

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN,
COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE
TRUSTS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS
OTHER
LICENSEES

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle
Protection Product Warrantors
- 365:25-3-1. Insurance producers continuing education [AMENDED]
365:25-3-14. Insurance adjusters continuing education [AMENDED]
- Subchapter 5. Bail Bondsmen
- Part 5. General Provisions Pertaining to Bail Bondsmen
- 365:25-5-31. ~~Residence, business, mailing, and e-mail addresses~~Information to
be included on applications [AMENDED]
- 365:25-5-41. Special deposit [AMENDED]
365:25-5-44. Notice of return to custody [AMENDED]
365:25-5-48. Acts of a bail bondsman [NEW]
- Subchapter 15. Captive Insurance Companies Regulation
- 365:25-15-2. Annual reporting requirements [AMENDED]
365:25-15-3. Annual Audit [AMENDED]
365:25-15-4. Independent Certified Public Accountant [AMENDED]
365:25-15-5. Deposit Requirement [AMENDED]
365:25-15-6. Organizational examination [AMENDED]
365:25-15-7. Reinsurance [AMENDED]
365:25-15-9. Executive officers and directors [AMENDED]
365:25-15-10. Conflict of interest [AMENDED]
365:25-15-11. Rescission of captive license [REVOKED]
365:25-15-12. Acquisition of control of or merger with domestic company
[AMENDED]
- 365:25-15-13. Change of business [AMENDED]
365:25-15-14. Prior approval [AMENDED]
365:25-15-15. Severability Provision [REVOKED]
365:25-15-16. Consolidated or combined audits [NEW]
365:25-15-17. Sponsored captive shares and dividends [NEW]
365:25-15-18. Variable contracts [NEW]
365:25-15-19. Qualification of sponsors [NEW]
365:25-15-20. Sponsored captive and cell assets [NEW]
365:25-15-21. Delinquency of sponsored captive insurance companies [NEW]
365:25-15-22. Reinsurance of life insurance policies [NEW]
365:25-15-23. Dormant captive insurance companies [NEW]
365:25-15-24. Severability [NEW]
- Subchapter 19. Annuity Disclosure Regulation
- 365:25-19-3. Applicability and scope [AMENDED]

Subchapter 25.	Oklahoma Employee Injury Benefit Act [NEW]
365:25-25-1.	Purpose [NEW]
365:25-25-2.	Scope [NEW]
365:25-25-3.	Authority [NEW]
365:25-25-4.	Definitions [NEW]
365:25-25-5.	Election notification to the Oklahoma Insurance Department
[NEW]	
365:25-25-6.	Election fee [NEW]
365:25-25-7.	Written benefit plan [NEW]
365:25-25-8.	Employee notice [NEW]
365:25-25-9.	Funding of Qualified Employer's benefit plan, liability, and other
insurable risk [NEW]	
365:25-25-10.	Insuring Qualified Employer's benefit plan, liability, and other
insurable risk [NEW]	
365:25-25-11.	Self-Funding Qualified Employer's benefit plan, liability, and
other insurable risk [NEW]	
365:25-25-12.	Surety bond and irrevocable letter of credit [NEW]
365:25-25-13.	Release of security deposit [NEW]
365:25-25-14.	Oklahoma Option Self-Insured Guaranty Fund [NEW]
365:25-25-15.	Severability [NEW]
Subchapter 29.	Pharmacy Benefits Managers [NEW]
365:25-29-1.	Purpose [NEW]
365:25-29-2.	Scope [NEW]
365:25-29-3.	Authority [NEW]
365:25-29-4.	Definitions [NEW]
365:25-29-5.	Forms and contents of application for PBM license [NEW]
365:25-29-6.	Surety bond [NEW]
365:25-29-7.	License term, renewals, and fees [NEW]
365:25-29-8.	PBM to file certain financial statements with the Commissioner
[NEW]	
365:25-29-9.	Contractual requirements—maximum allowable cost [NEW]
365:25-29-10.	Disclosure of price—reimbursement differential [NEW]
365:25-29-11.	Penalty for noncompliance [NEW]
365:25-29-12.	"Doing pharmacy benefits management business in this state"
defined—venue—exceptions	[NEW]
Appendix Z.	NOTICE TO EMPLOYEES CONCERNING QUALIFIED
EMPLOYER [NEW]	

SUMMARY:

365:25-3-1 and 365:25-3-14 are amended to require insurance producers and adjusters to undergo at least 1 hour of continuing education regarding earthquake insurance every two years.

365:25-5-31 is amended to add telephone number and legal name to the list of information a bail bond license applicant must include on his or her application. 365:25-5-41 is amended to reflect a legislative change made by SB 1319 in 2014. Company deposits are no longer held at the State Treasurer's office, but are held at the Oklahoma Insurance Department. The amendment simply removes the references to the State Treasurer's office. 365:25-5-44 is

amended to clean up a statutory reference. 365:25-5-48 provides a definition for the “acts of a bail bondsman” to give clarity to the provisions of 59 O.S. § 1311.3.

365:25-15-2 is amended to correct reporting requirements for pure captives and require an independent audit and opinion. 365:25-15-3 is amended to require an audit of annual report, an auditor to address material weaknesses and remedial actions, and to restate the audit exemption for small captive insurers. 365:25-15-4 is amended to provide the Commissioner with 90 additional days notice of selection of auditor, clarify definition of “working papers”, and require the rotation of audit partners. 365:25-15-5 is amended to clarify Commissioners authority to require deposit of additional capital. The change to 365:25-15-6 broadens the Commissioner’s discretion to plan an examination of captives. 365:25-15-7 is repealed as unnecessary. 365:25-15-9 is amended to provide exception to personal interest prohibition. 365:25-15-10 is amended to require adoption of conflict of interest policy and board disclosure. 365:25-15-11 is repealed because its provisions exist in statute. 365:25-15-12 is amended to correct statutory reference regarding change of control of captive. 365:25-15-13 is amended to delete exemption from prior approval requirement; defines “nature of the captive business” 365:25-15-14 is amended to change “forms as determined by the Commissioner” to “forms as prescribed by the Commissioner.” 365:25-15-15 is repealed but the language is enacted again at the end of the Subchapter. 365:25-15-16 is a new section that provides for consolidated audits. 365:25-15-17 provides for incorporated protected cells, dividends on protected cell shares, and allows a sponsored captive insurer to act on behalf of protected cells. 365:25-15-18 provides for separate accounts for variable life and annuity contracts; compliance with 36 O.S. § 6061. 365:25-15-19 provides that “sponsor” of sponsored captive insurance company may be any person approved by the Commissioner; establishes criteria for qualification as “sponsor.” 365:25-15-20 provides for distinction between assets of sponsored captive and assets of protected cells. 365:25-15-21 provides special rules for handling assets of protected cells and sponsored captive insurer in the event of insolvency. 365:25-15-22 establishes reserve requirements and the form of the annual report required of a captive insurance company that reinsures life insurance policies. 365:25-15-23 provides license status for pure captives that have ceased transacting and specifies requirements for “certificate of dormancy.” 365:25-15-24 provides severability.

365:25-19-3 corrects a spelling error and adds annuities used to fund prepaid funeral benefits to the list of contracts exempted from the requirements of the Subchapter.

The new Subchapter 25 sets out the procedure and requirements for employers to elect to become a Qualified Employer under the Oklahoma Employee Injury Benefit Act, 85A O.S. § 200 et seq. Sections 365:25-25-1 through 3 set out the purpose, scope, and authority for promulgating these rules. Section 4 sets out the definitions of terms used in the Subchapter. Section 5 describes the process for an employer to elect to become a Qualified Employer. Section 6 sets out the fee for electing to become a Qualified Employer. Section 7 outlines the specific documents and information an employer must file along with its election form. Section 8 requires an Employee Notice be provided by employers electing to become a Qualified Employer, and provides specific instructions for the use and placement of the Notice. Section 9 sets out the ways in which a Qualified Employer may fund its benefit plan. Section 10 sets out the requirements for Qualified Employers choosing to insure its benefits payable under its benefit plan. Section 11 sets out the requirements for Qualified Employers choosing to self-fund its benefits payable under its benefit plan. Section 12 sets out the surety bond and letter of credit requirements for Qualified Employers. Section 13 sets out regulations regarding a Qualified Employer’s security deposit and how and when that security deposit may be released. Section 14

sets out the procedure for the Commissioner to petition the Workers' Compensation Commission for its approval that the Commissioner release a Qualified Employer's security and notify the Oklahoma Property and Casualty Insurance Guaranty Association. Section 15 is a severability clause.

Subchapter 29, Sections 1-3 set out the purpose, scope, and authority for the new rules relating to pharmacy benefits managers. Section 4 sets out the definitions for terms used in the Subchapter. Section 5 mandates the form and required contents for applications for a PBM license. Section 6 sets out the surety bond requirements for PBM licensees. Section 7 sets out the length of the PBM license term, procedures for license renewals, fees for license renewals, and provides a procedure for a PBM to follow if the PBM's license renewal has been denied. Section 8 requires a PBM to annually file an audited financial statement with the Commissioner. Section 9 sets out the requirements for contracts between a PBM and a provider. Section 10 requires a PBM to disclose to providers the amount of rebates and other revenue received by the PBM from pharmaceutical manufacturers or labelers. Section 11 sets out the penalty for noncompliance with the terms of the statutes or rules related to PBM licensing. Section 12 provides a definition for "doing pharmacy benefits management in this state."

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29, 6217; 59 O.S. §§ 358 and 1302; 85A O.S. § 202

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendments shall be received on or before 5:00 p.m. on March 4, 2015. Comments shall be directed to Buddy Combs, Director of Public Policy and Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendments will be held March 5, 2015, at 1:30 p.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Buddy Combs, Director of Public Policy and Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before 5:00 p.m. on March 4, 2015.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Copies of the rules may also be inspected and obtained on the Insurance Department's website at www.ok.gov/oid.

RULE IMPACT STATEMENT:

A rule impact statement will be available on and after February 2, 2015, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Buddy Combs, Director of Public Policy and Assistant General Counsel, (405) 522-4609.