California Department of Insurance
2025 Outline of Topics to be Included in the Two-Hour Variable Life Insurance Policies Continuing Education Course

Overview

Senate Bill 263 (Dodd, Chapter 2, Statutes of 2024) added Section 1749.81 to the California Insurance Code.

Insurance Code section 1749.81, subdivision (b) states: "A life agent who sells variable life insurance policies shall satisfactorily complete two hours of training before each license renewal. Completion of the four-hour annuity training required by Section 1749.8 does not satisfy the training required by this section. This training is in addition to, and is not a part of, the annuity training required by subdivision (b) of Section 1749.8. For resident licensees, this requirement shall count toward the licensee's continuing education requirement, but may still result in completing more than the minimum number of continuing education hours set forth in this section."

Section 1749.81 becomes operative January 1, 2025, and applies to licenses that are issued or renewed on or after January 1, 2025.

Disclaimer

The California Department of Insurance is released from responsibility for approved course materials that may have a copyright infringement. In addition, no course approved for either pre-licensing or continuing education hours or any designation resulting from completion of such courses should be construed to be endorsed by the Commissioner.

Citations to authority

All Insurance Code citations in this outline are to the California Insurance Code. All citations to Bulletin 87-3 are to California Department of Insurance Bulletin 87-3, Requirements for Issuance of Variable Life Insurance in California, as amended November 1, 1992.

TABLE OF CONTENTS

COURSE CONTENT

I. Overview of Individual Variable Life Insurance

A. Key Characteristics of Individual Variable Life Insurance:

1. Premium is fixed.
2. Death benefit is variable, but with a minimum death benefit guarantee.
3. Cash value is variable. It may increase or decrease in accordance with the experience of the separate account (subject to any minimum guarantees).
4. Product design, including separate account and unitized value.
    a. Operation of separate account.
    b. Policyowner chooses separate account investments.
    c. Change in investment policy of separate account.
    d. Assumed interest rate (AIR) (target rate of return earned by funds in which cash value is invested).
    e. Actual net investment rate (ANIR) (actual return on investment).
    f. Excess of ANIR over AIR. When ANIR exceeds AIR the difference supports additional death benefits.
        i. Single premium addition: increases amount of paid-up insurance; investment shortfalls reduce the cash value. Additional coverage lapses without excess investment returns in the future.
        ii. Level premium addition: increases death benefit when investments continue to support premiums for this additional coverage. However, death benefit can decrease rapidly.
    g. Fees and expenses and how they are charged.
5. Regulated as a security and as an insurance product. Sellers must be licensed securities dealers and licensed insurance agents. Requires FINRA training as well as insurance training. Why and how it is regulated as a security.
6. Insurer must apply for and receive variable qualification from the Department of Insurance. Insurance Code section 10506(h).

7. The 10-day free look (under age 60) and 30-day free look (60 and older) provisions and impact on investment decisions. Explain the investment decision a consumer must make for the right to examine period (refund of premium or refund of account value), and the advantages and disadvantages of each option. Insurance Code sections 10127.9 and 10127.10.

8. The 30-day free look for replacement policies; refund of account value and any policy fees paid. Insurance Code section 10509.6(d).

9. Guarantees in products: some products may have guarantees of various types.

10. Different interest crediting methods and frequency.

11. Incontestability. Two-year (or less) incontestability period, no fraud exception after expiration of incontestability period. Upon reinstatement policy may be contested for fraud or misrepresentation only for same period following reinstatement. Insurance Code section 10113.5.

12. Non-forfeiture benefits.

B. Key Characteristics of Individual Variable Universal Life Insurance:

1. Premium is flexible (subject to minimums and maximums). Premiums are credited to an account from which mortality and expense charges are deducted and investment returns are credited.

2. Death benefit is variable and adjustable.
   a. Level death benefit option: positive investment performance increases cash value.
   b. Increasing death benefit option: positive investment performance increases cash value and death benefit.

3. Cash value will fluctuate according to the investment performance. There is no guarantee with respect to a minimum rate of return or principal, so cash values can decrease to zero.

4. Fees and expenses and how they are charged.

II. Selected Individual Variable Life Policy Requirements

A. Mandatory cover page disclosures:

1. Prominent statement that death benefit amount or duration may be variable or fixed under specified conditions. Bulletin 87-3, page 11, section 3(c)(1)(A).
2. Prominent statement that cash values may increase or decrease per separate account experience, subject to any guarantees. Bulletin 87-3, page 12, section 3(c)(1)(B).
3. Minimum death benefit (if any – scheduled premium policies). Bulletin 87-3, page 12, section 3(c)(1)(C).
4. The method, or reference to the policy provision describing the method, for determining amount of death benefit. Bulletin 87-3, page 12, section 3(c)(1)(D).
5. The right to examine provision required by California law:
    i. For purchasers younger than age 60: 10-30 days. Insurance Code section 10127.9.
    ii. For purchasers 60 years and older: Not less than 30 days; boilerplate language in 10127.10(d) is required. Insurance Code section 10127.10.
    Note: "Senior" in Insurance Code, Part 2, chapter 1, means age 60 and older on date they purchase the life/annuity product. Insurance Code section 10127.10(g).
    iii. 30-day right to examine when the policy is a replacement policy. Insurance Code section 10509.6(d).
6. Surrender charge/penalty notice on cover page of policy for senior (age 60 and older). Insurance Code section 10127.13.

B. Grace period: The grace period must be not less than 60 days from the premium due date for each life insurance policy issued or delivered in California, regardless of when the policy was originally issued. The grace period shall not run concurrently with the period of paid coverage. Insurance Code section 10113.71.

Flexible premium variable life policies have a 61-day grace period. Bulletin 87-3, page 12, section 3(c)(2)(B).

C. Description of benefit base. Full description of the benefit base, method of calculating, and application of any factors used to adjust variable benefits under the policy. Bulletin 87-3, page 13, section 3(c)(4).

D. Deferral of variable death benefit payment. Bulletin 87-3, page 14, section 3(c)(14)(A) and (B).

E. Cash value and surrender value. Policy must include a description of the basis for computing the policy's cash value and surrender value. Bulletin 87-3, page 14, section 3(c)(16).

F. Separate accounts. The insurer must allocate assets to a separate account, per Insurance Code section 10506 and Bulletin 87-3, pages 18-23, section 5.

G. Qualifications of agents to sell variable life insurance. Bulletin 87-3, pages 29-30, section 9(a) through (c).

III. Whether the Policy is Appropriate for the Consumer

A. "Best Interest," 17 CFR Section 240.15/-1, Regulation Best Interest

B. Considerations

1. Disclosure of risks and lack of guarantees.
2. The product design: a regulated security/separate account product must be explained.
3. Risk tolerance.
4. Tax situation and considerations: Consumers should seek independent advice from a licensed tax professional concerning any tax issues.
5. Income (annual income).
6. Net worth and liquid net worth.
7. Age and Time Horizon.
8. Investment Experience.
9. Existing Investments and life insurance.
10. Number of Dependents.
11. Investment Objectives.
12. Source of Funds.
13. Debts and Reverse Mortgage.
14. Other Considerations.

IV. Additional Requirements and Best Practices

A. How requirements for selling in person and online differ. Compare and contrast:

1. Verification of identity
    a. Prevent fraud.
    b. Comply with AML (anti-money laundering).

2. Electronic Signatures and Consent to Electronic Delivery
    a. The parties may agree to conduct transactions electronically, use electronic signatures, and allow the licensee to transmit required written records electronically. California Civil Code sections 1633.5, 1633.7, and Insurance Code section 38.6. See exemptions to Uniform Electronic Transactions Act in section 1633.3(b)(4) and (c). An electronic signature must be the act of the person. California Civil Code section 1633.9. See Civil Code section 1633.11 requirements if notarized or under penalty of perjury.
    b. Legal signatures required on applications.
    c. Qualifying legal e-signing.
    d. Proof of delivery and receipt.

3. Data Security
    a. Cyber security.

B. Avoid misrepresentations and omissions

1. Misrepresenting or failing to explain interest rate guarantees, rate percentages, or type of rate (annual, cumulative, or other).

2. Incomplete comparisons of material features and benefits of the existing insurance policy and the proposed insurance policy, preventing client from making an informed decision. Insurance Code sections 790.03(a), 780, 781, 785, 10509.8(a).

3. Misrepresenting a teaser interest rate and how long it lasts.

4. Failing to disclose and explain surrender charge provisions.

5. Failing to disclose if premiums increase as owner ages.

6. Failing to explain how fees and charges could increase in the future in a variable universal life policy.

7. Failing to find out whether medical underwriting for a replacement product would result in higher premium, making the replacement product inappropriate.

8. Providing an example of a replacement policy that is not as beneficial to the consumer as their existing policy. Insurance Code sections 785 and 10509.

9. Failing to adequately explain that if premium is invested in subaccounts during the free look period the consumer can lose money if the account value decreases.

10. Failing to disclose policy fees, rider or endorsement fees, administrative fees, installment plan fees, investment sub-account fees, or accelerated death benefit fees (once initiating the benefit).

11. Failing to provide prospectus.

C. The importance of documentation: best practices

1. Document appropriateness of a product for a particular consumer.

2. Document conversations and other communications to support recommendations.

3. Document reasons why a particular product was selected, including riders.

4. Document why replacement of existing policy is beneficial to the consumer, including features and premiums of existing and replacement products.

5. Document changes in premium quoted, class, pricing tier, coverage face amounts, riders, surrender charge period, access to liquid assets, affordability of policy, and any other relevant facts regarding the transaction.