



**The State of New Hampshire  
Insurance Department**

21 South Fruit Street, Suite 14  
Concord, NH 03301

**Roger A. Sevigny**  
Commissioner

**Alexander K. Feldvebel**  
Deputy Commissioner

**BULLETIN**

**Docket Number: INS 07-047-AB**

**TO:** All Life Insurance Companies Licensed to do Business in New Hampshire and Licensed Producers with Lines of Authority in Life and Variable Annuities

**FROM:** Roger A. Sevigny

A handwritten signature in black ink, appearing to read "RAS", positioned above the printed name "Roger A. Sevigny".

**RE:** Ins 301.06(l) - Solicitation of Life Insurance

**DATE:** May 4, 2007

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This Bulletin is issued to clarify that licensed life and annuity producers must provide to life insurance companies sufficient documentation to establish that the suitability inquiry was properly conducted by the producer as required under Ins 301.06(l).

Ins 301.06(l) requires that reasonable inquiry be made to determine the suitability of any sale to a consumer of any life insurance product or annuity. This rule applies to both the insurer and any agent selling an annuity or life insurance product in New Hampshire.

While the insurer may delegate to a producer the task of interfacing with the consumer and conducting the suitability inquiry, the insurer nevertheless remains responsible for ensuring that its producers properly conduct the suitability inquiry. Pursuant to Ins 301, RSA 402-J:14 and principles of agency law, the insurer is responsible for the acts of its agents and it is ultimately the insurer's responsibility to ensure the suitability of the sale of its products. The insurer "is chargeable with (and is bound by) the knowledge or notice to the principal's agent received while the agent is acting within the scope of his or her authority and is in reference to a matter over which the agent's authority extends." Holmes, Appleman on Insurance § 70.2, p. 421, Bergeron v. Fontaine, 109 NH 370, (1969); Patten v. Merchants' & Farmers' Mutual Fire Insurance Co., 40 NH 375 (1860); Olszak v. Peerless Insurance Co., 119 NH 686, 691 (1979).

When the insurer delegates the suitability inquiry to its producers, in order to comply with Ins 301.06(l) and ensure the suitability of the sale of life insurance and annuity products, the insurer must have in place a method for monitoring the suitability inquiry conducted by the producer. An insurer's system for monitoring its producers may require submission of documentation from the producer to the insurer regarding the suitability inquiry, such as a copy of the completed suitability questionnaire or a copy of the endorsement signed by the registered principal pursuant to NASD rule 3010(d). The producer must cooperate with the insurer to satisfy the requirements of Ins 301.06(l) and the producer shall give the insurer all reasonable and necessary documentation required to demonstrate to the insurer that the suitability inquiry is being properly conducted. The producer must provide this documentation regardless of whether the agent is a captive agent or an independent agent.

It has come to the Department's attention that some producers may have refused to produce reasonable and necessary documentation upon request by life insurance companies. The Department will consider producers in violation of Ins 301.06(l) if the producer refuses to cooperate with insurance companies and produce necessary documentation in regard to the suitability of the product sold. Producers that fail to comply with the requirements of Ins 301.06(l) risk action under RSA 402-J:12, including license revocation. Pursuant to Ins 301.06(l) an insurer shall not issue an annuity or life insurance product unless the insurer has received documentation from the producer sufficient to establish that the producer is properly conducting the suitability inquiry.

Please contact Chiara Dolcino at [chiara.dolcino@ins.nh.gov](mailto:chiara.dolcino@ins.nh.gov) if you have any questions.