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| **Maine Bureau of Insurance** |
| Form Filing Review Requirements Checklist |
| TOI -  |
| Variable Annuities |
| Revised – 11/26/2019 |
| Carriers must confirm compliance and IDENTIFY the LOCATION (Form number, Page number, Section, Paragraph, etc.) of the standard in the form in the last column. Any response of N/A requires that a carrier explain why the requirement is not applicable. |
| This checklist is intended to provide a summary of State and Federal requirements for the TOI listed above. Please see the laws/rules referenced in the checklist below for the full requirement. |

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| **REVIEW REQUIREMENTS** | **REFERENCES** |  | **COMPLIANCE** |
| **GENERAL SUBMISSION REQUIREMENTS** |  |  |  |
| Electronic (SERFF) Filing Requirements: | [Title 24-A § 2412](https://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)(2) [Bulletin 360](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/360_0.pdf) | All filings must be filed electronically, using the NAIC System for Electronic Rate and Form Filing (SERFF). See http://www.serff.com |  |
| FILING FEES | [Title 24-A § 601](https://legislature.maine.gov/statutes/24-A/title24-Asec601.html) (17) | $20.00 for Rate filings, rating rules filings, insurance policy, forms, riders, endorsements and certificates. See General Instructions page in SERFF for additional information on filing fee structure. Filing fees must be submitted by EFT in SERFF at the time of submission of the filing. All filings require a filing fee unless specifically excluded per 24-A M.R.S.A. §4222(1), and/or are a required annual report. |  |
| Grounds for disapproval | [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | Seven categories of the grounds for disapproving a filing. |  |
| Readability | [Title 24-A § 2441](https://legislature.maine.gov/statutes/24-A/title24-Asec2441.html) | Minimum of 50.  Riders, endorsements, applications all must be scored. They may be scored either individually or in conjunction with the policy/certificate to which they will be attached. Exceptions: Federally mandated forms/language, Groups > 1000, Group Annuities as funding vehicles. Scores must be entered on form schedule tab in SERFF. |  |
| Variability of Language | [Title 24-A § 2412](https://legislature.maine.gov/statutes/24-A/title24-Asec2412.html)  [Title 24-A § 2413](https://legislature.maine.gov/statutes/24-A/title24-Asec2413.html) | Forms with variable bracketed information must include all the possible language that might be placed within the brackets. The use of too many variables will result in filing disapproval as Bureau staff may not be able to determine whether the filing is compliant with Maine laws and regulations. |  |
| **GENERAL POLICY PROVISIONS** |  |  |  |
| AIDS and Medical Lifestyle Standards | [Rule 490](https://www.maine.gov/sos/cec/rules/02/031/031c490.doc) | The purpose of this rule is to clarify the standards applicable to written informed consent forms required to be completed by persons required to take a test for the presence of the antibody to the Human Immunodeficiency Virus (HIV) or for the Human Immunodeficiency Antigen by an insurer, nonprofit hospital service organization, nonprofit medical service organization, or a nonprofit health care plan, to establish standards for pretest and post-test counseling required to be provided to persons subject to testing as required by 5 M.R.S.A. Section 19203-A, and to establish standards for medical and lifestyle application questions and underwriting. |  |
| Annual Contract Charge | [Rule 310](https://www.maine.gov/sos/cec/rules/02/031/031c310.doc) Article VI § 3(d)(e) | Annual Contract Charge $30.  The annual contract charge may be more than $30.00.  See this section for exceptions. |  |
| Death with Dignity | [Title 22 § 2140](https://legislature.maine.gov/statutes/22/title22sec2140.html)(19) | The sale, procurement or issuance of any health or accident insurance or the rate charged for any health or accident policy may not be conditioned upon or affected by the making or rescinding of a request by a qualified patient for medication that the patient may self-administer to end the patient's life in accordance with the Maine Death With Dignity Act. |  |
| Disclosure of All Charges | [Rule 310](https://www.maine.gov/sos/cec/rules/02/031/031c310.doc) Article VIII § 7 | An insurer must disclose in writing, prior to or contemporaneously with delivery of the policy, all charges that may be made to against the separate account such as taxes, brokerage fees, acquisition and sales costs, cost of insurance, administrative and investment management expenses, M&E guarantees, cost of incidental benefits. |  |
| Genetic Information Protections | [Title 24-A § 2159](https://legislature.maine.gov/statutes/24-A/title24-Asec2159-C.html)-C(3)[Title 24-A § 2159](https://legislature.maine.gov/statutes/24-A/title24-Asec2159.html)-C(4) | An insurer may not make or permit any unfair discrimination against an individual in the application of genetic information or the results of a genetic test in the issuance, withholding, extension or renewal of an insurance policy. An insurer may not request, require, purchase or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested. |  |
| HIV/AIDS/ARC | [Title 24-A § 2846](https://legislature.maine.gov/statutes/24-A/title24-Asec2846.html) | No insurance policy may provide more restrictive coverage for death resulting from AIDS, ARC, or HIV-related diseases that the death resulting from any other disease or sickness or exclude coverage for death resulting from AIDS, ARC, or HIV-related diseases, except through an exclusion under which deaths resulting from all sicknesses and diseases are treated the same. See also [Title 24-A § 2159](https://legislature.maine.gov/statutes/24-A/title24-Asec2159.html)(4) for further information on unfair discrimination. |  |
| Mandatory Design | [Rule 310](https://www.maine.gov/sos/cec/rules/02/031/031c310.doc) Article VI § 2 | Statement of essential features of the procedures to be followed by the insurer in determining the dollar amount of any variable benefits required. A statement is required on the first page that the benefits are on a variable basis. Projections of past investment experience into the future investment experience are not allowed in the contract.Grace period of thirty (30) days or one (1) month is required for stipulated payments. Contract must remain in force during the grace period. Policy may be reinstated within one year from the date of default unless the cash value has been paid out.Insurer may require overdue payments and indebtedness including interest. Contract shall stipulate investment factors to be used in computing the dollar amount of variable benefits and any guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual VA contract where the M&E results may adversely affect the dollar amount of benefits, the assumed M&E factors shall be stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual VA contract (1) The annual net investment increment assumption shall not exceed 6% except with the approval of the superintendent; and (2) to the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Tables mandated for the valuation of individual annuities contained in the Standard Valuation Law. |  |
| Non-forfeiture Benefits | [Rule 310](https://www.maine.gov/sos/cec/rules/02/031/031c310.doc) Article VI § 3 | Non forfeiture BenefitsPolicies issued after January 1, 1985 will be granted a paid-up annuity benefit.For further information, please refer to Article VI § 3 with regard to standard non forfeiture benefits. Provisions of this section shall not apply to any reinsurance, group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers (including partnerships or sole proprietorships), employee organizations, or any combination thereof See Section 3b for full exemptions |  |
| Rebates | [Title 24-A § 2160](https://legislature.maine.gov/statutes/24-A/title24-Asec2160.html)[Title 24-A § 2163-A](https://legislature.maine.gov/statutes/24-A/title24-Asec2163-A.html) [Bulletin 426](https://www.maine.gov/pfr/insurance/sites/maine.gov.pfr.insurance/files/inline-files/426.pdf)[Bulletin 382](https://www.maine.gov/pfr/insurance/themes/insurance/pdf/382.pdf) | Are there any provisions that give the insured a benefit not associated with indemnification or loss? Yes \_\_\_No \_\_\_ |  |
| Reports to Policyholders | [Rule 310](https://www.maine.gov/sos/cec/rules/02/031/031c310.doc) Article IX | Reports to Policyholders: Each contract year after the first including Report of Accumulation Units |  |
| Required provisions | [Title 24-A § 2816](https://legislature.maine.gov/statutes/24-A/title24-Asec2816.html)[Title 24-A § 2817](https://legislature.maine.gov/statutes/24-A/title24-Asec2817.html)[Title 24-A § 2818](https://legislature.maine.gov/statutes/24-A/title24-Asec2818.html)[Title 24-A § 2819](https://legislature.maine.gov/statutes/24-A/title24-Asec2819.html) [Title 24-A § 2820](https://legislature.maine.gov/statutes/24-A/title24-Asec2820.html)[Title 24-A § 2821](https://legislature.maine.gov/statutes/24-A/title24-Asec2821.html)[Title 24-A § 2822](https://legislature.maine.gov/statutes/24-A/title24-Asec2822.html)[Title 24-A § 2823](https://legislature.maine.gov/statutes/24-A/title24-Asec2823.html)[Title 24-A § 2824](https://legislature.maine.gov/statutes/24-A/title24-Asec2824.html)[Title 24-A § 2825](https://legislature.maine.gov/statutes/24-A/title24-Asec2825.html)[Title 24-A § 2826](https://legislature.maine.gov/statutes/24-A/title24-Asec2826.html)[Title 24-A § 2827](https://legislature.maine.gov/statutes/24-A/title24-Asec2827.html)[Title 24-A § 2828](https://legislature.maine.gov/statutes/24-A/title24-Asec2828.html) | Application statements, notice of claim, proof of loss, assignment of benefits, renewal provisions |  |
| Separate Accounts – Full Payment of Annuity Death Benefits | [Title 24-A § 2537](https://legislature.maine.gov/statutes/24-A/title24-Asec2537.html)(10) | This section of Maine insurance law permits a variable annuity contract to include as an incidental benefit a provision for payment on death during the deferred period of an amount equal to the greater of the sum of the premiums or stipulated payments paid under the contract and the value of the contract at the time of death. Payment of any other amount to the beneficiary is prohibited. Payment on death must be made in accordance with the prompt pay law. |  |
| Standards of Suitability | [Rule 310](https://www.maine.gov/sos/cec/rules/02/031/031c310.doc) Article V § 3 | No insurer or agent shall recommend to an applicant a VA policy if, on the basis of information furnished after reasonable inquiry of such applicant, that such policy is unsuitable to applicant. (Insurance, investment objectives, affordability, risk aversion, etc.) |  |
| Third Party 10 Day Notification prior to cancellation; restrictions on cancellation, termination or lapse due to cognitive impairment or functional incapacity | [Title 24-A § 2847](https://legislature.maine.gov/statutes/24-A/title24-Asec2847-C.html)-C[Title 24-A § 2707](https://legislature.maine.gov/statutes/24-A/title24-Asec2707-A.html)-A[Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) | An insurer shall provide for notification of the insured person and another person, if designated by the insured, prior to cancellation of a health insurance policy for nonpayment of premium. FOR INDIVIDUAL PLANS: Insurers must provide the following disclosure, notice and reinstatement rights:1. Insured has the right to elect a third party to receive notice and that the insurer will send them a third party notice request form to make that selection.2. Insured and designated individual will receive a 10 day notice of cancellation.3. Insured has the right to reinstatement of the contract if the insured suffers from cognitive impairment or functional incapacity and the ground for cancellation was the insured’s nonpayment of premium or other lapse or default on the part of the insured.4. Notice that if a request for reinstatement of coverage because of cognitive impairment or functional incapacity is denied, notice of denial shall be provided to the insured and to the person making the request, if different. The notice of denial shall include notification of the 30 day period following receipt of the notice during which a hearing before the Superintendent may be requested. FOR GROUP PLANS: Third Party Notice of Cancellation for group plans must be applied as follows: 1. If the entire cost of the insurance coverage is paid by the Policyholder, there is no requirement to send the Third Party Notice of Cancellation. 2. If the entire cost of the insurance coverage is paid by the Certificate holder and is direct billed, the insurer must include notification in the policy/certificate to advise the member of their rights. 3. If the entire cost of the insurance coverage is paid by the Certificate holder and is made via payroll deduction, then [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc), § 5 (3) would apply and the insurer must include this notification in the policy/certificate to advise the member of their rights. 4. If a portion of the cost of the insurance coverage is paid by the Policyholder and the remainder is paid by the Certificate holder and is made via payroll deduction, then [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc), § 5 (3) would apply and the insurer must include this notification in the policy/certificate to advise the member of their rights. Please review [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) and add the required language to the certificate. Additionally, pursuant to [Rule 580](https://www.maine.gov/sos/cec/rules/02/031/031c580.doc) § 6(A)(7), the requirement may be satisfied by including the notice of reinstatement right in an application that is incorporated into the contract. |  |