

02.02.01.09 Senior or Retiree Designations and Credentials

A. It shall constitute a violation of section 11-305 of the Maryland Securities Act, Corporations and Associations Article, Annotated Code of Maryland, and a dishonest or unethical business practice within the meaning of sections 11-302(a)(3) and 11-412(a)(7), to use, in a way that misleads or would mislead any person, a senior specific certification or designation that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees.

B. The prohibited use of a certification or professional designation includes, but is not limited to, the following:

(1) Use of a certification or professional designation by a person who has not actually earned or is ineligible to use the certification or designation;

(2) Use of a nonexistent or self-conferred certification or professional designation;

(3) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the user does not have; and

(4) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(a) Is primarily engaged in the business of instruction in sales and/or marketing;

(b) Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

(c) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(d) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

C. There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of section B(4) of this regulation when:

(1) The organization has been accredited by:

(a) The American National Standards Institute; or

(b) The National Commission for Certifying Agencies; or

(2) The organization is on the United States Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes" and the issued designation or credential does not primarily apply to sales and/or marketing.

D. The following factors shall be considered when determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees:

(1) Use, in the name of the certification or professional designation, of one or more words such as "senior," "retirement," "elder," or similar terms, combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or similar terms; and

(2) The manner in which the words described in subsection (a) are combined.

E. (1) For purposes of this regulation, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(a) Indicates seniority or standing within the organization; or

(b) Specifies an individual's area of specialization within the organization.

(2) For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

F. Nothing in this regulation shall limit the Securities Commissioner's authority to enforce existing provisions of law.