

N.Y. STATE BAR ASSOCIATION
LAWYER WELL BEING SERIES

THE ADVISORS' & TRUSTEES' GUIDE TO
MANAGING RISK

WHAT YOU NEED TO KNOW ABOUT:

CURRENT LIFE INS *TRENDS & STRATEGIES!*
THE LIVING BENEFITS OF LIFE INS

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TheTOLI Center East

AGENDA

- Different uses of Life Ins for Different Objectives
- Traditional Death Benefit Perception
- Current Insurer Trends & Unknown Consumer Problems.
- Living Benefits of a Life Ins Policy
 - Utilizing a Life Settlement
 - Pays for Long Term Care Costs
 - Tax Advantaged way to Pay LTCI Premiums
 - Pays to Supplement Retirement Income for Owners, & Keymen
- Regulatory & Ethical Issues in Industry Rule 187

PERCEPTION WAS....

LIFE INSURANCE USED FOR

- DEATH BENEFIT PROTECTION PLANNING
 - Pay of Mtge Loans and Debts
 - Provide Family Income
 - Provide for Kids Education
- LIFE INSURANCE ONLY BENEFITS BENEFICIARIES

But Today we Have a Different View.....

MATCHING POLICY WITH OBJECTIVE

POLICIES FOR MAXIMUM DEATH BENEFIT

- TERM
- UNIVERSAL LIFE, Non Guaranteed & Guaranteed

USED AT DEATH

POLICIES FOR MAXIMUM ACCUMULATION LIVING BENEFITS

- WHOLE LIFE
- INDEXED UNIVERSAL LIFE
- VARIABLE UNIVERSAL LIFE

USED WHILE ALIVE

TYPES OF LIVING BENEFITS

You can;

- SELL POLICY AS A LIFE SETTLEMENT

Convert or Access a life or annuity policy to pay;

LONG TERM CARE EXPENSES

- LONG TERM CARE PREMIUM

You can now add a rider to a Life Policy after 2012

LTC OR CHRONIC CARE, OR CRITICAL ILLNESS RIDER

Use a Life Ins policy as an Asset Class to;

SUPPLEMENT PERSONAL RETIREMENT BENEFITS

KEY PERSON WITH DEFERRED COMP

Why Non Guaranteed Universal Life Lapses

DUE TO REDUCED INTEREST RATES & NEGLECT

In 1981 Int Rates 21.2% LIFE INS CASH VALUE PAYS 3%

E.F Hutton Introduces Universal Life

- Whole Life and Term Ins Both Guaranteed
- But Universal Policies were not Guaranteed from 1982- 2003
Nor was non-guaranteed feature well disclosed.
- Owner/Trustee should have Increased premium over years
to make up for reduced interest rates/performance but didn't
- Universal Policies 45% & have Not performed as expected
- Interest Rates Today are 2.4%
- 25% OF THOSE POLICIES ARE NOW EXPIRING EARLY

Good News – Bad News

An Amateur Trustee is:

GOOD NEWS

An Honor and Statement of Trust

An opportunity to manage all of the Trust's assets

BAD NEWS

90% Of trustees Kids /Relatives of Insd Unskilled Trustees

Fiduciary liability & personally responsible for loss of assets.

But No Instruction is provided by parents nor adviser's

Unaware of problem nor possess skills to manage ILIT

RESPONSIBLE FOR 23% EXPIRING PREMATURELY

**Life Agent Prime Responsibility is to Market
Insurer Duty to Provide Policy & Annual Statement
Current Annual Notice to Policy Holders is Sufficient**

**It's Responsibility of Owner to Manage Life Ins Policy
Insd should have increased premium or decreased coverage
But Didn't Know Because Agents Didn't Properly Disclose**

- Insurance Company Content with Current Situation
- Best for Insurer when Coverage Expires or is Reduced

INSURED'S LOSS IS INSURER'S GAIN

Insurance Industry's Posturing

Account Summary

For an explanation of the terms used in this section, please refer to the page titled 'Definition of Terms'.

		<i>Activity Since Last Statement</i>
Beginning Accumulation Value	\$	8,813.17
Premium Payments	\$	0.00
Policy and Administrative Charges	\$	-90.00
Interest Credited	\$	248.43
Cost of Insurance Charges	\$	-3,134.05
Rider Charges	\$	-0.00
Partial Surrenders/Withdrawals	\$	-0.00
Partial Surrender/Withdrawal Fees	\$	-0.00
Other Adjustments/Charges	\$	0.00
Ending Accumulation Value	\$	5,837.55

Policy Values as of 04/09/17:

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Accumulation Value	\$	5,837.55
Policy Loan Balance	\$	-0.00
Adjustment if Surrendered	\$	-2,083.59
Net Cash Surrender Value	\$	3,753.96

Interest Rates Credited

The effective declared annual interest rates credited to the unborrowed portion of the Accumulation Value were:

Apr	3.500%	May	3.500%	Jun	3.500%	Jul	3.500%	Aug	3.500%	Sep	3.500%
Oct	3.500%	Nov	3.500%	Dec	3.500%	Jan	3.500%	Feb	3.500%	Mar	3.500%

The declared annual interest rate is not guaranteed and is subject to change but will never be less than the guaranteed minimum annual interest rate of 3.000%.

Important Notice

Changes in interest rates may impact the insurance coverage and cash value objectives of your policy. You may need to adjust your payment amount and/or death benefit to maintain your original objectives.

Important Notice?????

“I’ve written multiple stories over the past five years for the Wall Street Journal about the impact of low interest rates on universal life policies. The problem is exacerbated because many people underfunded their policies, often unaware of how important it was to keep them well-funded.”

Of the many consumers I’ve interviewed, most don’t understand how the policies actually work. Many have long since lost contact with the sales agents. I see many consumer responses to the stories, as the problem is so recurring”

—Leslie Scism Senior News Editor, Money & Investment Section, *The Wall Street Journal* Endorsement for
“The Advisors Guide to Managing Risk” ABA 2017

Wall Street Journal LIFE INSURANCE NOT BEING MANAGED

“While insurers have not publicized the Issue, there is a growing concern in the industry about lapsing universal life policies.”

Donald Walters,
General Counsel IMSA 2014.

HOW IS THIS MATTER HANDLED IN YOUR OFFICE?

YOU'RE THE ADVISOR TO AN AMATEUR TRUSTEE
TRUSTEE CALLS TO ADVISE LETTER RECEIVED FROM INSURER....

UNLESS PREMIUM INCREASED

\$2,100,000 DEATH BENEFIT WILL LAPSE NEXT YEAR

INSD IS CURRENTLY 82 AND IN AVERAGE HEALTH

\$29,000 CURRENT PREMIUM IS NOW INSUFFICIENT

\$ 38,000 PREMIUM REQUIRED TO GUARANTEE TO 90

\$580,000 PREMIUM HAS BEEN PAID TO DATE

IF THERES ALREADY A PROBLEM

- Reduce face amount
- Pay a higher premium
- Obtain guaranteed new contract if qualified
- **Life Settlement**
- Combination of above

Objectives

Determine Extent of Problem

- Lengthen Guaranteed Duration of Coverage
- Align Holding to Current Needs

WHAT NEEDS TO BE DONE TO PREVENT THE PROBLEM?

- **PROVIDE GUIDANCE TO AMATEUR TRUSTEE
ADVOCATE FOR ASSETS OF NEXT GENERATION.**

OBSERVE

**UPIA UNIFORM PRUDENT INVESTOR ACT
TREAT LIFE INS AS ANY OTHER ASSET
IF YOU DON'T HAVE EXPERTISE DELEGATE**

WHY DOESN'T IT HAPPEN?

If Life Insurance No Longer Required??

- . Current Reduced Estate Tax Requires Less Ins
- Trend is to Reduce Life Ins Coverage
- Should Life Insurance Portfolio be Reduced???

Options to Reduce Life Ins

- Surrender Cash Value
- Discontinue Premium
- Life Settlement

Life Settlement Option

OPTIONS Most are Aware of

Surrender & Obtain Cash Value.

Stop Paying & In Time Policy will Lapse

A Far Better Idea

Obtain a 3-4X Higher Offer on Secondary Market

Has Been Available But Few Know it Exists

Often Confused with SOLI Not Legal

Grille vs Lincoln National Life

QUESTIONS

???

TYPES OF LIVING BENEFITS

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KEY PERSON WITH DEFERRED COMP

Or you can;

- SELL POLICY AS A LIFE SETTLEMENT

Traditional LTCI Fails as Ins Product

- Premiums based on incorrect data & assumptions
- Increasing premium trend feared 40-150% Typical
- An uncomfortable topic to discuss
- It wont happen to me
- If I don't use it I'll lose it
- Consult with an Elder Law Attny & do Medicaid Planning
- **Less than 9% market share after 25 years**

- 2016 Society of Actuaries Premiums Stable

THE SOLUTION

Pension Protection Act

**COMBINE LONG TERM CARE INS WITH LIFE INS
SOMEONE ALWAYS GETS PAID TAX FREE
\$1mil Life Policy = \$1 mil available for LTC costs
Combo, Hybrid, Linked Plans**

CREATES ADDITIONAL;

TAX INCENTIVES

BENEFIT ENHANCEMENTS I.E. LEVERAGE

PREMIUM GUARANTEES

REMOVE 'USE IT OR LOSE IT'

TAX BENEFITS WHEN USING ANNUITIES

Tax Free transfer from Annuity if used to pay LTC costs

\$50,000 grows to \$100,000 =Tax Due on \$50,000

But one can avoid paying any tax on gain when transferring
\$100,000 to a Linked Annuity

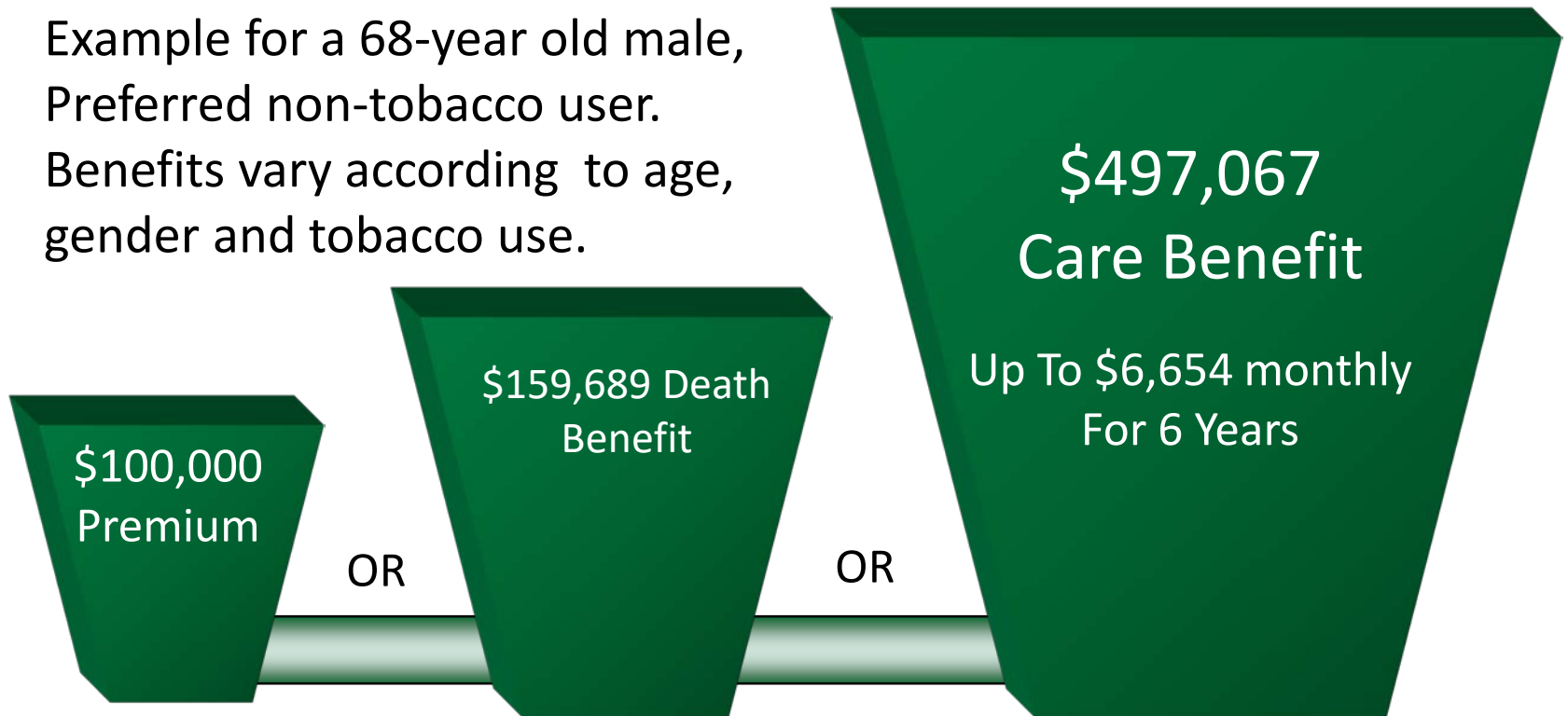
Ability to use SPIA to pay LTCI Premiums Tax Free

\$50,000 Grows to \$100,000 in SPDA =Tax due on \$50,000

But one can avoid paying any tax on gain when using a SPIA
If premium paid direct to Ins Company Exclusionary Ratio 100%

How Total Living Coverage(TLC) Works

Example for a 68-year old male,
Preferred non-tobacco user.
Benefits vary according to age,
gender and tobacco use.



A Second Living Benefit

- Use Business Assets for Personal Benefit for Key People
- Use Life Ins to Accumulate Assets & Grow Tax Deferred
- With Proper Structuring Distributions can be Tax Free
- Ability to Discriminate Selectively

Supplemental Executive Retirement Plans

For Personal Strategies

- Tax Deferred Accumulation Benefits
- Benefits used to supplement retirement payouts
- Through use of Loans and Surrenders Distribution strategies can be made Tax Free. **Policy Must Survive Insd**
- No reporting or administrative requirements
- Ability to discriminate among class of employees

EXAMPLE

M-45 Deposits \$25,000 to age 65

Initial DB	Income at Age 67-82	Death Benefit age 82
• \$1.67M	\$77,596	\$257,838

Deferred Compensation Plans

For Corporate Strategies

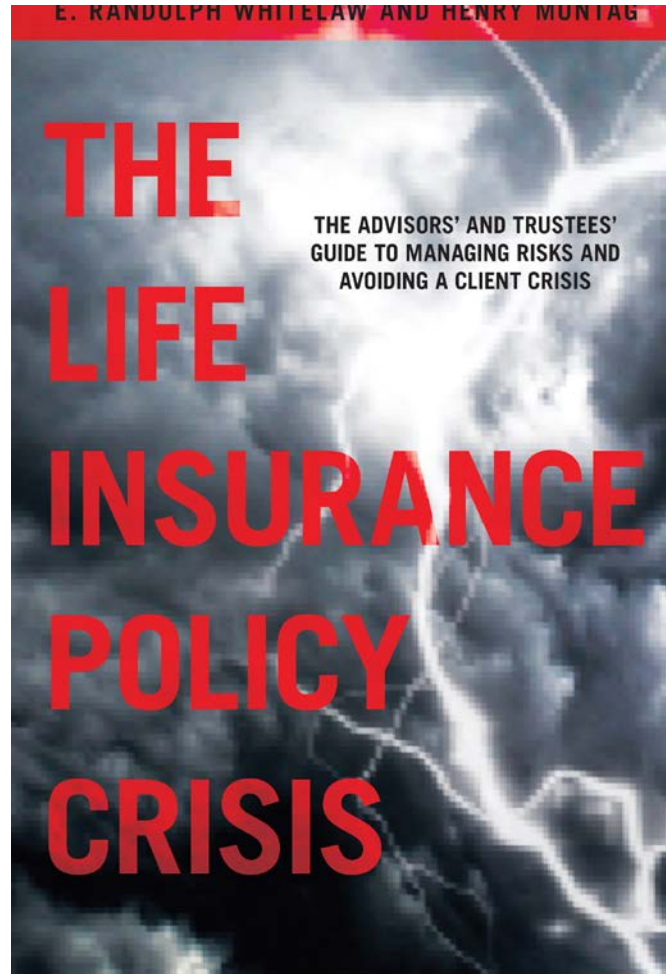
- Tax Deferred Accumulation Benefits
 - Benefits used to supplement retirement payouts
 - Through use of Loans and Surrenders Distributions strategies can be made Tax Free. **Policy must survive Insd**
 - No administrative reporting
 - Ability to discriminate between classes of employees
 - Primarily used to retain & reward key employees
- Split Dollar Business pays majority of Premium
Bus owns cash value// EE owns the death benefit

**AGENTS *FINALLY* TO BE REQUIRED TO
ACT IN BEST INTEREST OF INSURED**

New York Regulation 187

BUT NOT EFFECTIVE UNTIL FEB 2020 for Life Ins

- No obligation for post sales service
- Least expensive cost not required
- New rule will require full disclosure of risks
- Full disclosure of compensation



DISCOUNT FLYER For ABA Book!

Life Insurance Questions to Ask your Clients

Client meets with an insurance agent. The insurance agent confirms the client has a will and trust. Then further confirms the client has an accountant. Is the agent just to assume the client understands his or her estate plan? As their T&E attorney, should you assume they understand their life insurance policy?

The matter of Life Insurance deserves a more thorough review by the T&E attorney

- ✓ Do you have life insurance? Why?
- ✓ Tell me what you understand about how your policy works.
- ✓ Is the reason you have it today or need it in the future the same reason you bought it?
- ✓ Do you think you still need it?
- ✓ Have you considered a Life Settlement?
- ✓ Would you rather use it for long Term Care protection?
- ✓ Are you paying premiums?
- ✓ Have you or are you planning on pulling money out of the policy?
- ✓ Do you have an agent? When was the last time you met? Tell me about that meeting.
- ✓ Have you been shown the effects a thirty year decreasing interest and dividend rate market has had on your policy?
- ✓ When have you last seen a performance evaluation of your policy from an independent third party to determine the effect interest rates or fund returns have had on policy since issue
- ✓ Do you know how long your policy is guaranteed to last?
- ✓ Do you have any outstanding loans against your policy , Will they be paid back & when?

HOW DO YOU HANDLE LIFE INSURANCE IN YOUR OFFICE?

THANK YOU!

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QUESTIONS ???