

Chapter 460-25A WAC

USE OF SENIOR DESIGNATIONS

WAC

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WAC 460-25A-010 Purpose of chapter. The rules in this chapter apply to the use of senior certifications and designations.

[Statutory Authority: RCW 21.20.450, 21.20.020 (1)(c), 21.20.110 (1)(g). WSR 08-14-006, § 460-25A-010, filed 6/19/08, effective 7/20/08.]

WAC 460-25A-020 Use of senior-specific certifications and professional designations. (1) Consistent with the model rule on the use of senior-specific certifications and professional designations adopted by the North American Securities Administrators Association, Inc. on March 20, 2008, the use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice within the meaning of RCW 21.20.020 (1)(c) and 21.20.110 (1)(g).

(2) The prohibited use of such certifications or professional designations includes, but is not limited to, the following:

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 21.20.450, 21.20.020 (1)(c), 21.20.110 (1)(g). WSR 08-14-006, § 460-25A-020, filed 6/19/08, effective 7/20/08.]

WAC 460-25A-030 Designations awarded by recognized designating or certifying organizations. There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of WAC 460-25A-020 (2)(d) when the organization has been accredited by:

- (1) The American National Standards Institute;
- (2) The National Commission for Certifying Agencies;

or

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

[Statutory Authority: RCW 21.20.450, 21.20.020 (1)(c), 21.20.110 (1)(g). WSR 08-14-006, § 460-25A-030, filed 6/19/08, effective 7/20/08.]

WAC 460-25A-040 Factors considered to determine whether a term is a senior-specific certification or professional designation. In 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, factors to be considered shall include:

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

- (2) The manner in which those words are combined.

[Statutory Authority: RCW 21.20.450, 21.20.020 (1)(c), 21.20.110 (1)(g). WSR 08-14-006, § 460-25A-040, filed 6/19/08, effective 7/20/08.]

WAC 460-25A-050 Exception for certain job titles. (1) There is a rebuttable presumption that 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.

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(2) For purposes of this section, 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.

[Statutory Authority: RCW 21.20.450, 21.20.020 (1)(c), 21.20.110 (1)(g). WSR 08-14-006, § 460-25A-050, filed 6/19/08, effective 7/20/08.]

WAC 460-25A-060 Application of chapter not exclusive. Nothing in this chapter shall limit the director's authority to enforce existing provisions of law.

[Statutory Authority: RCW 21.20.450, 21.20.020 (1)(c), 21.20.110 (1)(g). WSR 08-14-006, § 460-25A-060, filed 6/19/08, effective 7/20/08.]