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RETURN OF PREMIUM LIFE

COURSE INSTRUCTIONS

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CHAPTER 1

The Return of Premium Concept

In the insurance world, return of premium is not exactly a new concept. Our research found variations on this concept as far back as the 1940's. The idea is simple: Pay premiums for a certain period of time; then get all or a portion of them back!

Many familiar insurance products use return of premium riders or features, including plans for: disability, critical illness, long term care, mortgage protection and even major medical. All of these products have offered ROP for quite a few years with varying success.

Some of these insurance products, however, have a built-in propensity for more claims . . . and, claim payouts that occur during the term of a policy can significantly ***reduce*** the effectiveness of an ***ROP benefit***. Think about it, in a given 20-year period of time, the likelihood of a policyowner filing a disability claim is much higher than a death claim. It could be very disappointing to a policyholder who poured $5,000 extra premium dollars into a disability ROP rider to see them extinguished by a single $5,000 disability claim.

Enter ROP life: A lower claim potential . . . a possible better application of ROP. And, the industry has some experience.

ROP in the term life arena, however, is a new addition. And, like anything new, information is needed to analyze and recommend. Therefore, the primary focus of this course is ***return of premium term***.

What is Return of Premium Term

ROP is level term insurance that has a feature promising the policyholder he can get back a portion or all premiums paid into the policy when the level term expires -- typically, in 15, 20 or 30 years. If the insured dies ***before*** the ROP feature is exercised, the policy death benefit goes to the beneficiary. If the owner ***lapses*** the policy before the ROP trigger point, no premium goes to the owner.

Some ROP plans also let the owner get a ***pro rata*** portion of their premium back before the policy term ends, sometimes as early as five or six years. Many also permit the conversion to whole life or universal life plans -- sometimes subject to new underwriting; sometimes not. Or, the return of premium benefit can be used to "single pay" or purchase an immediate annuity.

The ***return of premium feature*** is normally offered as a policy rider, a built-in provision or promise made in a letter of understanding accompanying the contract.

Return of Premium Life Insurance is marketed under many names: Cash Back Life Insurance, Refund Term, Zero Cost Life, Premium Back Life, Money Back Life, etc. Be careful how you promote it, however, since you may be making a promise you can't keep. In Cunningham v. PFL Life (1999), for example, an agent touted ordinary life insurance policies as ***investment vehicles*** causing a major action to be launched against his insurer and himself.

The popularity of ROP is growing dramatically. Some carriers report that as much as 33% to 50% of all new policies sold now feature ROP benefits.

Many financial planners, who may have avoided the suggestion of term insurance for their clients in the past, now actually recommend ROP riders. One claims that ROP term is now 50% of his total insurance production.

ROP Advantages

Return of premium term life is attractive to life insurance buyers because it is simple to understand: If you outlive the initial rate guarantee, you receive all of your paid premiums back as a 100% refund and the insurance ends. If you die during the initial policy period, the entire death benefit is paid to your beneficiary.

In the past, clients have been forced to buy cash value forms of insurance to help mitigate the loss of major premium dollars spent. With ROP, they now have a way to get it all back. The question becomes: What is the value of getting it back? Could the additional premium monies be invested or spent elsewhere for other forms of protection? What are the ROP pitfalls?

For the carriers, the ROP approach also has benefits. Refund Term allows insurance company to charge slightly higher premiums -- rates more favorable to the carrier than cutthroat term. Many consumers, it turns out, will tolerate slightly higher term rates if, in the final analysis, the money paid out in premiums is certain to be returned either in death benefits or in the form of premium refund.

In addition, ROP buyers tend to make a ***bigger commitment*** to their policies because there are financial incentives to stay and not switch to another term product as in the past.

ROP Disadvantages

We would not be doing our job if we didn't explain the downside of ROP. It is not a matter of downgrading the concept because every product has a dark side. These are simply the things you need to watch with ROP.

Consumers

The most noticeable disadvantages to the ROP concept is ***higher cost***. On average, ROP riders can add an additional 30% to 80% to premiums. The added cost may not only be the rider itself, because some insurers charge higher core premiums to support the guarantee and the lower lapse rates. Proponents use sophisticated internal rate of return analysis to justify this cost as an investment. However, ROP insurance should ***never*** be sold as an investment; your clients are simply buying the right to get their money back at some time in the future. And, this right can be jeopardized if a policy is cancelled or the same class of policies is not renewed. In at least one legal case, an entire block of ROP plans were sold to an insurer without sufficient assets to support the ROP guarantee. The policies sold were eventually cancelled and the ROP guarantees were refused. Unusual yes, but it ***can happen***.

Another disadvantage of higher premiums paid is the fact that these higher costs prohibit consumers from buying the real amount of ***protection*** they need. The additional $50 per month paid for an ROP rider, for example, could just as likely buy another $200,000 or so of pure term coverage; or be applied to a better medical plan; or be applied to a needed long term care policy; or be used to buy an umbrella policy, etc. Of course, this is the same dilemma you face with any insurance purchase where client funds are limited.

Another dangerous aspect of ROP is the ***lure of the guarantee*** itself. In other words, agents and insurers who aggressively market ROP may be pushing clients toward the "cash-back" aspect rather than the protection offered. It would be wiser to emphasize the importance of the underlying coverage above all else. ROP is a bonus! After all, you would not expect a client to give up the fire protection on his homeowners policy just to have a money back guarantee . . . would you?

Insurers

ROP may be popular with producers and consumers, however this product is hard on insurers. The underwriting section below describes how added costs, commissions, reserves and low lapse rates make this a difficult product to price and support.

Other disadvantages include:

- Guarantees are subject to the claims paying ability of the issuing insurance company.
- Return of cumulative premiums at the end of the term do not include substandard charges
- The premium returned does not take into account any time value of money.
- Prior to the _th policy year, only a portion of the cumulative premiums will be returned upon surrender.
- A cancellation of a policy may result in a complete or partial forfeiture of the return of premium rights. In other words, the accumulated premiums and any additional riders paid may not be returned to the insured if a policy is cancelled.
- No return of premium benefit is typically payable if the insured dies while the rider is in effect.
- If the client upgrades to a new return of premium rider and the policy has not been in effect for _____ years, any amount of years that have accrued under the old rider are forfeited. After _____ years, the insured may receive only a portion of your accumulated premiums and rider premiums paid.
- If an insured upgrades to a new return of premium rider, the accumulation period is reset with the effective date of the new rider

ROP Terminology

ROP terminology varies, because each product has a slightly different percentage and duration. That is why, as producers, you ***cannot*** simply compare premiums. To find an ROP plan that matches your client's need and temperament you ***must*** look company by company; product by product. The importance of this process is underscored by the following examples. These are ROP rider terms found in actual policies or literature. Some are easier to understand than others yet they all have a similar theme:

- *While this rider is in effect, we will pay you in one sum, a return of premium benefit if the Certificate ends after the fifth Certificate year and on or before the initial expiration date. The amount of the return of premium benefit will be the total premiums paid, including any rider premiums, times the percentage shown below. The percentage differs depending upon the initial term period. The return of premium benefit will be reduced by any amount paid under any rider attached to the Certificate, such reduction not to exceed the return of premium benefit. However, no return of premium benefit is payable if the insured dies while this rider is in effect*

- *With this rider, the policyowner can receive a refund of all premiums paid. The refund is payable at the end of the initial policy term if the policy is terminated for reasons other than the insured's death. If the policy ends after the fifth policy year but before the initial level premium period is over, the return of premium benefit will be prorated. No return of premium benefit will be paid for lapsed or terminated policies in the first 5 policy years.*

- *Under the return of premium feature, the cumulative premiums paid, less any substandard and rider charges, will be returned at the end of the level term period if the policy is in force at that time. Beginning with the 7th policy year, a portion of the cumulative premiums will be returned upon surrender. Underwriting risks and contractual obligations are the sole responsibility of American General Life Insurance Company.*

Death and Surrender Issues

One of the most critical issues you must explain to ROP prospects is the fact that their ROP benefits may be ***eliminated*** if the client dies during the policy term, but their estate still collects the death benefit. Early surrender or cancellation also has a downside. An ROP illustration should quickly clear up these surrender questions. At a glance, the prospect should be able to see his actual premium eligible for refund and the prorated return of premium on early withdrawal. A sample format is shown on the next page. The ROP benefit builds over time, a clear incentive to buy and hold these contracts long term.

Learn and Explain

Like any other insurance product, the actual contract ***language*** is very important in determining the benefits and value of the rider. For example, what is the policy's definition of premium? For some, but not all, premium is defined as paid premium, including base policy and riders. Some include waived premium in the definition of premium. What about rider versus policy termination? Some companies say the rider can be terminated any time regardless of what happens with the policy. Others say you cannot terminate the rider without terminating the policy. Still others say you can terminate the rider and not the policy.

Your ability to communicate exactly what is offered in your product is important. In fact, it is a legal duty. So, why complicate it with an explanation like this:

"The mechanics of an ROP rider is nothing more than a one year art rider in the amount of the annualized premium where the additional insurance coverage will increase the amount of the accumulated premium paid on the policy each year."????

Sample Return on Premium Illustration
Male Age 45
Annual Premium $5,240
Death Benefit $1,597,000

Year	**Age**	**Annual Premium**	**Premium Eligible for Refund**	**Return of Premium Benefit**	**Return of Premium %**	**Death Benefit**
1	46	$5,240	$5,240	$0	0	$1,597,000
2	47	$5,240	$10,480	$0	0	$1,597,000
3	48	$5,240	$15,720	$0	0	$1,597,000
4	49	$5,240	$20,960	$0	0	$1,597,000
5	50	$5,240	$26,200	$0	0	$1,597,000
6	51	$5,240	$31,440	$1,257	4	$1,597,000
7	52	$5,240	$36,680	$2,567	7	$1,597,000
8	53	$5,240	$41,920	$4,192	10	$1,597,000
9	54	$5,240	$47,160	$6,130	13	$1,597,000
10	55	$5,240	$52,400	$8,908	17	$1,597,000
11	56	$5,240	$57,640	$1,3257	23	$1,597,000
12	57	$5,240	$62,880	$1,9492	31	$1,597,000
13	58	$5,240	$68,120	$2,5885	38	$1,597,000
14	59	$5,240	$73,360	$3,2278	44	$1,597,000
15	60	$5,240	$78,600	$3,9300	50	$1,597,000
16	61	$5,240	$83,840	$5,0304	60	$1,597,000
17	62	$5,240	$89,080	$6,2356	70	$1,597,000
18	63	$5,240	$94,320	$7,5456	80	$1,597,000
19	64	$5,240	$99,560	$8,9604	90	$1,597,000
20	65	$5,240	$104,800	$104,800	100	$1,597,000

Cash Value or Investment?

It seems there are as many ways that ROP is marketed as there are ROP products. One underlying theme that should be ***avoided***, however, is the comparison or implication that ROP is a typical cash value or investment insurance product. It is our opinion that this can lead to serious legal problems involving agents, clients, carriers and attorneys alike. ROP is not your father's life insurance plan.

The question remains: If ROP is not a typical cash value product or pure term, what is it and how should it be portrayed?

The Viewpoints

ROP insurers charges an extra cost for the ROP feature or if the feature is offered as a policy provision the extra cost is factored into the policy pricing. The ***extra cost*** return of premium insurance has been hotly debated. Some say that it dilutes the purpose of low-cost term policies while others contend that a premium of ***zero*** is hard to beat. The producers often persuade clients with a simple question: Do you want low-cost term or no-cost term?

Proponents of ROP also argue that there is much greater value to ROP life where the clients doesn't have to die to win. He gets his money back. Others say that a client could do better by taking the extra cost of ROP and investing it on his own. They offer an example like this:

A 35-year-old male, preferred nonsmoker would pay $428 a year for a 30-year level term plan by itself. The ROP rider adds $102 per year (about 23% more). At the end of the 30-year period, the man could get $15,900 as the ROP amount. To get that kid of return elsewhere, the man would have to invest $102 per month for 30 years in an instrument yielding 9.22 percent, net after tax, guaranteed.

Again, it is only our opinion, but explaining ROP like this is asking for trouble. It has all the appearance of an investment opportunity -- something you would be wise to avoid.

Structure

Some ROP life plans are filed as modified endowment contracts. This is important to determine and know with your own product because MECs ***cannot*** be exchanged for other life insurance contracts. Conversion as a simple lump-sum payment subject to MEC limits, however, ***is permitted***.

The MEC was created in 1988 to prevent policyholders from using cash-value policies like universal or whole life solely as a source of tax-favorable loans. If your policy is a MEC, the tax treatment of any death benefit provided under the contract will still qualify for income tax free treatment. Any distribution from a policy that is a MEC will be taxed on an "income-first" basis. Any such distributions will be considered taxable income to you to the extent there is gain in the policy at the time of distribution. That is, the distribution will be includible in income up to the amount your account value exceeds your basis in the policy. Of course with most ROP plans, the only thing returned to you is actual premium, so you are simply receiving back your cost basis.

Return of Premium Benefit

When you are helping your client make any insurance purchase, the first and foremost consideration should be the ***quality*** of the underlying contract and the ***stability*** of the company behind it. Isn't that why we buy insurance coverage in the first place?

When in comes to an ROP rider remember: Your client is actually buying the ***right*** to get his premiums back in a certain number of years. This should not be interpreted as an investment, marketed with some form return or yield. Why? Because in the final analysis, your client is only getting his money back.

To eliminate confusion, your representation to your client should not be as a return on his money, but rather an ***ROP benefit***. The comparison should not be made to other investments but rather the alternative of no premium returned at all. One product produces a benefit of $0, the ROP product returns a benefit of $XXX (the accumulated premiums paid at the end of the policy term). Which would you like?

Legally, the ROP concept closely resembles a ***sinking fund***. Or maybe you remember the old Christmas Club Account made popular at banks? Both are periodic payment funds into which a someone sets aside money over time in order to have a larger sum of money at some future date. No interest earned, no return on investment. In other words, it is a form of ***forced funding***. The term "forced savings" would not be accurate with return of premiums products since "savings" implies interest earned -- this is not the case with ROP.

Example: You buy an ROP product with a premium (including the ROP rider) of $100 per month. Your return of premium benefit at the end of 20 years is $24,000 ($100 X 12months X 20 years). There is no return or interest paid; the fund grew simply because you added premium payments. The ROP benefit is nothing more than a return of your own money.

Time Value of Money

Marketeers of the product want you to convince clients there is a ***time value of money*** angle to ROP life which is clearly a deception. They tout the additional $40 or so per month rider as an investment earning you $24,000 after 20 years. This results, they say, in an annual compound rate of return of 8.14%. Add the fact that the $24,000 is not taxed and you have internal rates of return that are even higher.

The truth of what is happening here is that $40 or so per month is simply buying you the right to get your money back at the end of the policy term. No interest, and no return on investment is possible since you are simply getting your own money back. Anything else is smoke and mirrors.

Qualified Buyers

The real question is can your client afford the extra $40 per month without jeopardizing his core protection or forfeiting some other form of insurance protection needed in another area? If he can, then the ROP benefit has value. If it is questionable then consideration of a pure term product, without ROP guarantees, is warranted.

The message is to be sure that the ***primary purpose*** of the client's need -- insurance protection -- is handled first. Return of premium benefits can be explored if your prospect is qualified and it fits his goals.

The Cost of ROP

Like all things that sound good, the biggest downside to ROP insurance is that it is ***more expensive*** than traditional term policies. And, that fact must be weighed in the client's decision to purchase it. Our own research found a wide range in ROP rider costs -- from 45% to 69% of base premium. And, the gap typically gets larger as you age. In addition, ROP policies with shorter terms seem to price a tad higher since a policyholder is more likely to outlive them.

There is no set relationship between the rider premium and the base premium. In other words, insurers do not charge a standard 50% of the base for their ROP riders. The relationship reflects more the type of product, individual underwriting and the benefits of the rider. So, a 35% rider may be good for one product and 60% for another. In addition, base premiums vary widely, so a 60% rider cost on a much lower premium may still represent value for the client.

The important thing agents must know about the ***additional cost*** of ROP insurance is that the additional cost represents a higher expense burden for your client. You should ***only recommend*** ROP rider if there is a reasonable likelihood that your client will be able to continue to pay the added cost. Why? Because a higher total premium, ROP policies may have a greater chance of lapse. The higher costs may also cause your client to forfeit some other much needed insurance protection. So, you need to qualify ROP prospects better.

ROP vs ROP vs ROP

There are several terms in insurance that use the ROP acronym. To clarify what you are selling, you must understand yourself and make clients understand the differences.

Following is an explanation of each:

Return of Premium Rider (ROP) is an optional rider that will reimburse all premiums paid at the end of a policy period. This product is the subject of this course.

Return of Premium Clause (ROP) is a feature of a policy that refunds all or a portion of your premiums to your estate when you die during the policy period, less any loans or withdrawals. You usually have to pay premiums for a certain number of years and/or your death has to occur before a certain age. This feature holds appeal for people who think they will die before they need coverage. These clauses are typically built-in to many policies.

Return of Principal Clause (ROP) means that the surrender value of your contract (annuity) will never be less than the single premium payment, less any amounts previously paid. Again, this may be a built-in, not a rider.

Just thought you needed to know!

Term vs Cash Value

In it's simplest terms, ROP is the latest weapon in age-old battle between term and cash value insurance. Typical cash value insurance, includes pure insurance coverage – guaranteed renewable for your whole life – along with an investment component to build cash value. Building cash value, however, means paying higher premiums. And, substantial premiums may mean the insured does not acquire adequate insurance. This has always been the complaint about cash value products.

The term versus cash value argument is nothing new. Term proponents say: While an unused term policy can feel like a waste, a typical cash value policy can often cost two or three times as much for the same coverage. Cash value proponents say: Term insurance is temporary, cash value is permanent.

To understand why ROP evolved, let's look a little closer at this issue:

The Term Wars

Before ROP, there was and continues to be the ***term wars***.

Term insurance was created as a cheap alternative for customers needing only a few years – a specified term – of protection. Originally, term insurance was designed to support the life insurance industry's carrier agency force. Whole life insurance was to remain the flagship product, the only choice when the best customer could ***afford*** to do everything right. After all, whole life insurance was really, truly the only way a person could build a savings account while providing family protection right up to retirement.

In the early years (1950's), term was considered the best way to capture a beginning relationship with the medical intern, the beginning attorney, the college graduate entering business, etc. As the client graduated to being a successful law partner, a medical practitioner with a substantial practice or a CEO of a profitable company, the term insurance would be converted to whole life.

The picture changed in the 1970's and 1980's, when insurance agents, struggling to make a living, discovered that selling low cost term coverage had a fairly deep market appeal to a public adverse to buying ***any*** life insurance. Rather than go through complicated explanations of cash value buildup, agents found it easier to sell pure protection. Customers found term insurance easy to understand and more affordable.

Sometime in the 1980's a new strategy developed -- “Buy Term and Invest the Difference”. A new wave of buying ensued and to the surprise of many industry pundits, applications began pouring in off simple newspaper ads, flyers and phone solicitations. Because term insurance so exactly met the average person’s understanding of what life insurance ought to be, the product could almost be purchased by remote control.

Even more fuel was added in the late 1980s and early 1990s when banks realized that the crumbling Glass-Steagall Act would not keep them from selling life insurance for much longer. Banks realized that they could aggressively market term insurance to their customer base. In-branch sales efforts were supplemented by wave after wave of direct mail term insurance offerings to the bank’s credit card base. Retail bank customers anxious to protect a variety of consumer debt ranging from auto loans to mortgages could purchase credit term coverage painlessly, without medical exams, charging premiums to credit cards or paying through direct debits from checking accounts.

Term Wars were not, however, a run-away victory for direct marketers and banks. Price cutting was inevitable, along with the resultant profit squeeze that made initial actuarial calculations optimistic if not rosy. New entrants flooded the direct marketing game. Several name-recognized carriers decided not to be left behind. Newly formed marketing organizations calculated that getting carrier appointments and writing spaces ads presented very low entry thresholds. Competition became cutthroat. Every newspaper, it seemed, carried five or six different space ads warning the customer not to overpay for term insurance. Internet marketing evolved to the point where active Internet users began receiving spam e-mails from vaguely identified marketers offering to provide term insurance quotes to anyone willing to respond.

All of this posturing by major players lead to some pretty tough years for the independent and career insurance agent alike. To some extent, however, these agents made a comeback on the heels of the debut of ***level term*** in the 1990's. Have your prospects pass some simple underwriting and now, their premium is ***guaranteed*** for 10-, 15-, 20- or even 30-years! Gone is the concern that a client's health may preclude insurability when a renewal period ends. Of course, critics were still concerned that coverage is limited -- it's not permanent. Term proponents answer with more questions: Should people continue to be burdened with life insurance premiums into their 70's and 80's? Is there a time when the estate of an individual should be adequate to cover the ***capital gap*** between the amount of money you have and the amount of money you need to provide for the objectives identified?

Regardless of your persuasion in this matter, it's easy to see that the industry clearly upped the ante with the introduction of Return on Premium Life. Is it the ultimate answer to the term v. cash value war? Is it the industry's way of getting back into the good graces of the career and independent agent population?

The answer remains to be seen. For the moment, however, agents have a new product with great marketing appeal. And, carriers introducing Return of Premium have found it useful to work through life insurance agents and brokers because the concept takes some explaining. Agents armed with ROP once again have an entry-level product to use in developing an initial relationship with a prospect, setting the stage to cross-sell as the client advances into additional life cycle needs.

Some ROP History

We mentioned early on that ROP is not exactly new. In fact, it actually preceeded term policies.

One of the earliest attempts to market a variation of ROP occurred in the late 1940's. A few policies, marketed by aggressive companies, were being issued with something called a "survivorship bonus" clause. In essence, this clause that went something like this: "If the insured be living and if this policy be in force, other than by reason of the operation of one of the nonforfeiture values provisions, on the twentieth anniversary of the date hereof, this policy will have qualified for a Survivorship Bonus payable to the then life owner". Bonus amounts amounted to $5 for each $1,000 of insurance. Pure and simple, it was a loyalty bonus. However, many states saw it as a dangerous thing; even declaring them illegal -- White v. National Old Line Ins Co -- 1948 -- on several fronts: It created a separate class of policyholders; the promise to pay created reserve problems and it made insurance policies a game of chance (investment)!

My how things have changed. Suspicion still lingers, however, because some states still do not allow ROP riders. The ROP benefit must be built-in to the policy rather than offered as a rider.

Taxation

NOTE: Tax law is an extremely complicated are that is changing daily. The following should not be construed as tax advice for use in personal or client planning. You must consult competent tax counsel before relying on any ROP tax matter.

Individual Policies

The taxation of ROP life, like other insurance products, is not always crystal clear. IRS codes, for example, do not specifically address ROP. However, it seems that the industry is confident that the return of premium benefit for individual policies does not trigger a taxable event since the benefit is actually a return of the actual cost basis.

So, according to ROP experts, there is currently no tax on returned premiums on individual ROP policies as long as the policy continues to meet the definition of life insurance under Section 7702 of the internal revenue code which reads as follows:

Section 7702 defines the term "life insurance contract" for purposes of the Code. Section 7702(a) provides that a "life insurance contract" is any contract that is a life insurance contract under the applicable law, but only if such contract: (1) meets the cash value accumulation test of § 7702(b), or (2) meets the guideline premium requirements of § 7702(c) and falls within the cash value corridor of § 7702(d).

An side note concerns tax-qualified long term care policies. While not the subject of this course, it is interesting to note that these policies are not allowed to provide any cash value or return of premium while the insured is still alive. Any such return will void the policy's tax-qualified status.

Employer-Paid Policies

Section 162(a) allows a deduction for all ordinary and necessary expenses paid or incurred during a taxable year in carrying on any trade or business. ***Insurance contracts***, to be ***deductible***, must involve the ***shifting of economic risk*** of loss away from the insured. That generally means that only insurance premiums for fire, storm, theft, accident or similar losses and/or group life up to $50,000 are deductible,

We are unaware of any IRS code sections that directly address the deductibility of ROP term premiums. However, one private letter ruling concluded that if the amount that would be received on the maturity of the ROP benefit is essentially equivalent to the return that the taxpayer would have earned if the premium were placed in an alternative investment arrangement, such as with a bank, then the principal purpose of the policy is ***not solely*** for insurance protection. This fact would seem to disallow the deductibility premiums.

In conclusion, we perceive a danger in promoting the employer-paid deductibility of ROP term for the following reason:

A refund of any expense, if received, should be considered taxable because it was previously deducted as a business expense.

In essence, rarely does the IRS permit you to deduct and expense that you later recoup in full. Some agents are promoting that business owners take deductions and ignore the ROP benefit because there is no 1099 issued by the insurer when it is paid. An audit will quickly get to the root of this and guess who they will call to solve it?

Exchanges and Conversions

Exchanges from an ROP contract to life insurance is not permitted because ROP terms can be filed as modified endowment contracts which prohibit this practice.

ROP benefits, however, can be converted to new permanent policies. They would be considered as a single lump sum premium that is again subject to MEC limits.

Underwriting

Since ROP is basically a term product, there are few surprises concerning consumer underwriting. However, more complicated decisions are required by insurers where reserve and lapse issues make ROP a different breed.

Consumers

To qualify for preferred rate class, candidates for ROP term life must generally meet underwriting guidelines for most insurers similar to the following:

- No tobacco use of any kind in the past 5 years.
- No occurrence of coronary artery disease, cancer or diabetes prior to age 60 in parents or siblings.
- A history of or current treatment for elevated cholesterol is not acceptable. Cholesterol must not exceed: 210 for ages 18-50; 220 for ages 51-65; or 230 for ages 66+. Cholesterol/HDL ratio must not exceed 5.0.
- A history of or current treatment for elevated blood pressure is not acceptable. Blood pressure readings must not exceed: 135/80 for ages 18-50; 140/80 for ages 51-65; 145/80 for ages 66+
- Weight must not exceed the Super Preferred chart maximum:

	Maximum Weight			Maximum Weight	
Height	Male	Female	Height	Male	Female
4'8"	123	122	5'8"	178	167
4'9"	130	127	5'9"	183	171
4'10"	134	131	5'10"	189	175
4'11"	139	134	5'11"	193	181
5'0"	143	138	6'0"	200	185
5'1"	148	143	6'1"	207	188
5'2"	151	145	6'2"	211	190
5'3"	156	149	6'3"	216	195
5'4"	160	153	6'4"	221	202
5'5"	165	156	6'5"	227	208
5'6"	169	160	6'6"	232	214
5'7"	174	163	6'7"	237	221

- A history of any of the following will rule out consideration for this rate class: Alzheimer's disease, asthma, cancer (except certain skin cancers), cardiovascular disease, Chronic Obstructive Pulmonary Disease, Crohn's disease, depression, diabetes, drug or alcohol abuse, emphysema, epilepsy, gastric/peptic ulcers, heart murmur, HIV positive test results, chronic kidney or liver disease, recurrent kidney stones, leukemia, melanoma, mitral valve prolapse, multiple sclerosis, nervous or mental disorder, neurogenic bladder, Parkinson's disease, prostate related impairments, rheumatoid arthritis, stroke, suicide attempt, ulcerative colitis, or vascular disease.

- No hazardous activities or occupations.
- Active military personnel will not be considered. Scuba diving will be considered but will require an additional premium.
- No DWI/DUI in the past 10 years. No more than 2 moving violations in the past 3 years.
- For Private Pilots: Private Pilots will be considered with an additional premium. Commercial pilots will be considered if flying passengers on regularly scheduled airlines and do not engage in any other type of flying.
- U.S. citizenship is not required. If not a U.S. citizen, a permanent visa/green card is required.
- Candidates do not intend to travel to any underdeveloped or unstable parts of the world including any country currently on the U.S. State Department Travel Warnings list.

Carrier Assumptions

Some industry analysts feel that ROP insurance is the true double-edged sword. The premium guarantees and low cost, the say could undermine the product's long term profitability, especially where 10-, 15-, 20- and 30-year contracts are involved.

Since ROP is a recent development, it is difficult to evaluate the number of people that will cancel their policies; and, the industry admits that the lapse rate of ROP is ***crucial*** to the its profitability. Why is this so? Because, from an actuary standpoint, insurers assume that a certain number of policyholders will cancel their policies over time. These cancellations then release carriers from some of their guarantees. The problem with the ROP product is that it is a good product for the consumer. When they realize this fact, and as time marches on, their chances of dropping it decreases sharply.

Furthermore, the ROP rider can generate significantly higher reserves under Triple X Section 6D if an unusual surrender pattern develops. In plain English, this means that insures will be required to beef up their reserves if they are going to make return of premium guarantees 10-, 15- or 20-years in the future.

Other pricing factors that actuaries must consider with ROP plans include:

- Net investment rate (insurers must make more on their investments to replace eventual lost ROP guaranteed premiums).
- Cost of additional reserves.
- Higher agent compensation.
- More elusive profit targets.
- Nonforfeiture laws that specify minimum cash values required by life insurance policies.
- Mortality costs associated with longer-running policies.

Considering all these elements, insurers must consider ROP products more costly and harder to predict. This must be balanced with their obvious popularity among consumers and producers. Perhaps over time, insurers will have to adjust premiums to accommodate more conservative assumptions. Industry analysts feel this can be done and still provide a product of value to consumers.

Duration & Company Choices

ROP term encourages owners to buy and hold ***far longer*** than they have in the past. ROP benefits will be paid decades down the road so it is more crucial that they are placed with a quality carrier.

Agents can easily be lulled into believing that placing business with an ***A-rated*** or better company is sufficient to stay out of trouble. Unfortunately, some in the industry are of the opinion that even ***well-rated*** companies are at risk of failing. If so, your clients and their attorneys may attempt to hold you responsible.

You might be asking what you are supposed to do: After all, if regulators and rating agencies with all their resources can't predict a solvency how can an independent agent or producer be expected to know? Isn't reliance on an authoritative third-party rating agency sufficient due diligence? Perhaps. Maybe not.

History has proven that a high rating is not a guarantee of anything other than the fact that at the time the ratings occurred, a particular company is more solid than another. And, this fact can change rapidly as it did in the late 1980's when even A+ company balance sheets deteriorated within a matter of months. The decline was not just a drop in ratings; for some companies it was a drop to liquidation!

Also, rating agencies, as you will soon see, have created complicated systems of classification with many ***qualitative*** and ***quantitative*** measurements. This makes a complete explanation of their criteria almost impossible and it is why virtually all rating companies include disclaimers in their analysis. In effect, they are warning you not to rely on their data.

So, we again come full circle to the question of what should an agent do? Well, with our own disclaimer to check with a professional before you do anything, we suggest you explain to clients that a high rating is ***not a warranty of future financial condition*** for the insurer of your product. In general, a higher rating can mean a lower probability of failure compared to insurers that are not rated as well. Again, however, there are no guarantees. You can advise those clients that the company is licensed in the state to conduct business and that the company and industry-accepted rating services suggest it is in good financial standing; however, you are not a guarantor of its future financial condition.

Here is how a ***sample disclosure*** might read:

While we are pleased to provide to you and explain the industry ratings of a particular company or alternate insurers, we do not make any independent investigation of a specific company's solvency or financial stability. We do not warrant or guarantee that any insurance company will remain solvent, and we will not be liable to any insurance applicant or insured for the failure or inability of an insurance company to pay claims.

Another misconception by agents is that the ***use*** of one rating service is sufficient to determine an insurers financial condition. In fact, you would be encouraged to consult the ratings of at least ***three*** services. If the rating of your company by all three is consistent, there is some agreement among the raters on the financial condition of your company. However, if the ratings vary widely, this might be a signal that there are factors for concern.

An example might be the troubled United Pacific Life. In 1992 it was rated A+ by Duff and Phelps, BBB by Standard & Poors and Ba-1 by Moody's.

Abuses

The final chapter delves more into ROP misconduct. For now, there are a few important issues to mention:

On the carrier side, there are several documented cases of abusive claim-handling for policies containing return of premium riders where companies are accused of failing to return the premium upon policy lapse or death in a timely manner. Other abuses include the potential to cancel an entire class of policyholders thereby extinguishing the ROP guarantee. It's already happened once. Hopefully, the regulators will be on guard to prevent it again.

On the agent side there are existing lawsuits and claims of abuse surrounding misrepresentation and advertising abuse. For example, ROP has been hyped by some agents to resemble a typical cash-value product. What they fail to mention is that the premiums returned may be reduced in the early years of the policy and/or that the ROP benefit can be significantly reduced or even eliminated by any claims or benefits already paid. As we mentioned at the front of this course, this has a greater chance of happening in a ROP disability plan where a single claim can reduce the ROP benefit to zero. And, the likelihood of a claim over a 10- or 15-year period is reasonable. Imagine paying 50% more premium only to have it be wiped out in an instant. This is less likely to occur in ROP term and if a death claim does happen, the beneficiaries at least get the death benefit.

Effort is also spent by agents to portray ROP insurance as a typical cash-value product or an investment. The ROP benefit may only be described as a cash value in illustrations to keep the product in line with the definition of insurance. However, don't be mislead. This is not a cash value component that earns interest in any way. It is simply a return of the buyers accumulated premium. For that reason, this product could not and should not be compared to a typical cash-value policy or sold as an investment product.

CHAPTER 2

The Market for ROP

What has led us to the new ROP term product?

Well, the biggest beef people have had with term life insurance is that they will pay all this money into the policy and when it expires, they will get ***nothing***. This has led many people to consider typical cash value insurance as an alternative. Unfortunately, typical cash value products can cost as much as two to three times the cost of pure term. The danger here being that with limited funds, a family with cash value coverage only can be underinsured.

With ROP, many leading insurance companies feel they have now addressed this issue. They say that return of premium life insurance allows clients to have the life insurance coverage that they need during the important years of raising a family and paying your mortgage. And, if they keep the policy in force for the full term and don't need the death benefit, they will get all premiums that they paid into the policy back, not including substandard and rider charges.

The true ***target market*** for ROP life is the individual interested in basic term protection but hesitant to invest in insurance they may not need, or permanent insurance they ***cannot afford*** or view as a poor use of their money. In effect, it addresses the primary objections to both basic term insurance as well as permanent life insurance.

Interest in ROP life is also, no doubt, being fueled by the positive fact that Americans are living longer combined with other long-term investment factors to consider such as the uncertain economy, stock market volatility and the low interest rate environment. With an insurance company, their principal is guaranteed.

Another aspect of ROP life is the ability, in the case of some products, to convert their ROP plan to a permanent or universal product. There are restrictions as to when these conversions can take place but this option clearly responds to the clients concerned that their term policy will leave them ***uninsured*** at expiration.

ROP Demographics

We were not able to find any major demographic study pinpointing buyers of ROP term products. In the disability arena, however, it has been noted that younger insureds are more likely to purchase ROP. Of course, this may have to do with the maximum issue age of most disability products being 50 or 55 years. Still, the trend showed the younger element, between 18 and 30, as the most likely buyers. Perhaps these are the buyers most interested in a "forced funding" premium plan. Another ROP term spokesman is quoted as saying nearly 70% of his ROP policies have been issued to policyholders 50 years or younger.

Industry experts also feel that the consumers who buy ROP products consider themselves to be a little healthier -- thus, they have a greater chance in their minds of getting their premiums back 10-, 15-, 2- or 30-years in the future.

The nature of ROP products may attract a longer-term client because with ROP they have a financial reasons for making sure their policies do not lapse.

ROP may be a good program for someone who wants a forced funding plan, however, you must be careful to not sell ROP as an investment or typical cash value product.

When the dust settles, no matter who buys your ROP product, you must look company by company to determine if a particular ROP plan is right for your client because some may have limitations and restrictions not in keeping with the client's goals.

CHAPTER 3
Using Return of Premium

There are many ways that ROP life plans can be used to effectively provide pure protection and fill additional roles in wealth preservation and personal funding goals.

A Personal Funding Plan

At its most basic level, ROP life can provide a policyowner the required amount of pure protection and fill a form of guaranteed forced funding leading to a pot-of-money at some future date.

Example: At age 35, Bob Allen needs an additional $500,000 of pure term coverage to protect his 15-year home mortgage exposure and a private loan from his parents to start a new business. At the end of 15 years Bob's 3 year-old daughter Patty will be entering college. A little extra money will help. Bob looks around and finds a very inexpensive 15-year level-term policy for about $300 per year. For an additional $240 per year, however, Bob can purchase an ROP Rider that will refund approximately $8,100 at the end of 15 years providing Bob keeps his policy current. Not a bad sum to start Patty's college. Had Bob purchased the level-term plan without and been disciplined enough to invest the extra $240 per year in a bank account he would have only $4,300 to help with Patty's education. Purchasing the level-term plan without any forced funding would net Bob nothing for Patty's college.

Increase Protection At The Same Price

ROP term can be combined with a universal life product to double a client's coverage at the same price with guaranteed results.

Example: Mark Hope is a 45-year old male looking for the maximum amount of guaranteed life protection ***through age 100****. Mark can purchase a competitive universal life plan with these features for a level premium of $2,100 per year for the next 55 years. Instead of doing this, Mark combines a $250,000 ROP term plan, costing about $900 per year, in combination with a $250,000 face amount universal plan with a unique no-interest catch-up provision that allows him to make lower payments of approximately $1,200 per year for the first 30 years. The annual payment is the same as his original universal plan -- about $2,100 per year, but his coverage is doubled at $500,000. At the end of 30 years, the ROP benefit plans refunds him almost $27,000. Mark dumps that into the universal plan to "catch-up" to his required premium level. Mark then continues with the universal plan for the remaining 25 years at the $2,100 premium. The net effect: 30 years of double coverage for the same price!*

ROP and Annuity Combo

Let's say a 50 year old client wants to use $250,000 of liquid assets to maximize his estate protection and create a good, guaranteed future income. Splitting his funds between annuities and an ROP life plan may be worth consideration.

Example: Susan Welch agrees to split her $250,000 money market fund into a $140,800 deferred annuity and a $109,190 immediate annuity. The proceeds from the immediate annuity are used to buy a 15 year ROP term product with a $1,000,000 death benefit. So, at this point her $250,000 is diversified and she has $1 million of estate protection. Turning the clock forward 15 years, the deferred annuity is worth $223,637 and the ROP is paying off more than $127,000. Using the proceeds from both, she again purchases a new immediate annuity that will pay her almost $29,000 for a certain period of 15 years. A retirement income and estate protection along the way!

These are just a few examples that demonstrate the power of ROP planning. In every recommendation, you will want to research the client's ability to maintain core and ROP premiums, potential tax implications and his or her ability to rebound if something went wrong.

CHAPTER 4

Return of Premium & The Agent's Role

Now that you have an understanding or ROP term and it's potential use, it is time to plan your role as an agent. Your ability to communicate special knowledge about your product and place the buyer's real needs above all else is critical to a successful long-term relationship with your client. Here are some issues to consider along this path:

Ethical Selling

Do you believe in the Return of Premium rider or product you are promoting? Do you think you're an honest agent? Could you prove it to a jury? What would your mother say about your sales practices? In the end, how will you judge your sales career? By how much money you made? By how many customers you helped? By what you accomplished for your family and your community? The answer lies within you. And, you are not alone if you are not 100% sure. There are many people and industries trying to grapple with the solution to “truth in selling“.

Having ***high ethical standards***, or more simply being honest, can be more important than being right because honesty ***reflects character*** while being right reflects a ***level of ability***. Unfortunately, the insurance industry, for the most part, still rewards ability. There are, for example, plenty of "million dollar" marketing winners and "sales achievement awards"; but few, if any, "Ethics & Due Care" certificates.

For some, ethical selling, whether by a code of ethics or just plain honesty, is reward by itself. Consider, for example, the satisfaction you would realize when the interest of a client has been served by the proper placement of insurance in the following situations:

- The capital needs of a family are met by a $1 million life insurance policy when the breadwinner dies prematurely
- The estate of an entire family is left intact because an umbrella liability policy sheltered against a major accident claim
- A business is able to survive after the death of a partner because a life policy payment provided necessary capital to replace the devastating loss
- The retirement plans of a once young married couple are made possible through investments in pensions and annuities
- The owner of income property financially survives a major fire because his liability policy included "loss of income" provisions
- A family survives a mother's long term bout with cancer because their health insurance carried a sufficient "lifetime" benefit

The list is endless, but the point is already made: The work of an insurance agent often impacts the entire financial well being and future of businesses and families. Ethics place the interest of these clients ***above*** an agent's commission and is, in fact, the very root of what constitutes a true professional.

Being ethical is indeed professional but the gesture goes beyond the mere compliance with law. It ***means*** being completely honest concerning ALL FACTS. It means more than merely NOT telling lies because an incomplete answer can be more deceptive than a lie. It means more than being silent when something needs to be said, because saying nothing can be the same as a lie. Take the case of Bell v. O'Leary - 1984. An agent took an application for flood insurance but failed to notify the client that his mobile home was located in unincorporated areas that were ineligible for any coverage under the National Flood Insurance Plan. A loss occurred and the agent was sued. The courts determined that the agent had superior knowledge and failure to give the client a complete answer about the unavailability of coverage took precedence over the fact that coverage for the property was not available from anyone.

Someday, it may be real important for a court and jury to hear that you have a history of serving clients without consideration for how much commission you made or how busy you were, i.e., you are a person with good ethics. In Grace v. Interstate Life - 1996, an agent sold his client a health insurance policy while in her 50's. After the client reached 65 he continued to collect premiums despite the fact that Medicare would have replaced most of the benefits of her policy. The court considered the agent's lack of duty to notify his client a serious breach of ethics.

The ROP product or rider is not any different. If, for example, you neglect to tell a client that any benefits paid during the policy term will be excluded from the return of premium, you are not telling the whole truth.

Perhaps part of the blame for modern-day ethical indiscretions is the complexity of financial products and the intense competition among sellers and agents. Both make it harder for consumers to understand what they want or need and easier for an aggressive salesperson to mislead them. Consider Cunningham v. PFL Life - 1999. Agents, who promoted themselves as "experts" with superior knowledge, misrepresented the life insurance policies they were selling as investment vehicles. Consumers were easily convinced that the papers they held were investment contracts. The courts found the insurer liable for reckless and wanton failure to train and supervise its agents. The case did not disclose if any suits against individual agents were launched by the insurer.

Some believe that the ethics problem reflects our current culture that glorifies short-term success at all costs. This includes awards for the most sales in a given period of time as well as "golden boy" stories of the entrepreneur who goes from lonely computer geek to multi-millionaire from a single idea. Neither of these events is meant to say that these individuals accomplished their feats in an unethical manner. It simply ***raises the bar*** for those who follow them. If those who follow have inadequate skills and work habits, they could employ less than ethical means to reach the same goals.

Agent Liability

As with other insurance products, Return of Premium is not without legal conflict. Much of this is due to the fact that the agent of the new millennium deals with stiff competition, fast-paced decisions and some very unpredictable insurance markets. To aggravate this condition, we live in an era where courts are very sympathetic to consumers. People feel entitled to seek complete and generous compensation for the smallest problems, even when they are contributors or the discovered source. Furthermore, the consumer of our time has lost all respect for the status of the professional, any professional. This includes doctors, lawyers, teachers, clergy, real estate brokers, stockbrokers and insurance agents. Few would think twice about suing any one of these professionals to receive satisfaction for an honest mistake, let alone one leading to a financial loss or injury. Understanding this, it is easy to see that the selling of insurance can lead to conflicts and legal disputes.

When an insurance agent and his client cannot resolve differences, agent liability can result, even when the agent is right. In fact, about 75 percent of all insurance malpractice claims are frivolous, and while an agent may never pay any damages from these claims the process of responding is very costly, BOTH in money and lost production.

Claims against you may surface as a result of events that occur ***before or after*** a policy is issued, and they may involve you and a client, your insurer or a third party who is an ***intended beneficiary***.

Cases can be built around issues of legal conduct as well as sales conduct. And, there are “triggers” that launch insurance related lawsuits. They can be as basic as failure to secure the type or amount of coverage requested by the client to more complex and seemingly "blue sky" claims where clients demand recoupment of losses and damages simply because of a relationship that existed between agent and client. Other claims span the gamut from client losses due to an insurance company failure to refusal to pay a claim.

Sometimes, an agent’s liability is the result of simply being too busy to witness a signature or too rushed when entering a policy premium payment . . . ***small “blunders”***. Of course, a single incorrect digit or a blank you forgot to fill can make the difference between a policy “in force” and a cancellation or denial of claim -- a matter that is a guaranteed BIG DEAL to a client when an accident, death or problem occurs.

Agents who have never been sued are sometimes lulled into believing that the way they do business must be working. Unfortunately, this ignores the real possibility that the same events of the past, that weren’t a problem, can now become a problem. It is a world of legal rights and little trust. The long-term client who you trusted, can change. Also, regulations change, industries change, economies change and no one can really keep up or control every aspect of their present business, let alone the future. Can you imagine, for example, the changes that will occur over the life span of a whole life policy between today and when it endows in fifty or sixty years? Will a state or federal regulation change the way automobile or health policy benefits are triggered? Will the IRS retroactively disallow tax benefits for a an annuity contract or single premium policy you sold three years ago?

No one knows the answers to all these questions, but it should be clear by now that as an insurance agent you are prone to errors, some beyond your control. As a business person you need to accept the fact that your business carries risk. Then, you need to find ways to manage and plan for these risks to minimize the fallout when a claim occurs. You will notice we said “***when***” a claim occurs not “***if***” a claim occurs. We say this because statistics prove that anyone who stays in the business long enough WILL suffer the wrath of a client or insurance company claim.

Agent Duties and Status

The most critical questions in determining agent liability is the extent to which accepted legal standards, state licensing and agency status obligates the agent.

The agent/broker generally assumes duties normally found in any agency relationship. One of the most important documents controlling duties is the ***agency agreement***. Agents who continually refer to their agency agreement shall have a better chance of remaining within the ***scope of their agency,*** thereby limiting liability. Caution is always advised, however, in light of cases where terminology in the agency agreement appeared to limit agent exposure only to be overruled by common law (Goebel v Suburban – 1997).

With respect to client activities the primary obligation is to ***select a company and coverage and bind the coverage*** (if the agent has binding authority, i.e., property/casualty agents). However, since clients typically ***request*** coverage, the basic duty may expand to include the agent deciding whether the requested coverage is ***available*** and whether the insured ***qualifies*** for it (Harnett, Responsibilities of Insurance Agents - 1990).

The mere existence of an agency relationship, or the simple selling of insurance, imposes no duty on the agent/broker to ***advise*** the insured on specific insurance matters (Jones v Grewe - 1987). Duty also DOES NOT require the broker/agent to secure ***complete*** insurance protection against any conceivable loss the insured might incur, but there may be a duty to explain policy options, such as the return of Premium Rider, that are ***widely available at a reasonable cost*** (Southwest Auto Painting v Binsfield - 1995). Also, there is reason to believe that the agent has a duty to use reasonable skill in asking certain questions during the application process to determine types of coverage needed (Smith v Dodgeville Mutual Insurance – 1997). Or by failing to determine the nature and extent of the coverage requested as in Butcher v Truck Insurance Exchange - 2000.

An agent's duty to provide correct coverage is not triggered by a client's request for "full coverage" because that request is NOT a specific inquiry about a specific type of coverage (Small v King - 1996). In other words, just because a client asks for full coverage an agent may not be liable to provide it. However, if a client requests a ***specific type of coverage***, the agent is responsible to see if it is available and determine if the client qualifies.

A local agent owes his client the greatest possible duty (Hartford v Walker County Agency - 1991) since he is the one the insured looks to and relies upon. Further, an insured is ***entitled*** to rely on an agent/broker's advice on the content and meaning of policy provisions. In Perelman v Fisher – 1998, the insured sued an agent for not informing him about the lack of cost of living benefits even though the agent advised the insured to review the policy which clearly did not provide it. Or, how about Nast v State Farm - 2002 where an agent's misrepresentation about the client's eligibility for a policy caused them not to buy it. A later loss proved they were eligible and needed it. Consider also, `Stivers v National American Insurance - 1957, where it is suggested that ***client reliance*** may sometimes be unjustified, as when the advice given by the agent "is in patent conflict with the terms of the policy". The law is also not without conflict, take Cooper v Berkshire Life - 2002 where the insured could not ignore conflicting or qualifying language in the policy or illustration and thereby close his eyes to avoid the truth.

It is a clear legal responsibility of agents to understand the difference between products that he is attempting to sell (Benton v Paul Revere Life - 1994). Whether an agent has an affirmative duty to inform a client of possible ***gaps in coverage*** depends on the relationship of the parties, specific requests of the client and the professional judgement of the agent Born v Medico Life Insurance Co - 1988).

Once a policy is issued, traditionally theories of legal conduct provide that an agent does not have the duty to ferret out, at regular intervals, information which brings the policyholder within provisions of a policy (Gabrielson v Warnemunde - 1988) and (Sintros v Hamon - 2002). In essence, it seems the courts have been more concerned about general agent duties to inform clients of appropriate coverage ***at the time of sale***. Recent departures from this opinion include a case where an agent was found liable for failing to determine that the insurance policy was no longer needed by the client (Grace v Interstate Life - 1996). In another example, an agent assured his client that the limits of the policy continued to meet his needs when they actually fell short (Free v Republic Insurance - 1992), i.e., agent duties may also include informing clients their coverage is appropriate ***after the sale***. Although each case stands on its own, the underlying determinant of "after sale" duty may be the "special relationship" that exists between client and agent, e.g., an agent handling the client's business for an extended period of time may assume a higher standard of care.

These are the basic agent responsibilities. Agents are not precluded from assuming additional responsibility, which they normally do in most client transactions. For example, in Mate v Wolervine Mutual – 1998, it was determined that an agent had a ***special relationship*** with an insured, demonstrated by years of experience and notes in the agent file, that created additional ***duty of care*** to know about the insurance needs of members of the family. In Cooper v Berkshire - 2002, agents held themselves out as highly-skilled insurance experts, possessing the ***special knowledge and expertise*** needed to interpret and understand the complex and sophisticated funding methods and mechanics of the disappearing premium policies. When the policy did not perform, they became entangled in a web of legal charges including fraud, concealment, negligence and breach of contract. Cases even exist where

When a lawsuit arises, however, it is the client's burden to show that ***greater duty*** is the result of an express or implied agreement between agent and client (Jones v Grewe - 1987) where the agent has taken more responsibility; unless, of course, the agent is the ***proximate cause of the a loss*** (Valley v Valley Forge - 2002). In most instances, the facts of the particular case determine whether the court finds a greater duty has been assumed. In the Fitzpatrick v Hayes – 1997 case, no special duty to procure "umbrealla coverage" was determined where the agent's brochure simply promoted a ***family insurance checkup***. A special duty might have been imposed if the agent held himself out to be an expert in umbrella coverage.

Agent Promises

From time to time, agents make promises that ***exceed*** what the actual policy promises. Obvious violations would be intentional or unintentional misquoting of policy limits, specified coverages and exclusions. Agent liability also existed in a case where a producer promised to arrange ***complete insurance protection*** for a business or where an agent promised, but never did, to evaluate an appraisal of an individual's property or to determine its "insurable value" in order insure a certain percentage of that value. In Blumber v Paul revere Life –

1998, the agent went so far as to market ***guaranteed disability insurance*** to a company regardless of previous medical history. He was made liable for covering new employees.

Additionally, an agent might promise to implement or increase a client's coverage ***immediately*** yet actual coverage might not be in force for 24 hours or until expiration of the existing policy. Less obvious, but equally as serious, are failed promises. A recent example is the marketing of "personal pension plans". Clients, who were promised a "pension plan", received a universal life insurance policy. Agents involved in this scheme are now subject to huge fines, client actions and possible license revocation.

ROP Suitability

At this point, you may be asking . . . what's the bid deal? People need insurance I provide it! Why does everything have to involve the law? Well, as we mentioned earlier, it may not be your ***legal duty*** to secure ***complete*** insurance protection against every conceivable need an insured might have, but there is definite legal obligation to explain ***policy options*** that are ***widely available at a reasonable cost.*** This might be considered good news in that the ***growing popularity*** of ROP life may almost make it mandatory for you to advise clients of this option. What a great way to get the word out!

Likewise, an agent has a legal duty to use ***reasonable skill*** in asking certain questions during the application process to determine types of coverage needed. As it relates to ROP, are you making sure that other critical coverages, like health care, umbrella protection, etc, are in place before encouraging the ROP rider?

Further, failing to determine the nature and extent of the coverage requested, may subject you to a lawsuit. Does you client ***really*** want coverage for life? Does the cost of the ROP rider reduce the amount of pure protection needed by your client?

Relationships

For a majority of suitability lawsuits, the basis of liability is relationship and purpose. Legally a ***personal relationship is created*** when a prospective insured consults an insurance agent, provides that agent with specific information about his unique circumstances and relies on the agent to obtain appropriate coverage tailored to these circumstances. Courts have recognized that the relationship between a prospective insured and an insurance agent (like the relationship of attorney and client) is that of principal and agent, for the purpose of negotiating a policy suitable to the client's needs (Nu-Air Manufacturing Co. V. Frank B. Hall & Co. - 1987). Further, an insurance agent owes the prospective insured a duty of unwavering loyalty similar to that owed by an attorney to a client. It is the special ***fiduciary nature*** of the relationship between a prospective insured and an insurer that lends the relationship a ***personal character*** similar in scope to the lawyer-client relationship. For this reason, alleged acts of negligence on the part of an insurance agent who has been consulted for the ***express purpose*** of meeting a client's unique needs create a ***personal tort***.

In Forgione v. State Farm Insurance - 1995, it was determined that the insureds made ***express representations*** to the agent about the importance of arranging a set of policies that would prevent a gap in coverage. The insureds ***relied*** on these agents to obtain the appropriate coverage, and the agents failed to use reasonable care, skill and diligence to procure ***suitable policies***. The allegations in the complaint make clear that the insureds

expected the agents to respond to the couple's unique, personal insurance needs. A $600,000 claim proved that a gap in coverage existed and therefore it was not a suitable policy. What about gaps created because you sold an aggressive ROP plan?

In another case (Anderson v. Knox - 1961) agent Leland Anderson had specialized in the sale of what is referred to as bank financed insurance or insurance under the bank loan plan. The plan was that premiums, would be provided by borrowing the amounts thereof from a bank and securing the bank by assignment of old and new policies.

What brought about the controversy in this case was that Knox was ***not*** a rich man. Premiums for the plan were over $7,000 per year. Knox had an annual salary of $8,100 per year and investment income of $1,600 per year! Don't get caught in something like this.

It was also uncovered at trial that the Knoxes inquired about ***reducing*** or dropping the program after they started it, in case they found it burdensome. Anderson ***assured*** them they could do so. What he ***neglected*** to tell them was that they could do so only at a very ***substantial loss***. The court believed that Knox has a right, as a matter of law, to rely on these representations as to suitability, if, as the court found, the representations were false, and were made with intent to deceive.

ROP term is clearly more expensive than pure term and there are penalties for surrendering early. There are some obvious parallels here that you need to watch.

ROP Litigation

Our research into ROP cases involving agents discovered a couple recent cases that demonstrate the agent's need to be diligent and ethical in the sale o ROP riders and product:

Robert R. Waitts v. American General Life -- 2002

This first case involves an agent promise that was not fulfilled.

The plaintiffs, the Robert R. Waitts Irrevocable Trust and its trustees, Margaret Waitts, George Waitts and James Waitts, commenced this action against the defendants, American General Life Insurance Company ("American General") and its agents Christopher Fountas ("Fountas") and Norman Warner ("Warner"), for damages allegedly sustained as the result of the failure of the insurance company to pay a claimed benefit in the amount of $1,160,000.

The complaint alleges that the plaintiffs applied to American General for a life insurance policy covering the life of Robert Waitts. Warner was American General's general managing agent at that time and the defendant Fountas was the insurance agent who assisted the plaintiffs in the procuring of the subject policy. The policy applied for requested, as an additional benefit, a ***return of premium rider***. When the policy was issued on December 20, 1995, however, it did not include the rider. The defendants Warner and Fountas allegedly represented that the rider would be added to the policy, both before and after the issuance of the policy.

Robert Waitts died on May 17, 1998. In July of 1998, the defendant insurance company notified the plaintiffs that it would not pay the return of premium benefit. The complaint, filed December 28, 1999, alleges breach of contract, promissory estoppel, violations of the

Connecticut Unfair Trade Practices Act, intentional misrepresentations and negligent misrepresentations. Americal General also filed a cross complaint against agents Fountas and Warner for indemnification.

Agent Fountas asked to dismissed from the case and the cross claim filed by American General on the basis that he was not a resident of the state where the transaction took place.

The plaintiffs, however, claimed that the court had jurisdiction over the defendant under the state's ***longarm statute*** that states a court may exercise personal jurisdiction over any nonresident individual who "transacts any business within the state." Other facts are as follows: The decedent, Robert Waitts, was a resident of New Jersey. The plaintiff trustees were residents of New Jersey. The defendant Warner was a resident of New Jersey. The defendant insurance company is a Texas corporation with its principal place of business located in Houston, Texas. Fountas, was a resident of New Jersey and was employed by Braishfield Associates, Inc., a New Jersey corporation with an office in Clifton, New Jersey.

Conclusion

The issue of whether the return of premium rider should be paid was deferred to another trial. We found no information that this trial took place which means it was either settled or is still in the litigation "mill".

This left the issue of whether agent Fountas should be let out of the suit. The court said NO on the following findings:

- The actual life insurance policy issued was a Connecticut contract.
- It was deliberately procured in Connecticut because Connecticut was one of only a few states in which a ***return of premium rider*** desired by the insured was available.
- Fountas had direct contact with Robert Waitts and the trustees.
- To assist the plaintiffs in determining whether or not to purchase the subject policy, Fountas contributed information which outlined the parameters relating to the performance of the policy. This document, entitled "A Life Insurance Illustration of Projected Values and Benefits for Use in Connecticut" specifically states that it was "Designed For: Robert Waitts By: Chris Fountas."
- The application for the Connecticut policy was filled out by Fountas. The application indicates it was signed in New Haven, Connecticut on December 6, 1995.
- Fountas indicated that he "held an Insurance Producer License in the State of Connecticut from October 2, 1996 to January 30, 1998; although later evidence contradicted this. Nonetheless, Fountas *believed* he held a Connecticut insurance license at the time the subject policy was sold.
- The life insurance policy at issue is a Connecticut product.
- Connecticut was one of only a few states that would issue a return of premium rider and Fountas directed his efforts toward Connecticut for that reason. This was not a random selection; he purposefully availed himself of a benefit available under Connecticut law. He filled out the application for the subject policy, compiled information to be used in illustrations demonstrating the performance of the life insurance policy for Robert Waitts and assisted Mr. Lordi, a certified public accountant who helped Fountas in getting this business from the plaintiffs, in applying for his own Connecticut insurance license in order to share in the commissions from the sale of this policy.

Fountas had to reach into Connecticut to obtain a Connecticut life insurance policy that provided the coverage sought by his clients. His actions were purposeful, meaningful and instrumental in procuring the policy.

The court concluded that exercising personal jurisdiction over Fountas does not violate his due process rights. His actions were such that he should have reasonably anticipated that he would be "haled" into a Connecticut court. Fountas remained part of the lawsuit.

The moral of this case is to not promise an option that you cannot deliver.

Robert L. Vandeventer & Duane D. Woodrow v. All American Life -- 2003

This case demonstrates the need to disclose that any return of premiums guarantees are subject to the claims-paying ability of the issuing company. What happened? A block of disability policies was transferred and sold by the insurer that issued the policies to another insurer that later cancelled them when they became financially prohibitive.

History

In 1969, All American began selling Farmers' and Ranchers' Disability, Accident and Health Insurance Policies. For an additional premium, an insured could obtain a "Premium Return Benefit Rider," providing that, if the insured made no claims during a ten-year period of the policy, All American would refund to the insured eighty percent of the premiums paid during that period. The benefit rider also provided for a lesser refund of eighty percent of the premiums paid during a ten-year period minus the amount of claims paid if the insured made claims not greater than twenty-five percent of the ten-year premium amount.

Appellant Vandeventer, a resident of Illinois, purchased a disability policy and benefit rider from All American in 1969. He paid premiums from September of 1969 to September of 1989, made no claims, and received a return of eighty percent of premiums paid during those two ten-year periods. Appellant Woodrow, a resident of Indiana, also purchased his disability policy and benefit rider from All American in 1969. He paid premiums until October 1979, with one claim in 1972, and received a refund of eighty percent of premiums paid for the first ten-year period, less the amount of the 1972 claim. He paid his premiums for the second ten-year period and received a refund of eighty percent of premiums paid for that period in October 1989. Appellant Walpole, a resident of South Carolina, purchased his policy and rider from All American in 1971, likewise made premium payments for the two initial ten-year periods, had no claims, and was refunded eighty percent of the premiums paid for those periods.

Effective September 30, 1989, All American entered into an agreement with AICT entitled "Contract of Sale of Accident and Health Insurance Policies and Assumption Agreement" ("Assumption Agreement"), providing for the sale and transfer of itsexisting Farmers' and Ranchers' Disability, Accident and Health Insurance Policies to AICT, including the policies previously sold to Appellants. Under the Assumption Agreement, All American "agreed to transfer, and AICT . . . assumed . . . one hundred percent (100%) of [All American's] liability under the policies . . . for all losses" on or after the date of sale, "subject to the terms, provisions and duration of such policies."

The Assumption Agreement further provided that, in the event the policyholders did not accept the assumption of their policies by AICT, All American was required to remain liable on the policies. All American also "agreed to cede under an indemnity agreement 100% quota share interest in said reinsurance policies." AICT agreed to pay a ceding commission to All American in the amount of $ 3,500,000.

AICT agreed to indemnify and hold [All American] harmless against any and all losses, claims, demands, actions, causes of action, costs or fees arising out of or related to the insurance provided under the policies incurred on or after [the effective date of the agreement], including but not limited to, punitive or compensatory damages . . . and attorneys fees of any such actions against [All American].

AICT was not, however, to be held liable for any such claims attributable to actions by All American before the effective date.

Vandeventer, Woodrow, and Walpole received no advance notice of the sale of their policies by All American to AICT in 1989, nor were they contacted in advance by either company for their assent to the transfer of their policies to AICT. After the effective date of the sale, each received a letter written on the letterhead of "The National Insurance Group Insurance Companies," notifying them that an agreement had been reached between AICT and All American that "your policy . . . has been reinsured and assumed by [AICT]." The letter assured the policyholders "that there are no changes in your policy. All of the terms and conditions of your policy remain the same." Referring to an enclosed "Assumption Certificate," the letter reiterated, "This Certificate confirms there are no changes in the terms and benefits of your current policy." The notice letter further informed the policyholders that premium notices would be mailed from AICT, enclosing a pre-addressed envelope to mail currently due premiums directly to AICT. The letter was jointly signed by John F. McManus, Executive Vice President of All American, and by Lyndon L. Olson, President of AICT.

Appellants Vandeventer and Walpole received identical letters with identical enclosed certificates. During the subsequent nine-year period from 1989 to 1998, Appellant Vandeventer paid his premiums to AICT, including the premiums for the return of premium rider, and he had no claims. Appellants Woodrow and Walpole likewise paid their premiums to AICT for the years from 1989 to 1998, including their premiums for the return of premium rider, and they had no claims.

In July 1998, after collecting nine years of premiums, including nine years of refund benefit rider premiums, AICT notified Appellants that it was cancelling their policies and denying any return of premiums for that ten-year period. How could they justify cancllation? Well, the cancellation provisions of the policies apparently allowed cancellation of ***all like policies*** (class of policies) on the policy anniversary date. What do your cancellation provisions state? Appellants filed suit against AICT, All American, and National Group Insurance Companies.

The Suit

Appellants alleged four causes of action: (1) breach of contract; (2) unjust enrichment; (3) illusory contract; and (4) breach of the duty of good faith and fair dealing. Specifically, as pertinent to this appeal, Appellants alleged that All American transferred its entire block of disability policies to avoid its obligations under the policies in the future, which All American knew was far in excess of its reserves, and hence sought to "dump" the policies on another company. Appellants further alleged that all American made no appropriate disclosure to Appellants of the terms and conditions of the transfer or the insufficient financial ability of AICT to pay on the policies. Appellants further alleged that National Group and AICT planned to terminate the policies after the maximum amount of premiums had been collected in order to retain all reserves for their own benefit. Appellants asserted that they never agreed to release All American from liability under the policies and that both companies remained jointly and severally liable for damages to Appellants.

Further, absent from both the Certificates and the attached letters is any language regarding novation, substitution, extinguishment, or release of Appellants' rights against All American under the policies. Importantly, the documents sent to Appellants provide no instruction or guidance to Appellants on what to do if they did *not* wish to consent to the assumption of the policies by AICT. Insureds were effectively faced with either paying AICT their next premium or simply losing their coverage, which included a substantial investment that had built up over the years, in addition to the eighty percent premium refund right. Appellants argue that this is not a choice at all. We agree.

Because the Certificates of Assumption and notice letters received by Appellants repeatedly assured them that there was no change in their policy terms and condition and that payment of premiums to AICT would "not serve as a waiver or release of any rights," these documents, together with the Assumption Agreement, are evidence of a mere assignment, not a novation, as to Appellants. In other words, an insurer may not transfer its liability to another company and compel its policyholders to accept the new company as their insurer. When another insurer assumes the [first] insurer's obligations, the original insurer is not relieved of its liability to the insured without the consent of the insured to substitute another insurer.

<u>Illusory Contract</u>

Appellants argue that All American's ***cancellation provision***, allowing cancellation of all like policies on the policy anniversary date, constitutes illusory coverage regarding the effect of their premium refund riders, entitling them to restitution or a refund of premiums paid. All American responds that under the laws of both Indiana and South Carolina, illusory coverage does not apply to this premium refund rider because the policies paid benefits under some circumstances.

An insurance policy is considered ***illusory*** in most states if "a premium was paid for coverage which would not pay benefits under any reasonably expected set of circumstances." Of course, insurance policies that provide illusory coverage are against public policy, and when one is declared as such the courts attempt to determine the ***reasonable expectations*** of the insured.

Because Vandeventer and Woodrow do not dispute that they were paid benefits for two ten-year periods under the premium return rider, All American argued that the policies would, and in fact did, "pay benefits under any reasonable circumstance." All American paid Vandeventer and Woodrow eighty percent premium refunds on two separate occasions. Further, Woodrow filed a claim in 1972 that was honored by All American.

The difference here, said the court is that the contract continues to be illusory because it "makes performance entirely optional with the promisor." In other words, a contract is unenforceable if it fails to obligate [one party] to do anything."

While the benefit rider entitles an insured to reimbursement of eighty percent of premiums paid if the insured makes no claims during a ten-year period, the nonrenewal provision of the policy written and issued by All American allows nonrenewal on any anniversary date if all like policies are nonrenewed. Thus, an insured may pay premiums for nine years, refrain from filing claims, and earn entitlement to reimbursement or refund of eighty percent of those premiums, but then, as Appellants argue, have his right to reimbursement nullified by nonrenewal before the ten-year anniversary date for refund of premiums. According to Appellants, this course of events is what transpired in this case.

The Court's Decision

The courts held that All America failed to establish its release from contractual liability by a novation, so, both insurers remain jointly and severally liable under the policies as to any benefits owed.

As to the cancellation and denial of the return of premiums, the court determined this to be an illusory action. They said that the nonrenewal provision only allows nonrenewal on a policy anniversary date and only if renewal is declined on all similar policies then in force. This provision does not expressly negate the rider at issue or any coverage offered by the policy. It does allow, however, nonrenewal (cancellation) on any given anniversary date without regard to the entitlement of insureds to a refund of premiums over a ten-year period under the riders.

Duty of Good Faith and Fair Dealing

The insured in this case also pleaded that All American breached its duty of good faith and fair dealing by failing to transfer the policies to a company with assets and financial capability equal to or superior to its own and by failing to inform policyholders that AICT was "financially inferior" to All American. The court was convinced of this fact by the affidavit of John J. Dillon, a former commissioner of insurance for Indiana, stating his opinion that All American knew the policies in question were going to be unprofitable and that they were going to have to "dump" them to improve their financial condition. In support of his contention, Dillon noted that the loss ratio for all policies concerned was eighty-five percent (four years before the sale). The loss ratio relative to the premium riders was ninety-nine percent just four years before the sale. Further, because All American had assets of one billion dollars at the time of sale compared to AICT's assets of thirty-one million dollars, All American was not acting in the best interest of the policyholders in transferring the policies to AICT.

ROP advertising

Advertising violations are among the most costly mistakes. Regulators have been known to levy stiff fines of $1,000 or more ***per violation***. In other words, 1,000 non-compliant flyers distributed in the mail or otherwise could amount to a fine of ***$1 million or more*** ($1,000 X 1,000 flyers). By contract, agents are required to secure company approval of all advertising. Few agents, however, would think twice about scrutinizing company provided ads. However, it is suggested that agents carefully review advertising provided by the insurer to make sure it honestly reflects the promises of the policy. For example in Cunningham v PFL Life – 1999, information from the insurance company and agent touted life insurance policies as ***investment vehicles***. The insurance company was ultimately held liable for claims for failure to train and supervise its agents. Most violations of this type would probably not be actionable against the agent, but may name the agent nonetheless or may establish some form of "alleged" agreement that binds the agent / insurer.

Let's look at a few ROP ad campaigns to learn how and why legal problems may develop:

"Imagine getting a money-back guarantee on your Term Life Insurance: Your family receives a lump sum of money if you die, but if you live the company returns all of your premiums! Believe it or not, such a product now exists and is just one of the innovative solutions coming your way from some of the best insurers in the business."

Caution: Remember, it's what you don't say that can sometimes causes problems. Here, it is not clear that upon death, the family does not get the premiums back; only the death benefit. Also, there is no mention that ROP will cost you more.

"Return of Premium (ROP) Term is an elegant and effective new solution that splits the problem up the middle. It starts out like Term Life Insurance with one extra promise from the insurer: If you pay your premiums and you live, we'll give you your money back. On a typical 20 year Level Term Life Insurance policy the ROP feature could cost about 30% more, but that extra premium will effectively earn you a 6-7% return over the 20 years -– just enough to earn you back everything you've paid in."

Caution: A 6% to 7% profit suggests that this is something more than a mere life insurance policy -- it is an investment. State regulators and a plaintiff's attorney may disagree.

"What's in it for the carrier? LOYALTY. Carriers spend a lot of money to get your policy, and only start making a profit if you stick around more than five years or so. ROP guarantees that lots of customers stay for the full 20. And, for those that don't, the carrier made an extra 30% on those guys -– and used some of it to pay you a solid return on your money. So if you know that you are going to be insured for the long haul, then think about tossing in a few extra dollars and getting it all back in the end."

Caution: ROP is not an investment. The additional ROP premium paid earns you the right to get your premiums back.

"Many families are finding Return of Premium Life Insurance a great way to pay off their mortgage or their children's student loans at the end of the term of the policy. Unlike whole life insurance, Return of Premium Life Insurance does not have a cash value. "

Caution: Be careful when using other products to compare ROP. Your prospects may construe them to be similar

"If you have ever leased a car, or rented a house, you know that when you return the car or move from your home, all you have are memories. Imagine that the car dealership said to you, 'At the end of your lease, we're going to give you a guaranteed return of all your payments.' Would you have to process that statement for a moment? Or the landlord would say, 'You know, by agreeing to lease this home, I'm going to give you two options: (1) at

anytime you can opt to buy this property from me and I'll take all your cumulative payments at that point and turn it into equity for you, or (2), if you finish your term with the lease, I'll refund to you every penny you put into it.' You would probably have to pick your jaw up off the floor. In principle, these are the mechanics of the Return of Premium concept. At any time during the life of your ROP Term policy, you may exercise the option to convert to a permanent policy to last your lifetime. If your needs in the mature years of life do not demand life insurance coverage, you will receive a tax free return of all your premiums."

Caution: The use of the term "equity" implies investment. ROP is not an investment.

Disclosures

Without a proper disclosure of facts and terms, it will be impossible for your clients to make informed decisions. Not surprising, failure to disclose important policy or rider information is a major area of conflict leading to denied claims and lawsuits involving agents and insurers alike. What can you do to minimize disclosure conflicts? First off, make sure you tell the truth; the whole truth; and nothing but the truth when selling product. To make sure that you clients have understood the basics of what you said, develop a standard procedure (backed up in writing) of asking the following ***3 closing questions:***

- Have I given you all the information you need to make a decision?
- Does the information or policy make sense?
- Is there something else I can answer for you to assure you that this is the right solution based on your needs and objectives?

Many agents have also resorted to limiting contracts and disclosures for clients to review and sign prior to any purchase decision. It may be common, in years ahead, to attach such statements to each and every policy or even require clients to sign one prior to any insurance discussions, much like doctors have patients sign disclosures in advance of services.

Additional ***disclosures*** could disclose options ***the client chose to refuse***, such as: The opportunity to seek tax, legal or business advice prior to making any ROP insurance purchase or the availability and cost of various options or riders to a policy that were available and suggested at time of purchase (waiver of premium, higher deductible options, exclusions, etc).

Also, you should consider using ***mini-disclosures*** in your applications. For instance, if you were basing a company's tax deductibility of ROP or the exchange of two policies on a specific IRS Private Letter Ruling, why not cite the ruling in the application?

ROP Specific Disclosures

The following is not intended to reflect everything you should make known to prospects about your ROP plan, however, it is a start. Keep in mind that some may not apply to your specific product at all.

Guarantees are subject to the claims paying ability of the issuing insurance company.

Independent analyst ratings apply to the claims paying ability of the issuing insurance company

Return of cumulative premiums at the end of the term do not include substandard or rider charges

The premium returned does not take into account any time value of money.

Prior to the _th policy year, only a portion of the cumulative premiums will be returned upon surrender: Please see the schedule for the specific percentage of premium returned if a surrender is elected before the end of the level premium period.

A cancellation of your policy may result in a complete or partial forfeiture of your return of premium rights. In other words, the accumulated premiums and any additional riders you have paid may not be returned to you if your policy is cancelled.

No return of premium benefit is payable if you die while this rider is in effect.

If you upgrade to a new return of premium rider and your policy has not been in effect for _____ years, any amount of years that have accrued under the old rider are forfeited. After _____ years, you may receive only a portion of your accumulated premiums and rider premiums paid.

If you upgrade to a new return of premium rider, the accumulation period is reset with the effective date of the new rider.

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