

## COMPLIANCE BULLETIN

# Reminder on Pretext Selling Practices

As a reminder, “pretext” selling and marketing practices have risks associated. Accordia Life’s expectations of appropriate market conduct are outlined in the Accordia Life Agent Market Conduct and Compliance Guide as well as the Accordia Life Advertising Guidelines. Pretext selling has been described by regulators as a method of marketing or selling through which one or more of the following occurs:

- The true identity of the agent as a person engaged in the sale of insurance products is not disclosed.
- An alternative description is used that would tend to mislead a consumer into believing that an agent is an advisor, consultant, planner, “senior specialist,” etc.
- The ultimate purpose of a seminar, workshop, meeting or appointment is disguised through the use of subject matter other than insurance products.
- Products or services are promoted to prospects that are not those normally associated with an insurance agent.

### PRETEXT SELLING ISSUES FREQUENTLY ARISE IN ONE OF TWO SCENARIOS

1. When an insurance agent fails to clearly identify him/herself as such in lead cards, prospecting letters, seminar invitations, call scripts and other first point-of-contact material. Recently, states have become more aggressive in their interpretation of what they consider to be inappropriate pretext marketing methods. For example, a number of states describe their expectations of insurance agents in this way:

*An advertisement shall not make use of any method of marketing [emphasis added] that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance agency.*

2. When an insurance agent deliberately represents him/herself as providing products or services other than those of an insurance agent – such as legal document services or tax preparation services. Several states, most notably California, have aggressively pursued agents that engaged in so-called “living trust mills” in which trust instruments and other legal documents were promoted to prospective customers when the ultimate purpose of the agent was to sell an insurance product.

The practice of enticing potential customers to provide financial information through the marketing of non-insurance products or services when the ultimate purpose is to solicit the sale of insurance products, is unacceptable to Accordia Life. Many states consider “pretext interviews” as unfair marketing and unfair trade practices. Violations of those various state laws could lead to significant administrative, civil and criminal penalties. When the marketing practice involves the promotion or delivery of legal products or services, such as has been associated with living trust mills, it may result in allegations that the agent has engaged in the unauthorized practice of law.

We know that the business of selling life insurance and annuity products is both challenging and rewarding. We believe that our valued producers strive to do the right thing every day in their insurance practices. Yours is an especially worthy profession in which you regularly assist families and businesses in meeting their accumulation and protection needs. Therefore, we encourage you to confidently and openly approach prospective customers with your true identity and purpose.

### HERE ARE SOME REMINDERS WHEN PRESENTING YOURSELF TO THE PUBLIC

- Clearly identify yourself as a “licensed insurance agent,” “licensed insurance producer,” or “licensed insurance professional.”
- Clearly disclose that you are in the business of selling insurance products prior to collecting personal information from the prospective customer.
- Comply with state-specific regulations regarding clear identity and purpose.
- Include a reference to life insurance and/or annuities in any first point-of-contact material.
- Avoid exceeding your expertise.
- Don’t refer to yourself as an “estate planner,” a “living trust expert,” a “tax consultant” or other similar terms.
- Don’t use other products/services to disguise the fact that you are in the business of selling insurance products.
- Don’t engage in the marketing of legal services or legal documents on behalf of or in conjunction with an attorney.
- Don’t prepare legal documents, dispense legal advice or share in legal fees.

If you have questions on these matters, please contact Accordia Life’s Compliance Department at [gary.frank@gafg.com](mailto:gary.frank@gafg.com)