

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

RULEMAKING ACTION:

EMERGENCY adoption

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 23. Cemetery Merchandise Trusts [NEW]

365:25-23-1. Purpose [NEW]

365:25-23-2. Permit required [NEW]

365:25-23-3. Contract approval [NEW]

365:25-23-4. Forms [NEW]

365:25-23-5. Trust fund and trustee [NEW]

365:25-23-6. Surety bond [NEW]

365:25-23-7. Reports to trustee [NEW]

365:25-23-8. Annual report [NEW]

365:25-23-9. Notice of sale [NEW]

AUTHORITY:

Insurance Commissioner; 36 O.S. §§ 307.1, 1435.29, 6217 and 7124

DATES:

Adoption:

September 8, 2010

Effective:

Immediately upon approval by the Governor

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the
Legislature

SUPERSEDED EMERGENCY RULES:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

A compelling public interest requires the emergency rule due to House Bill 1611 and Senate Bill 2042, both enacted during the 2010 legislative session. House Bill 1611 requires claims adjusters for insurers authorized to transact workers' compensation insurance to complete six (6) hours of continuing education relating to the Workers' Compensation Act. The effective

date of House Bill 1611 is November 1, 2010. The emergency rule further delineates, clarifies and implements the continuing education requirements applicable to adjusters who adjust workers' compensation claims in Oklahoma. The emergency rule provides for a reinstatement period for providers of continuing education. The rule also provides continuity in the provisions for repeating courses for both producers and adjusters. Senate Bill 2042 transfers the Cemetery Merchandise Trust Act from the Banking Department to the Insurance Department. Emergency rules are needed to establish procedures and rules for permitting, approving contracts, regulating trustees, surety bond requirements, and submission of forms and reports to the Insurance Department. These rules must be in place prior to March 15 as this is the date by which permits must be renewed and on which permit holders must file an annual report with the Insurance Department.

ANALYSIS:

The amendments to sections 365:25-3-1 and 365:25-3-14 change the references to continuing education credit to continuing education. The amendments also add a provision for a reinstatement period for providers of continuing education and exempt nonprofit and not-for-profit organizations from payment of the required provider fee, but do require nonprofit and not-for-profit organizations to submit certain information. The amendment to section 365:25-3-1 allows producers to repeat ethics courses after a certain time period. The amendments to section 365:25-3-14 require adjusters adjusting workers' compensation claims in Oklahoma to complete six (6) hours of continuing education relating to the Oklahoma Workers' Compensation Act. The six hours are part of the twenty-four (24) clock hours of continuing education as set forth in 36 O.S. § 6217(D). Additionally, insurers are required to verify compliance by submission of certain documentation to the Insurance Department. The new Subchapter 23 creates rules for the implementation and regulation of the Cemetery Merchandise Trust Act. New section 365:25-23-1 sets forth the purpose of the subchapter. New section 365:25-23-2 requires any organization accepting money or anything of value for prepaid cemetery merchandise to obtain a permit from the Insurance Department. The rule sets forth reasons that the permit may be denied. New section 365:25-23-3 requires approval by the Insurance Department of contracts use in the sales of cemetery merchandise. New section 365:25-23-4 sets forth the required forms necessary for the Insurance Department to administer and regulate the Cemetery Merchandise Trust Act. New section 365:25-23-5 requires permit holders to inform the Insurance Department of the identity of the trustee if the funds are held in trust. New section 365:25-23-6 sets forth requirements for permit holders posting surety bonds. New section 365:25-23-7 provides the requirements for the report that must be submitted by each permit holder if the permit holder chooses to provide a summary of the relevant information contained in each contract. New section 365:25-23-8 requires each permit holder to file an annual report with the Insurance Department. The rule lists the information required to be submitted. New section 365:25-23-9 provides requirements that must be submitted to the Insurance Department when there is a sale or transfer of ownership.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D):

SUBCHAPTER 3. PRODUCERS, BROKERS, LIMITED LINES PRODUCERS AND VEHICLE PROTECTION PRODUCT WARRANTORS

365:25-3-1. Insurance producers continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, which an insurance producer must meet and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CEC" "CE"** means continuing education credit.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes classroom instruction unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance producer.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance producers.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by a producer or producers.

(c) **Exceptions.** The requirements for continuing education in this section shall not apply to:

(1) limited lines producers.

(2) a non-resident producer who resides and is licensed in a state or district having continuing education requirements and the producer meets all the requirements of that

state or district to practice therein. The non-resident producer shall be responsible for completing any reporting requirements necessary to verify completion.

(3) a non-resident producer of a state that does not require continuing education hours may fulfill the requirements of any other state's continuing education requirements and shall be deemed to have complied with this rule upon proof of completion of said hours.

(d) **Continuing education requirements.**

(1) **CEC CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in 36 O.S. § 1435.29 during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the ~~month following the month in which the~~ after the license is granted. The credit hours completed must be in those lines in which the producer is licensed. Ethics shall include, but not be limited to, the study of fiduciary responsibility, commingling of funds, payment and acceptance of commissions, unfair claims practices, policy replacement consideration, and conflicts of interest.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each producer shall submit upon each licensing renewal certificate(s) of course completion as approved by the Insurance Department, which verify courses completed during the previous twenty-four month period.

(3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.

(4) **Legislative updates.**

(A) At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

- (i) state legislative updates
- (ii) federal legislative updates.

(5) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session.

(6) **Prerequisite for renewal or reinstatement.** As a prerequisite for licensure renewal or upon reinstatement following a lapse of license, a producer must submit, on his or her renewal/reinstatement date, the appropriate forms as specified in this section which establish that the education requirements have been met for the previous year(s).

(e) **Approval of continuing education providers.**

(1) **Information required, fee.** Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies ~~or~~, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies, shall submit after its approval a provider fee of Two Hundred Dollars (\$200.00), and all providers, including public funded educational institutions,

federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma agencies shall provide:

- (A) Name and address of the provider;
- (B) Contact person and his or her address and telephone number;
- (C) The location of the courses or programs, if known, unless it is an individual self- study course;
- (D) The number of ~~CEC~~ CE hours requested for each course;
- (E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes;
- (F) The names and qualification of instructors. An instructor shall have one of the following qualifications:
 - (i) Three (3) years of recent experience in the subject area being taught; or
 - (ii) A degree related to the subject area being taught; or
 - (iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.
- (G) If a prior approved course has materially changed, a summarization of those changes;

(2) **Renewal fee.** An annual renewal fee of Two Hundred Dollars (\$200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(3) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.

~~(3)~~ (4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records; fee.**

(1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if

necessary. The Commissioner will assign the number of ~~CEC~~ CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Written approval required.** All courses shall require written approval by the Commissioner.

(3) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any ~~CEC~~ CE hours attained under the course previous to the withdrawal.

(4) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(5) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(6) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license. However, agency management courses designed to assist producers in becoming more efficient, profitable, and assuring their perpetuation, will be deemed to be in the best interest of the insuring public and thereby subject to approval. Each such agency management course must include the description, the effects the course is designed to accomplish toward the purposes of efficiency, profitability, and/or perpetuation and each course will be reviewed for approval on its own merits.

(7) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(8) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance producers who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance producers completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(9) **Course records maintained four years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(10) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date and instructor's name.

(11) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(12) A non-refundable course review fee of thirty dollars (\$30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(g) **Approved Professional Designation Programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved Professional Designation Program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive Continuing Education Credit Approval.**

- (1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:
 - (A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;
 - (B) The association shall maintain and govern a code of member conduct;
 - (C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and
 - (D) The association shall perpetuate its continuity through the election of officers.
- (2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:
 - (A) The association's mission statement;
 - (B) The association's code of member conduct;
 - (C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;
 - (D) The mailing address and primary contact for the association; and
 - (E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.
- (3) **Notification of approval or disapproval.**
 - (A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.
 - (B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.
 - (C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(6) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with 365:25-3-1(f)(6) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.
 - (D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval

for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

- (4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.
- (5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.
- (6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.
- (7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.
 - (i) **Self study and Distance Learning Courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning ~~CEC~~ CE offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed, updated as appropriate, and published annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the producer and revocation of the course approval and or provider status for the provider.
 - (j) **Repeating courses.** An insurance producer may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the producer may not during the twenty-four month period earn more than the maximum credits designated for the course. A producer may repeat a course after two years have elapsed and receive the maximum credits designated for the course. ~~This section shall not apply to ethics courses.~~
 - (k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twenty-four-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.
 - (l) **Course approval.** Prior to the Commissioner's approval or disapproval of a course in 365:25-3-1(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-1(e) regarding the course or additional information regarding the course, if necessary, the number of ~~CEC~~ CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course

approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-14. Insurance adjusters continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CEC" "CE"** means continuing education credit.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.

(c) **Exceptions.** Continuing education requirements shall not apply to non-resident adjusters licensed in a state that has a continuing education requirement for adjusters.

(d) **Continuing education requirements.**

(1) **CEC CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in Section 6217(B) of Title 36 of the laws of this state during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the license is granted. The credit hours completed must be in those lines in which the adjuster is licensed. Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.

(A) All adjusters who adjudicate workers compensation claims shall complete six (6) hours of continuing education relating to the Workers' Compensation Act as part of the twenty-four (24) clock hours of continuing insurance education as set forth in Section 6217(D) of Title 36 of the Oklahoma Statutes.

(B) Insurers who utilize either a resident or non-resident adjuster for the adjudication of workers compensation claims occurring in this state shall verify that the adjuster has completed the workers compensation biennial continuing education requirement set forth in subparagraph (A) of this paragraph. An insurer may satisfy its responsibility under this subsection by:

(i) Obtaining certificates of completion of the continuing education course,

(ii) Obtaining reports provided by Commissioner-sponsored database systems or vendors, or

(iii) Obtaining reports from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(C) Insurers subject to the provisions of this subsection shall maintain records with respect to the continuing education requirement of its adjusters as set forth in subparagraph (A) of this paragraph. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the Commissioner upon request.

(2) **Certificates of course completion required for license renewal.** If course completion is not reflected on the license renewal form issued by the Insurance Department, each adjuster shall attach, if requested by the Commissioner, an approved course completion certificate to the license renewal form returned to the Department for verification of course completion. The Commissioner shall maintain a cumulative total of continuing education credit hours to insure compliance within the twenty-four (24) month period.

(3) **Legislative Updates.** At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

(A) State legislative updates, or

- (B) Federal legislative updates.
- (4) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.
- (5) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must submit the appropriate forms as specified in this section that establish the educational requirements have been met if not currently recorded by the Oklahoma Insurance Department.
- (e) **Approval of continuing education providers.**
 - (1) **Information required.** Each provider shall apply for approval by the Commissioner. All providers, including publicly funded educational institutions, federal agencies, ~~or nonprofit organizations, not-for-profit organizations, and~~ Oklahoma state agencies, shall provide:
 - (A) Name and address of the provider.
 - (B) Contact person and his or her address and telephone number(s).
 - (C) The location of the courses or programs, if known, unless it is an individual self-study course.
 - (D) The number of ~~CEC~~ CE hours requested for each course.
 - (E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.
 - (F) The names and qualification of instructors. An instructor shall have one of the following qualifications:
 - (i) Three (3) years of recent experience in the subject area being taught; or
 - (ii) A degree related to the subject area being taught; or
 - (iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.
 - (G) If a prior approved course has materially changed, a summarization of those changes.
 - (2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.
- (f) **Courses; approval; records.**
 - (1) **Course approval timeline.** A provider shall apply to the Commissioner for course approval by submitting forms and materials to the Commissioner the first day of the month one full month prior to the date of the first course offering. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The

Commissioner will assign the number of ~~CEC~~ CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.

(3) **Written approval required.** All courses shall require written approval by the Commissioner.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any ~~CEC~~ CE hours attained under the course previous to the withdrawal.

(5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(7) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(9) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance adjusters who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(10) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(11) **Course review fee.** A non-refundable course review fee of thirty dollars (\$30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(12) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the

provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.

(g) **Approved professional designation programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved professional designation program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive continuing education credit approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

- (A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;
 - (B) The association shall maintain and govern a code of member conduct;
 - (C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and
 - (D) The association shall perpetuate its continuity through the election of officers.
- (2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:
- (A) The association's mission statement;
 - (B) The association's code of member conduct;
 - (C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;
 - (D) The mailing address and primary contact for the association; and
 - (E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.
- (3) **Notification of approval or disapproval.**
- (A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.
 - (B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.
 - (C) If the Commissioner receives a report or reports that the content of a continuing education course may violate paragraph 365:25-3-1(f)(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to noncompliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with paragraph 365:25-3-1(f)(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.
 - (D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

- (4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.
- (5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.
- (6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph 365:25-3-14(H)(3)(B) of this section during the fourth quarter of the last approval year.
- (7) **Agency management courses.** Agency management courses shall not be considered for presumptive continuing education approval.
- (i) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning ~~CEC~~ CE offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.
- (j) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the ~~twelve~~ twenty-four month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) ~~license renewal dates~~ years have elapsed and receive the maximum credits designated for the course.
- (k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.
- (l) **Continuing education advisory committee.**
- (1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the ~~Agents~~ Producer Licensing Division, and representatives from the industry (not to exceed three (3) individuals) as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee

shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.

(2) Prior to the Commissioner's approval or disapproval of a course in subsection 365:25-3-14(e), the Continuing Education Advisory Committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted pursuant to subsection 365:25-3-14(e) and additional information regarding the course, if necessary. Each course approval shall be valid for a period of no longer than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course materials may be resubmitted as requested for review at the time of expiration. All existing courses previously approved and current with the Commissioner shall be submitted in accordance with the expiration date as granted by the Commissioner unless the course has a material change, as previously detailed.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SUBCHAPTER 23. CEMETERY MERCHANDISE TRUSTS

365:25-23-1. Purpose

The purpose of this subchapter is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Cemetery Merchandise Trust Act. The information called for by the regulations of this subchapter is hereby declared to be necessary and appropriate in the public interest.

365:25-23-2. Permit required

Pursuant to the Cemetery Merchandise Trust Act, any organization which shall accept money or anything of value for prepaid cemetery merchandise pursuant to a prepaid cemetery merchandise contract shall obtain a permit from the Oklahoma Insurance Department authorizing the transaction of this type of business prior to the commencement of this type of business. The Commissioner may deny the issuance of a permit if the organization or any of its owners or officers:

- (1) Makes a material misstatement or misrepresentation in an application or permit;
- (2) Has been sentenced, convicted, pled guilty or nolo contendere to a crime involving fraud, dishonesty or moral turpitude; or
- (3) Fraudulently or deceptively obtains or attempts to obtain a permit for another.

365:25-23-3. Contract approval

No organization shall use in any way any sales contract without having received prior written approval from the Insurance Commissioner to do so. The original and two (2) copies of

any such contract, including any amendments thereto, shall be submitted to the Insurance Commissioner for approval.

365:25-23-4. Forms

(a) **Application for Cemetery Merchandise Permit.** An application for Cemetery Merchandise Permit shall be made by filing an Application for Cemetery Merchandise Permit Original Application on a form approved by the Commissioner. The application shall be filed with and approved by the Insurance Commissioner before any contracts covered by this act may be marketed.

(b) **Surety bond.** Organizations purchasing a surety bond shall use the Surety Bond Form as approved by the Commissioner. Any variation from this form must have the prior written approval of the Insurance Commissioner.

(c) **Renewal of Cemetery Merchandise Permit.** A renewal of a Cemetery Merchandise Permit shall be made by filing the Renewal of Cemetery Merchandise Permit form as approved by the Commissioner no later than March 15 of each year. Renewals made after March 15 of the year following the year the permit is first issued shall be made by filing the Application for Cemetery Merchandise Permit and paying any fines that may have been imposed with respect to an expired permit in addition to double the renewal fee.

(d) **Cemetery Merchandise Annual Report.** Every holder of a Cemetery Merchandise Permit shall file a Cemetery Merchandise Annual Report on a form approved by the Commissioner on or before March 15 of each year.

(e) **Oklahoma Quarterly Report of Cemetery Merchandise.** Every holder of a Cemetery Merchandise Permit that maintains a surety bond shall submit an Oklahoma Quarterly Report of Cemetery Merchandise on a form approved by the Commissioner.

(f) **Notice of Sale.** Prior to the sale of a cemetery with a cemetery merchandise permit, a permit holder shall first file a Notice of Sale on a form approved by the Commissioner.

365:25-23-5. Trust fund and trustee

A holder of a Cemetery Merchandise Permit with funds in trust shall keep the Insurance Department informed of the identity of the trustee at all times and at all times shall comply with the provisions of 36 O.S. § 7126. Prior to changing the trustee or trust location, a permit holder shall notify the Commissioner at least thirty (30) days prior to any transfer or change stating the reason for the proposed change.

365:25-23-6. Surety bond

A permit holder posting a surety bond in lieu of making remittances to a trust fund, shall file a quarterly report no later than the thirtieth day after the close of each quarter. The bond shall be in an amount not less than the minimum funding requirement for cemetery merchandise trusts pursuant to the provisions of 36 O.S. § 7126. If at any time the Quarterly Report shows that the bond posted does not meet the minimum funding requirements, the permit holder shall be notified by the Insurance Department and shall post an additional or amended bond within ten

(10) days following notification. The additional or amended bond shall be sufficient in size to satisfy the provisions of 36 O.S. §§ 7126 and 7127.

365:25-23-7. Reports to trustee

The Cemetery Merchandise Trust Act provides that each permit holder provide either a copy of each contract to its trustee or may, in lieu thereof, submit a summary of the relevant information from the contracts. If a permit holder chooses to provide a summary, the information shall be submitted on a monthly basis to the trustee on a form provided by the Oklahoma Insurance Department. The report shall contain the following information:

- (1) Name of the cemetery;
- (2) Town where the cemetery is located;
- (3) Period of time covered by the report;
- (4) Account numbers assigned to each contract;
- (5) Name of the contract beneficiary;
- (6) Description of the merchandise purchased;
- (7) Cost breakdown on each piece of merchandise sold which is covered by the Cemetery Merchandise Trust Act;
- (8) Amount of deposit made on each account;
- (9) Beginning and ending balances; and
- (10) A current original manufacturer's price list from any and all cemetery merchandise suppliers used by the permit holder.

365:25-23-8. Annual report

On or before March 15 of each year, each permit holder shall file an Annual Report with the Oklahoma Insurance Department which shall include the following information:

- (1) Name of the cemetery;
- (2) Town where the cemetery is located;
- (3) Name and address of person to contact with questions about the report;
- (4) Period of time covered by the report;
- (5) Trust account numbers;
- (6) Merchandise covered by each account;
- (7) Amount deposited on each account to the trust fund;
- (8) Beginning and ending balance;
- (9) Method of determination of wholesale cost;
- (10) A current original manufacturer's price list from any and all cemetery merchandise suppliers used by the permit holder; and
- (11) Name of the vault company with whom the permit holder deals.

365:25-23-9. Notice of sale

The seller of a cemetery with a cemetery merchandise trust permit, shall make application forty-five (45) days prior to the transfer of ownership using a form approved by the

Commissioner. A transfer may only be made to a permit holder in good standing with the Department. In addition to the notice, the seller shall also submit a copy of the proposed Seller's Agreement and a listing of all undelivered prepaid cemetery merchandise contracts. The listing shall provide the contract holder's name; the beneficiary's name or names, contract number, contract value, and the trust value at the time of notice. No transfer may be made without the Commissioner's prior written approval.