accept.

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◆ NAIC ACTIVITY

The NAIC's focus on the issue of insurance or annuity sales to seniors, a recognized vulnerable consumer group because of the potential for diminished capacity, stretches over several years during which model laws, regulations and bulletins have been adopted and updated. The NAIC issued a model regulation in 2008¹ cautioning insurers and producers alike against the improper use of professional designations when communicating with seniors during marketing and sales activities, indicating producers who misrepresent their level of expertise in such marketing and sales activities would be subject to penalties under state law and insurers allowing their producers to use such misleading designations would also be subject to penalty under state law. The NAIC has also published a variety of Consumer Alerts designed to educate seniors and their families about insurance and annuity sales practices and to help protect seniors from fraudulent activities.

◆ STEPS FOR CONSUMERS

In the NAIC's 2012 Annual Report, preparation and protection were identified as key themes of consumer-outreach efforts. The realization of these themes culminated in the NAIC engaging the help of Amy Grant to help educate and heighten public awareness with regard to Alzheimer's disease and other types of dementia. The Grammy® award-winning singer/songwriter joined the NAIC's campaign to specifically engage the "sandwich generation"—baby boomers with kids at home who are also caring for aging parents and planning their own retirement. Grant was chosen because of a personal story that involved insurance: she helped nurse her mother through dementia at the end of her mother's life and became aware of the benefits of a good aging plan that includes insurance.

When both of Grant's parents were diagnosed with dementia, the family struggled to find guidance or a road map for the journey ahead. Now, Grant shares what she's learned about educating yourself and planning ahead for life's unexpected turns:

- **Create a plan:** Instead of living in fear, frustration and regret, face the situation proactively. Establish a plan that gives your loved one the care he or she needs, and allows you to actually enjoy the time you have together.
- **Solicit support:** Seek to distribute responsibilities between the broadest community of individuals around your loved one. Caring for a parent while working a full-time job and raising kids is draining, emotionally and physically. Surround yourself with people who care and be willing to ask for help.
- **Talk about finances:** Long before you think you need to, review your parents' insurance information to ensure that you understand their wishes and to make changes together. If your parent is considering purchasing an annuity, additional life insurance or long-term care insurance, be sure to do the research. The NAIC's Insure U website² is a good place to start.

◆ ADDITIONAL INFORMATION (RESOURCES)

More information about dementia as it relates to seniors can be found at the Alzheimer's Association³ or the National Institute on Aging.⁴

¹ *Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (#278)*. See www.naic.org/Releases/2008_docs/fraud_protect.htm.

² www.InsureUonline.org.

³ www.alz.org.

⁴ www.nia.nih.gov.



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