

SECTION 11 NEW LAW
PROVISIONAL LICENSE: 8 HOUR PRE-LICENSE COURSE
June 11, 2007 DRAFT

The Purpose of 8 hours of Pre-Licensing Education is to address the business operations associated with the sale and service of insurance products. Courses should be developed in accordance with the topics and statutes specified in this outline. References to the statutes are included and should be presented with examples and case studies to clarify the application of the law to agency operations.

The content of this outline is best presented through examples and case studies demonstrating the real world situations the new licensee will encounter. The requirement is for a total of 8 hours of training and suggested hours are included for each of the 3 sections of material to be covered. Materials may be prepared and presented by segments of the outline. The requirement is for 8 total hours and not for a single course for 8 hours.

Presentation must be in a classroom setting.

Statutory References: Title 36

Article 14A Oklahoma Producer Licensing Act
Sections 1435.1 – 1435.40

Article 12 Unfair Practices

Article 36 Insurance Contracts
Section 3623.1 Policy or Membership Fees

I. Insurance Agency Administration (3-5 hrs): Purpose – address legal requirements for agency business operations and practices.

A. Definitions

1. Producer
2. Agent and Producer as Agent – 36 OS 1435.15
3. Broker
4. Sponsoring producer
5. Admitted coverage
6. Non-admitted coverage
7. Definitions found in 36 OS 1435.2
8. Controlled Business – 1435.21, especially C for Title Producers

B. Documentation and record keeping. Include:

1. Examples of good and bad practices.
2. Business practices in context of Errors & Omissions coverage (checklist from E&O carriers) and the State of Oklahoma
3. What has to be signed and by whom
4. What has to be kept and for how long
5. Hard copy and electronic information as evidence

C. License Requirements – 36 OS 1435.4, 1435.5, 1435.7, 1435.8, 1435.9

D. Billing Practices – as appropriate for lines of coverage and industry practices for each

- a) Binding authority: attachment point and how it relates to types of billing
- b) Responsible party
- c) Types of billing
 - (1) History and why various billing options were implemented
 - (2) Specific discussion of billing options for each applicable line of coverage
 - (3) Industry practices for billing options
 - (a) Agency bill
 - (b) Direct bill
 - (c) List bill
 - (d) Automatic withdrawals
 - (e) Credit card payments

E. Commissions and fees – 36 OS 1435.14, 1435.35 and 36 OS 1204. When can you charge Commission? When can you charge Fees?

F. Commingling of funds – 36 OS 1435.13 a- c. Include case studies and examples.

G. Premium tax, excess and surplus lines markets, reinsurance: Economics of the industry, how it functions, disclosure to customer, especially discussion of premium, taxes and other charges the customer will see on bills and statements.

H. Policy or membership fees – 36 OS 3623.1. Fees for the cost of services, premium financing, return check fees and other flat amounts added to the basic premium rate by the insurance company, insurance agency or insurance producer.

I. Guaranty Fund – where it applies and where it does not, why it exists, what it does, limits.

J. Claims – Producer Role, including 36 OS 1435.3

K. Errors and Omissions

L. Credit and Use of Credit Information – what can and cannot be disclosed, legal requirements and the reasons for them.

M. Privacy of Information – HIPAA emphasis for A/H lines – 45 CFR §164.508. Include handling of information, giving it out versus having it escape, with scenarios associated with leaving information where it is accessible such as

- a) Cleaning crews
- b) Dumpsters
- c) Customer file in the front seat of your car
- d) Laptop or PDA

N. Employment Practices – conduct in the workplace: A separate section may be developed for agency owners, franchisees or licensees with supervisory responsibilities

1. Sexual Harassment
2. Hiring and firing practices

O. Oklahoma Insurance Department

1. Regulatory Authority – including 36 OS 1435.13 and 1435.18
2. Information resource for Producer Licensing
3. Consumer Assistance

P. NAIC – its role, practices and relevancy to licensees, especially in development of Model Acts that are the basis for legislation regulating licensing and industry standards

II. Ethics (2-3 Hrs): Purpose – emphasize the importance of fair and just professional and individual conduct in the selling and servicing of insurance products. Include Producer relationships and responsibilities to the carrier and the client. The section must be taught using examples for each of the topics specified and at least 4 case studies. At least one case study must address the agent – carrier relationship. This section is not specific to any particular coverage line.

A. Professional Ethics

1. Relationship of the Producer to the Carrier – 36 OS 1435.3
2. Client needs analysis
3. Appropriateness of Product
4. Commissions and Fees
 - a) Rebates – 36 OS 1204. Use Examples
 - b) Licensing
 - c) Finders Fees – 36 OS 1435.14. Use Examples
 - d) Splits
5. Unfair Practices Act – 36 OS Article 12
6. Agent responsibilities for reporting suspicious activity
 - a) Client Fraud
 - b) Patriot Act (money-laundering)
7. Privacy – Client Information
8. Penalties for illegal practices

B. Personal Ethics – Codes of ethical standards and conduct

1. To the Public
2. To Employer/Employee
3. To the Carrier
4. As required by professional associations and organizations responsible for granting professional designations

C. General Ethical Behavior and Personal Conduct

III. Fiduciary Responsibilities (1-3 hr): Purpose – educate the Producer on responsibilities as a fiduciary. Topics may also be addressed in Insurance Agency Administration.

- A. Fiduciary defined – where and when are you a fiduciary whether you want to be or not. This topic should receive emphasis and development through the use of examples and case studies.
- B. Commingling of Funds
- C. Privacy of Information
- D. Use of Sales Material
- E. License requirements to sell – 36 OS 1435.4, 1435.7
- F. Replacements
- G. Suitability
- H. Statutory Requirements – how you handle money and accountability for handling.