

The Wisconsin Legislature recently concluded its 2009-10 legislative session. As usual, there was a flurry of action near the end of the session resulting in the passage of numerous new laws. This article addresses five new laws of general interest to readers of this newsletter.

1. Penalty enhancers for fraud in security sales.

Under Wisconsin law, it is illegal for a person to engage in deceit or fraud in the sale of a security. 2009 Wisconsin Act 196 establishes a penalty enhancer for convicted persons where the crime was committed against an individual at least 65 years of age. For each such offense, the maximum fine may be increased by \$5,000 and the maximum term of imprisonment may be increased by five years. In a civil enforcement proceeding, if the victim is over 65, a court may now double the civil penalty, from \$5,000 to \$10,000 for a single violation, or up to \$500,000 for more than one violation.

2. Uniform power of attorney act for finances and property.

The Uniform Power of Attorney for Finances and Property Act, 2009 Wisconsin Act 319, creates an entirely new Chapter 244 of the Wisconsin Statutes replacing the existing financial power of attorney statutes. The Act provides greater protection for principals and provides more detailed guidance for agents than under previous statutes. The Act further promotes more widespread acceptance of durable power of attorneys both within and without the State by providing liability protections for financial institutions and others who honor the authority of an agent acting under the authority of a power of attorney.

3. Annuity suitability.

2009 Wisconsin Act 343 now obligates insurers and intermediaries to elicit and consider additional information when determining whether the purchase, exchange, or replacement of an annuity is suitable for a consumer. Information such as the consumer's financial and tax status, risk tolerance, liquidity needs, and intended use for the annuity must be considered when recommending the sale of annuity. The Act also requires consumers be given information on surrender charges and increased fees for replacing an existing annuity. This new law is intended to curb the prevalent abuses regarding the inappropriate sale of annuities, especially to the elderly, given that the purchase of an annuity can have drastic implications in connection with determining eligibility for long term care assistance programs.

4. Life insurance settlement rules.

Over the years a significant industry has evolved regarding Stranger-Originated Life Insurance (STOLI) which involves the purchase of a life insurance policy with borrowed funds which policy the purchaser has no intention of keeping. Such policies are purchased with the purpose of making a resale for quick profit. For numerous reasons such policies are a threat to the viability of the life insurance industry and those individuals who legitimately need life insurance. 2009 Wisconsin Act 344 makes

numerous changes related to the purchase and sale of life insurance contracts, particularly with respect to STOLI policies. An important change is the requirement that a life insurance policy must now be in force at least five years before it can be sold in a life insurance settlement, except where a substantial change in circumstances has occurred.

5. Dementia and psychotropic medications

2009 Wisconsin Act 281 requires nursing homes to obtain written informed consent from the resident, or if incompetent, the person acting on the resident's behalf, before administering psychotropic medication that contains a black-box warning to any resident with a degenerative brain disorder. In emergency situations, a nursing home would be required to obtain oral consent and then obtain written informed consent within ten days.

L:\clients\Clarje\1\Alzheimers Article.doc