

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 25. LICENSURE OF AGENTS, BAIL BONDSMEN,  
COMPANIES, PREPAID FUNERAL BENEFITS, CEMETARY MERCHANDISE  
TRUSTS,  
AND VIATICAL SETTLEMENTS PROVIDERS AND BROKERS**

**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) **"CE"** means continuing education.

(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) **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 after the license is granted. 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 reported 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, 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 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.

(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 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

CE hours attained under the course previous to the withdrawal. If a provider provides a CE course after that course has been denied by the Commissioner, the provider may be subject to an administrative action and penalty.

(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 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.

(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 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.

[Source: Amended at 9 Ok Reg 3877, eff 11-25-91 (emergency); Amended at 9 Ok Reg 3959, eff 5-29-92; Amended at 9 Ok Reg 4059, eff 9-14-92 (emergency); Amended at 10 Ok Reg 1479, eff 5-1-93; Amended at 12 Ok Reg 3147, eff 7-31-95; Amended at 13 Ok Reg 3287, eff 8-1-96; Amended 14 Ok Reg 3690, eff 9/8/97 (emergency); Amended at 15 Ok Reg 1398, eff 7/1/98; Amended at 17 Ok Reg 1687, eff 7-14-2000; Amended at 18 Ok Reg 1300, eff 7-14-01; Amended at 19 Ok Reg 1309, eff 7-14-02; Amended at 21 Ok Reg 1668, eff 7-14-04; Amended at 22 Ok Reg 2045, eff 7-14-05; Amended at 23 Ok Reg 2735, eff 7-14-06; Amended at 24 Ok Reg 2210, eff 7-14-2007; Amended at 25 Ok Reg 1660, eff 7-14-2008; Amended at 26 Ok Reg 1645, eff 7-14-2009; Amended at 28 Ok Reg 214 (emergency), eff 10-19-10; Amended at 28 Ok Reg 1964, eff 7-14-11; Amended at 29 Ok Reg 1287, eff 7-14-12]

### **365:25-3-1.1. Application for resident producer license [REVOKED]**

[Source: Added at 25 Ok Reg 172, eff 11-2-07 (emergency); Added at 25 Ok Reg 1660, eff 7-14-2008; Revoked at 28 Ok Reg 1964, eff 7-14-11]

### **365:25-3-1.2. Provisional producer licensees [REVOKED]**

[Source: Added at 25 Ok Reg 172, eff 11-1-07 (emergency); Added at 25 Ok Reg 1660, eff 7-14-2008; Amended at 27 Ok Reg 1551, eff 7-14-10; Revoked at Ok Reg 1964, eff 7-14-11]

### **365:25-3-1.3. Approved insurance company training program [REVOKED]**

[Source: Added at 25 Ok Reg 172, eff 11-1-07 (emergency); Added at 25 Ok Reg 1660, eff 7-14-2008; Revoked at 28 Ok Reg 1964, eff 7-14-11]

### **365:25-3-1.4. Producer training requirements for long-term care insurance**

#### **(a) Selling, soliciting or negotiating long-term care insurance.**

(1) An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident and health or sickness or life and has completed a one-time training course. The training shall meet the requirements set forth in subsection (b) of this section.

(2) An individual already licensed and selling, soliciting or negotiating long-term care insurance on the effective date of this regulation may not continue to sell solicit or negotiate long-term care insurance unless the individual has completed a one-time training course as set forth in subsection (b) of this section, within one-year from July 14, 2008.

(3) In addition to the one-time training course required in paragraphs (a)(1) and (2) above, an individual who sells, solicits or negotiates long-term care insurance shall complete ongoing training as set forth in subsection (b) of this section.

(4) The training requirements of subsection (b) of this section may be approved as continuing education courses under Section 1435.29 of Title 36 of the Oklahoma Statutes.

#### **(b) Training requirements.**

(1) The one-time training required by this section shall be no less than eight (8) hours and the ongoing training required by this section shall be no less than four (4) hours every 24-months.

(2) The training required under paragraph (b)(1) shall consist of topics related to long-term care insurance, long-term care services and, if applicable, qualified state long-term care insurance partnership programs, including, but not limited to:

(A) State and federal regulations and requirements and the relationship between qualified state long-term care insurance Partnership programs and other public and private coverage of long-term care services, including Medicaid;

(B) Available long-term care services and providers;

(C) Changes or improvements in long-term care services or providers;

(D) Alternatives to the purchase of private long-term care insurance;

(E) The effect of inflation on benefits and the importance of inflation protection; and

(F) Consumer suitability standards and guidelines.

(3) The training required by this section shall not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

**(c) Insurer requirements.**

(1) Insurers subject to this Act shall obtain verification that a producer receives training required by paragraph (a)(1) of this section before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the commissioner upon request.

(2) Insurers subject to this Act shall maintain records with respect to the training of its producers concerning the distribution of its Partnership policies that will allow the state insurance department to provide assurance to the state Medicaid agency that producers have received the training contained in subparagraph (b)(2)(A) of this section as required by paragraph (a)(1) of this section and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care, including Medicaid, in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the commissioner upon request.

**(d) Training received in other states.** The satisfaction of the training requirements as set out in this section in any state shall be deemed to satisfy the training requirements in this state.

[Source: Added at 25 Ok Reg 1684, eff 7-14-2008]

**365:25-3-2. Insurance agency name [REVOKED]**

[Source: Amended at 15 Ok Reg 1210, eff 1-30-98; Amended at 15 Ok Reg 3229, eff 7-13-98; Revoked at 18 Ok Reg 3644, eff 9-20-01, (emergency); Revoked at 19 Ok Reg 1310, eff 7-14-02]

### **365:25-3-3. Licensing of incorporated insurance agency**

(a) **Purpose.** The purpose of this section is to set forth the rule regarding a corporation to submit its Articles of Incorporation for approval by the Insurance Commission prior to obtaining an insurance producer's license.

(b) **Filing of articles of incorporation.** A resident business entity shall file its articles of incorporation or other organizational documents with the Secretary of State for approval. A resident business entity shall file a certified copy of its articles of incorporation or other organizational documents with the Insurance Commissioner prior to licensure.

[Source: Amended at 15 Ok Reg 1210, eff 1-30-98 (emergency); Amended at 15 Ok Reg 3229, eff 7-13-98; Amended at 24 Ok Reg 2217, eff 7-14-2007; Amended at 25 Ok Reg 1660, eff 7-14-2008]

### **365:25-3-4. Knowledge of producer imputed to the insurer**

(a) **Purpose.** The purpose of this section is to prohibit the inclusion of language in insurance contract which purports to abrogate or limit the imputation of knowledge of the producer to the insurer.

(b) **Person soliciting policy deemed agent of issuing company.**

(1) Any person who solicits and procures an application for insurance, and policies issued in consequence thereof, shall be regarded as the agent of the company issuing the policy. All provisions in the application and policy contracts to the contrary are void and are of no effect.

(2) No application form or contract of insurance shall be approved by the Commissioner of Insurance of the State of Oklahoma which purports to abrogate, impinge upon, interfere with, or any way prejudice the imputation of knowledge communicated to the agent, acting within the scope of his employment, to the insurer.

[Source: Amended at 19 Ok Reg 1310, eff 7-14-02; Amended at 24 Ok Reg 2217, eff 7-14-2007]

### **365:25-3-5. Relating to the use of pictures of the Insurance Commissioner and/or insurance department personnel and/or any other pictorial or printed material of the Insurance Commissioner's office as promotional material in the sale of stock, subscriptions to stock, or policies of insurance by companies with the State of Oklahoma**

(a) **Purpose.** The purpose of this section is to prohibit the use of pictures of the Insurance Commissioner or Insurance Department personnel in connection with the advertisement of the sale of stock or policies, and to prohibit the use of such pictures for any other purpose without prior approval.

(b) **Use of pictorial or printed material of Commissioner or Department restricted.** No insurer, insurer in process of organization, or any other person or corporation shall use, on or after the effective date of this section, any pictures of the Insurance Commissioner of this state, or pictures of any of the personnel of the State Insurance Department, or any other pictorial or printed material of the Insurance Department in

connection with the advertisement or sale of shares of stock, pre-organizational subscriptions, and/or policies of insurance; nor shall any such insurer, insurer in process of organization or any other person or corporation use any such material for purposes other than those above expressly prohibited without first securing prior approval in writing from the Insurance Commissioner.

**365:25-3-6. Management and commission contracts; approval by Insurance Commissioner [REVOKED]**

[Source: Revoked at 24 Ok Reg 2217, eff 7-14-2007]

**365:25-3-7. Advance commissions to officers**

(a) **Purpose.** The purpose of this section is to prohibit the payment of excess or unearned commissions by a domestic insurance company to its officers.

(b) **Advance commissions to officers prohibited.** No domestic insurance company shall pay to any of its officers any commissions in excess of those earned, or otherwise advance to any of its officers any sums of money in anticipation of commissions not then earned.

**365:25-3-8. Inducement of lapse, surrender or cancellation of existing permanent life insurance coverages prohibited**

(a) **Purpose.** The purpose of this section is to set forth the regulations regarding comparisons of existing permanent life insurance policies with other policies and to require that all recommendations for replacement of existing permanent life insurance policies be constructive.

(b) **Inducement of lapse, surrender or cancellation of existing permanent life insurance coverages prohibited.**

(1) **Replacement of policies.** No person subject to the provisions of 36 O.S. §1201 et seq. (1981), shall indiscriminately advocate or recommend in any life insurance sales presentation or proposal that the prospect surrender or permit to lapse any existing permanent life insurance policies for the purpose of replacing such policies with other insurance, alone or in conjunction with some form of equity investment.

(2) **Comparison of policies.** No person subject to the provisions of 36 O.S. §1201 et seq. (1981), shall directly or indirectly encourage any other person to surrender or permit to lapse any existing permanent life insurance policies for the purpose of inducing such other person to purchase other insurance, alone or in conjunction with some form on equity investment, by drawing a comparison between the benefits contained in such existing insurance program and the benefits which might accrue under some proposed substitute program of insurance or insurance and equity investments, unless such comparison be fully, completely, and accurately stated.

(3) **Written statement of comparison.** Any comparison shall be in writing and in not less than duplicate copies, one of which shall be left with the prospect and the other of such copies shall be retained by the general agent of the person preparing

the same for not less than three years. Such records shall be subject to examination by the Insurance Commissioner.

(4) **Recommendations for replacement shall be constructive.** Sales presentation by life insurance producers shall in every instance be prospective and constructive. Destruction of existing programs of permanent insurance shall not be advocated directly or indirectly by any licensed life insurance producer to the detriment of the insured under such permanent plan of insurance.

[Source: Amended at 24 Ok Reg 2210, eff 7-14-2007]

### **365:25-3-9. "Twisting" defined and prohibited**

(a) **Purpose.** The purpose of this section is to define and prohibit "twisting". A determination that a licensee has engaged in twisting shall result in a penalty pursuant to Section 1435.13 of Title 36.

(b) **"Twisting" defined and prohibited.**

(1) **"Twisting" defined.** Twisting includes:

(A) persuading a policyholder to drop an existing permanent policy in one company to replace it in another to the detriment of the policyholder.

(B) any misrepresentation, fraudulent or unfair incomplete comparisons made to induce and which tends to induce, lapse or surrendering of a policy.

[Source: Amended at 24 Ok Reg 2217, eff 7-14-2007]

### **365:25-3-10. Participating contracts of life insurance**

(a) **Purpose.** The purpose of this section is to prohibit life insurance producers and life insurance companies from making or inferring any untrue statements regarding participating life insurance policies or statements that infer or state an individual prospect is being offered any advantage not available to members of the general public.

(b) **Participating contracts of life insurance.**

(1) No life insurance producer or life insurance company, stock or mutual, doing business in the State of Oklahoma shall infer or state to prospects for participating life insurance policies that any specific amount of dividends or benefits are guaranteed or are payable by reason of the participating feature contained in any life insurance contract.

(2) No life insurance producer or life insurance company shall employ any sales literature in the State of Oklahoma which infers or states that an individual prospect for insurance is being offered any advantage or benefit not available to members of the public generally who are equivalent underwriting risks.

(3) Violation of any of the provisions of this section will subject the producers and companies concerned to appropriate administrative sanctions provided for by 36 O.S. §1207 (1981).

[Source: Amended at 24 Ok Reg 2217, eff 7-14-2007]

### **365:25-3-11. Motor service club agent's license [REVOKED]**

[Source: Amended at 13 Ok Reg 3411, eff 8-15-96; Amended at 15 Ok Reg 1210, eff 1-30-98 (emergency); Amended at 15 Ok Reg 3229, eff 7-13-98; Revoked at 24 Ok Reg 2217, eff 7-14-2007]

**365:25-3-12. Insurance consultants and surplus lines insurance brokers**

(a) **Purpose.** The purpose of this section is to require surplus lines brokers and insurance consultants to post bonds with the Insurance Commissioner in the amounts specified.

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

(1) **"Bond"** means a surety bond in the penal sum as determined in accordance with (d) of this section which shall be obtained in favor of the Commissioner from authorized corporate sureties approved by the Commissioner and conditioned upon the licensee conducting his/its business in accordance with applicable law. Any surety issuing such bond shall notify the Commissioner of any reductions or cancellations in the bond of any licensee. No such bond shall be terminated unless at least thirty days written notice thereof is given by the surety to the licensee and the Commissioner. All surety protection under such bond shall insure to the benefit of any party aggrieved by the acts of the licensee thereunder.

(2) **"Commissioner"** means the Insurance Commissioner of the State of Oklahoma.

(3) **"Gross fee"** means the total of all fees received by any Insurance Consultant derived by offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued or delivered in this state.

(4) **"Gross premium"** means the total of all premiums received by any Surplus Lines Insurance Broker less those reductions permitted by 36 O.S. § 1115.

(5) **"Insurance consultant"** means an individual, partnership or corporation who, for a fee, holds himself or itself out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued or delivered in this state.

(6) **"Person"** means any individual, partnership or corporation or other entity.

(7) **"Surplus lines insurance broker"** means an individual, partnership or corporation who solicits, negotiates or procures a policy of insurance in an insurance company not licensed to transact business in this state which cannot be procured from insurers licensed to do business in this state. All transactions under such license shall be subject to 36 O.S. §§ 1101 et seq.

(8) **"Resident"** means any individual or business entity that either resides in the State of Oklahoma or maintains its principal place of business in the State of Oklahoma.

(c) **Bond required.**

(1) **Surplus lines insurance broker.** No resident shall act as a Surplus Lines Insurance Broker in this state until such person has filed with the Commissioner, and thereafter maintained in force, a bond in an amount prescribed in (d) of this section.

(2) **Insurance consultant.** No resident person shall act as an Insurance Consultant in this state until such person has filed with the Commissioner, and thereafter maintained in force, a bond in the amount prescribed in (d) of this section.

(3) **Cash in lieu of bond.** In either (1) or (2) of paragraph (c) of this section, cash in lieu of a bond will be considered an acceptable substitute.

(d) **Amount of bond.** The bond required by (c) of this section shall be as follows:

(1) For \$1,000,000 and above gross premium or gross fees as applicable - \$40,000 bond required;

(2) For \$500,000 to \$999,999 gross premium or gross fees as applicable - \$35,000 bond required;

(3) For \$250,000 to \$499,999 gross premium or gross fees as applicable - \$30,000 bond required;

(4) For \$100,000 to \$249,999 gross premium or gross fees as applicable - \$25,000 bond required;

(5) For \$75,000 to \$99,999 gross premium or gross fees as applicable - \$20,000 bond required;

(6) For \$50,000 to 74,999 gross premium or gross fees as applicable - \$15,000 bond required;

(7) For \$25,000 to \$49,999 gross premium or gross fees as applicable - \$10,000 bond required;

(8) For all gross premium or gross fees below \$25,000 as applicable - \$5000 bond required.

(e) **Reports required.** Every Insurance Consultant shall, on or before the first day of April of each year, file with the Commissioner a verified statement of all fees received by such consultant as a result of business conducted pursuant to such consultant's license.

(f) **Third party administrators.** Pursuant to 36 O.S. § 1448, the amount of bond for a third party administrator must be stipulated by the Insurance Commissioner in an amount that will be sufficient to protect those with which the administrator deals and not less than ten thousand dollars. The bond required by Section 1448 shall be set by the Insurance Commissioner but shall be no less than the following amounts as reported in the annual report of the third party administrator for the immediately preceding calendar year:

(1) For \$1,000,000 and above in premiums collected or claims paid, whichever is higher - \$40,000 bond required;

(2) For \$500,000 to \$999,999 in premiums collected or claims paid, whichever is higher - \$35,000 bond required;

- (3) For \$250,000 to \$499,999 in premiums collected or claims paid, whichever is higher - \$30,000 bond required;
- (4) For \$100,000 to \$249,999 in premiums collected or claims paid, whichever is higher - \$25,000 bond required;
- (5) For \$75,000 to \$99,999 in premiums collected or claims paid, whichever is higher - \$20,000 bond required;
- (6) For \$50,000 to 74,999 in premiums collected or claims paid, whichever is higher - \$15,000 bond required;
- (7) For \$49,999 or less in premiums collected or claims paid, whichever is higher - \$10,000 bond required.

[**Source:** Amended at 15 Ok Reg 1210, eff 1-30-98 (emergency); Amended at 15 Ok Reg 3229, eff 7-13-98; Amended at 24 Ok Reg 2217, eff 7-14-2007; Amended at 25 Ok Reg 1660, eff 7-14-2008]

**365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms**

- (a) **Purpose.** The purpose of this section is to set forth the requirements regarding the procurement of policies from non-admitted carriers.
- (b) **Placement with licensed broker.** No licensed insurance producer, solicitor, broker or general agent shall place, or cause to be placed with any nonadmitted insurer any policy of insurance upon property and/or any other risks, or any insurable interest therein, having a situs in the State of Oklahoma, except through a duly licensed surplus line broker; and, then, any such policy shall only be procured by strict compliance with the applicable statutes of this State and the Rules issued under the authority of the Insurance Department of the State of Oklahoma.
- (c) **Application for placement.**
  - (1) After procuring any surplus lines insurance, surplus line brokers shall execute and file affidavits and reports with the Insurance Commissioner as required pursuant to Section 1107 of Title 36 on Form SL-3(a-d). All Forms SL-3 (a-d) shall be retained in the files of the brokers, to support the policy issued thereunder, for a period of not less than three years.
  - (2) All applications (Form SL-3) shall be completely filled out and verified under oath by the broker submitted for each policy for which approval for issuance is sought; provided, that in the event any group insurance is determined to constitute a surplus line of insurance, a specific method of reporting additional individual certificates issued or cancelled under such group policy shall be agreed upon between the Insurance Commissioner and the broker concerned.
  - (3) After procuring surplus lines insurance, an insured filing a direct placement shall execute and file affidavits and reports with the Insurance Commissioner as required by 36 O.S. § 1115 on form DSL-3 (a-d).
- (d) **Broker tax collection and remittance.**
  - (1) All taxes due on any insurance policy issued as a surplus line policy, through any non-admitted insurer, shall be collected by the surplus line broker who procures such policy's issuance. Such taxes shall, in each instance be collected in

full on or before the issuance of the policy to the insured, except as hereinafter expressly provided for by (b) of this section. All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, on or before the end of each month following each calendar quarter by letter of transmittal accompanying such tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days next succeeding the last date included in the policy period considered in computing such retrospective premium adjustment.

**(e) Broker tax refunds; warrants.**

(1) Claims for tax refunds on surplus line policies shall be separately submitted on Form SL-3(d), which shall be prepared under oath, and executed by the broker concerned. Every such verified claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. Only one claim for tax refund shall be submitted on each Form SL-3(d). Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for a tax refund shall be filed following the close of the calendar quarter that contains the policy period considered in computing the tax refund three (3) years from the date of tax payment. The broker shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ex parte administrative consideration or action by the Insurance Commissioner. Any claim for tax refund which is not timely filed, or any claim for tax refund which is denied by ex parte action of the Insurance Commissioner, may be set down for

public hearing upon timely application therefore by the party or parties aggrieved by such claims denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.

(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the broker concerned within thirty days next succeeding the receipt of such claims by the Insurance Commissioner.

(3) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the broker who originally submitted the tax in question.

**(f) Direct Placement Tax Collection and Remittance.**

(1) All taxes due on any insurance policy issued as a direct placement surplus lines policy through any non-admitted insurer shall be collected by the affiant or other representative of the insured who procured such policy's issuance. Such taxes shall, in each instance, be collected in full on or before the issuance of the policy to the insured except as hereinafter expressly provided for by Section 365:25-3-13 (f)(2)(B). All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, within thirty (30) days following the issuance of the policy. The Direct Placement by and Insured Summary shall accompany the tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at the date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days following the policy period considered in computing such retrospective premium adjustment.

**(g) Direct Placement-Tax refunds; warrants.**

(1) Claims for tax refunds on surplus lines policies shall be separately submitted on Form DSL-3d, which shall be prepared under oath and executed by the insured or a representative of the insured. Every verified claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. Only one claim for tax refund shall be submitted on each Form DSL-3d. Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for tax refund shall be filed within three (3) years from the date of tax payment. The insured or a representative of the insured shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ex parte administrative consideration or action by the Insurance Commissioner. Any claim for tax refund that is not timely filed, or any claim for tax refund that is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely application by the party or parties aggrieved by the claim denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.

(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the affiant or other representative of the insurance within thirty (30) days next succeeding the receipt of such claims by the Insurance Commissioner.

(3) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the insured that originally paid the tax in question.

**(h) Forms**

(1) Surplus line brokers shall reproduce Forms SL-2 and SL-3 in quantities sufficient for their respective requirements.

(2) The applications and forms required by this section shall be supplementary and in addition to the Annual Statements and Annual Tax Returns required to be filed by each licensed surplus line broker. The Annual Statements and Annual Tax Returns of all surplus line brokers shall be duly filed, according to 36 O.S. §1114 upon the forms prescribed for such purposes.

[Source: Amended at 22 Ok Reg 2045, eff 7-14-05; Amended at 24 Ok Reg 2217, eff 7-14-2007; Amended at 25 Ok Reg 1660, eff 7-14-2008]

**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) "CE" means continuing education.

- (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) **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 after the license is granted. 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 on his or her renewal/reinstatement date, the appropriate forms as specified in this section that establish the educational requirements have been reported for the previous year.

(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, 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 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 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 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 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 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 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 twenty-four month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) 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 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.

[Source: Added at 12 Ok Reg 3151, eff 7-31-95; Amended at 14 Ok Reg 2961, eff 7-14-97; Amended at 15 Ok Reg 1210, eff 1-30-98 (emergency); Amended at 15 Ok Reg 3229, eff 7-13-98; Amended at 19 Ok Reg 1310, eff 7-14-02; Amended at 22 Ok Reg 2045, eff 7-14-05; Amended at 24 Ok Reg 2217, eff 7-14-2007; Amended at 25 Ok Reg 172, eff 11-1-07 (emergency); Amended at 25 Ok Reg 1660, eff 7-14-2008; Amended at 26 Ok Reg 1645, eff 7-14-2009; Amended at 27 Ok Reg 1551, eff 7-14-10; Amended at 28 Ok Reg 214 (emergency), eff 10-19-10; Amended at Ok Reg 1964, eff 7-14-11; Amended at 29 Ok Reg 1291, eff 7-14-12]

**365:25-3-15. Variable product licensing**

(a) Producers who wish to sell a variable life product shall have passed successfully the Oklahoma Life Insurance examination and shall provide proof of current FINRA registration with series 6 or 7 and series 63 or 66.

(b) No test shall be required of an applicant for a variable annuity license if:

(1) The applicant provides proof of current FINRA registration with series 6 or 7 and series 63 or 66, and

(2) The applicant shall pay an additional license fee as required by 36 O.S. § 1435.23(A)(4)(b) with the submission of an application as prescribed by the Insurance Commissioner.

[Source: Added at 15 Ok Reg 1210, eff 1-30-98 (emergency); Added at 15 Ok Reg 3229, eff 7-13-98; Amended at 19 Ok Reg 1310, eff 7-14-02; Amended at 27 Ok Reg 1551, eff 7-14-10; Amended at 28 Ok Reg 1964, eff 7-14-11]

### **365:25-3-16. Examination exemptions**

(a) The following applicants are cognizant of and capable of fulfilling the responsibilities of the license without an examination:

(1) limited lines producers,

(2) surplus lines brokers,

(3) aircraft title producer license if the applicant was licensed as a title insurance producer prior to November 1, 2006, and

(4) a person licensed as an insurance producer in another state who moves to this state and makes application to become a resident licensee within ninety (90) days of establishing legal residence. The examination exemption shall apply for the lines of authority held in the prior state.

(b) Multi-peril crop adjusters certified by the Federal Risk Management Agency working in partner with, or on behalf of, the Federal Crop Insurance Corporation may obtain a crop/hail or a multi-peril crop license upon presentation of the federal certification without having to take an examination.

[Source: Added at 15 Ok Reg 1210, eff 1-30-98 (emergency); Added at 15 Ok Reg 3229, eff 7-13-98; Amended at 17 Ok Reg 1687, eff 7-14-00; Amended at 19 Ok Reg 1310, eff 7-14-02; Amended at 24 Ok Reg 2217, eff 7-14-2007; Amended at 25 Ok Reg 1660, eff 7-14-2008; Amended at 27 Ok Reg 1551, eff 7-14-10; Amended at 28 Ok Reg 1964, eff 7-14-11]

### **365: 25-3-17. Agriculture Revenue Insurance License [REVOKED]**

[Source: Added at 20 Ok Reg 2858, eff 8-4-03 emergency; Added 21 Ok Reg 1668, eff 7-14-04; Revoked at 28 Ok Reg 1964, eff 7-14-11]

### **365:25-3-18. Compensation and education for sale of Medicare Advantage (including private fee for service plans) or Medicare prescription drug products and plans**

(a) **Compensation; selling, soliciting or negotiating Medicare Advantage products and plans.**

(1) **Applicability.** The provisions of this section shall apply only to insurance companies and producers who solicit, negotiate or sell Medicare Advantage

(including private fee for service plans) or Medicare Prescription Drug products and plans.

(2) **Insurance companies.** An insurance company shall not pay or offer to pay compensation to producers based on the number of sales of Medicare Advantage products and plans. An insurance company may pay a commission for each sale, but compensation shall not be tiered or based on a sales threshold.

(3) **Producers.** A producer shall not accept compensation based on the number of sales of Medicare Advantage products and plans. A producer may receive a commission for each sale, but compensation shall not be tiered or based on a sales threshold. An individual may not sell, solicit or negotiate Medicare Advantage (including private fee for service plans) or Medicare Prescription Drug products and plans unless the individual is licensed as an insurance producer for accident and health.

**(b) Training Requirements.**

(1) **Biennial renewal periods.** Producers who sell solicit, or negotiate Medicare Advantage (including private fee for service plans) or Medicare Prescription Drug products and plans shall complete four (4) hours of continuing education during each biennial renewal period. The continuing education required by this section may be applied as a continuing education course credit under Section 1435.29 of Title 36 of the Oklahoma Statutes.

(2) **Company products; sales and marketing information.** The training required by this section shall not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

[Source: Added at 25 Ok Reg 1685, eff 7-14-2008; Amended at 26 Ok Reg 1654, eff 7-14-09; Amended at 28 Reg Ok 1964, eff 7-14-11]

**365:25-3-19. Medicare Part D volunteer counselors**

(a) To qualify for an exemption from the licensure requirements of the Oklahoma Producer Licensing Act of the Oklahoma Insurance Code pursuant to Section 1435.5(B)(8) of Title 36 of the Oklahoma statutes, partner organizations using volunteer counselors to assist Medicare beneficiaries with enrollment in Medicare Part D plans pursuant to the Federal Medicare Prescription Drug, Improvement and Modernization Act of 2008 shall file with the Insurance Commissioner the following supporting documentation prior to conducting enrollment assistance activity:

(1) The name, address and other pertinent contact information for the partner organization along with a list of persons acting as volunteer counselors who intend to assist in the enrollment of Medicare beneficiaries in Medicare Part D;

(2) A description of the training received by each volunteer counselor named in the list required by paragraph (1) of this subsection;

(3) A statement signed by each volunteer counselor named in the list required by paragraph (1) of this subsection stating:

(A) My name is [insert name of volunteer counselor] and my personal address is [insert personal address];

(B) I have received and read the Medicare Part D Prescription Drug Plan training materials provided by [insert partner organization name];

(C) I have not received and will not accept commissions or other valuable consideration from any person or plan for the enrollment assistance provided by me to Medicare beneficiaries;

(D) I will not disclose or use confidential information obtained as a result of my association with, or access to, any person with Medicare for any other purpose not directly required by CMS and the Oklahoma Insurance Department;

(E) I understand and acknowledge that the exemption from the licensure requirements of the Oklahoma Producer Licensing Act of the Oklahoma Insurance Code is strictly limited to my service as a volunteer counselor assisting in the enrollment of Medicare beneficiaries in Medicare Part D Prescription Drug Plans; and

(4) Any other information the Insurance Commissioner may request from a partner organization or volunteer counselor to assist in the verification of compliance with the requirements of Section 1435.5(B)(8) of Title 36 of the Oklahoma statutes.

(b) The Insurance Commissioner may order a volunteer counselor, after notice and opportunity for hearing, to cease the assistance of Medicare beneficiaries with enrollment in Medicare Part D plans for failure to comply with the requirements of Section 1435.5(B)(8) of Title 36 and this section. Issuance of this order shall not limit the Insurance Commissioner from taking other administrative action as authorized by the Oklahoma Insurance Code and the laws of this state.

[Source: Added at 26 Ok Reg 16, eff 9-15-2008 (emergency); Added at 26 Ok Reg 1654, eff 7-14-09]

### **365:25-3-20. Vehicle protection product warrantor; fee; forms**

Registrants making filings pursuant to the Vehicle Protection Product Act, 36 O.S. § 6650, et seq., shall register and pay a fee of Two Hundred Dollars (\$200.00) upon initial registration. Said registrants shall register and pay a fee of Two Hundred Dollars (\$200.00) for annual registrations on or before July 15. The first annual registration shall be filed and the fee paid on or before July 15 of the year 2009. Registrants filing late shall pay a late fee in an amount equal to the initial and annual registration fee in addition to the initial and annual registration fees required herein.

[Source: Added at 26 Ok Reg 1654, eff 7-14-09]

#### **365:25-3-20.1. Prior approval of vehicle protection product contract forms**

No vehicle protection product form or related form shall be issued or used in this state unless the form has been filed with and approved by the Insurance Commissioner.

[Source: Added at 28 Ok Reg 1964, eff 7-14-11]

#### **365:25-3-20.2. Cancellation language for vehicle protection product contract forms**

Each vehicle protection product contract shall contain a cancellation provision. In the event the contract is canceled by the warranty holder, return of premium shall be based upon ninety percent (90%) of the unearned pro rata premium less the actual cost of any service provided under the contract. In the event the contract is canceled by the vehicle protection product warrantor, return of premium shall be based upon one hundred percent (100%) of unearned pro rata premium less the actual cost of any service provided under the contract.

[Source: Added at 28 Ok Reg 1964, eff 7-14-11]

**365:25-3-20.3. Disapproval of any vehicle protection product contract form**

The Commissioner shall disapprove any vehicle protection product form filed pursuant to this section if the form:

- (1) Violates the Vehicle Protection Product Act;
- (2) Is misleading in any respect; or
- (3) Is reproduced so that any material provision is substantially illegible.

[Source: Added at 28 Ok Reg 1964, eff 7-14-11]

**365:25-3-21. Training and education requirements for the sale of annuities**

(a) Training and education requirements for producers who sell, solicit or negotiate annuities.

(1) An insurance producer shall not sell, solicit or negotiate the sale of an annuity product in this state unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided, product-specific training standards and materials to comply with this subsection.

(2) An insurance producer who engages in the sale, solicitation or negotiation of annuity products shall be licensed as a producer with a Life line of Authority and complete a one-time, four (4) hour credit training course as set forth in subsection (b). The course shall be approved by the Insurance Department and provided by an Insurance Department-approved education provider. The continuing education as required by this paragraph shall be applied as a continuing education course under Section 1435.29 of Title 36 of the Oklahoma Statutes.

(3) Insurance producers who currently hold a life insurance line of authority on the effective date of this regulation and who desire to sell annuities shall complete the training requirements of this subsection within twelve (12) months after July 14, 2010.

(4) Individuals who obtain a life insurance line of authority on or after the July 14, 2010 may not engage in the sale, solicitation or negotiation of annuities until the annuity training course required under subsection (a)(2) has been completed.

(b) Training education requirements.

(1) The minimum length of the training required under this subsection shall be sufficient to qualify for at least four (4) CE credit hours, but may be longer.

(2) The training required under this subsection shall include information on the following topics and any other topics approved and specified by the Insurance Commissioner:

- (A) the types of annuities and various classifications of annuities,
- (B) identification of the parties to an annuity,
- (C) how fixed, variable and indexed annuity contract provisions affect consumers,
- (D) the application of income taxation of qualified and non-qualified annuities,
- (E) the primary uses of annuities, and
- (F) appropriate sales practices, replacement and disclosure

requirements.

(3) Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or

provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

(4) Annuity training courses may be conducted and completed by classroom or self-study methods.

(c) Insurer requirements. An insurer shall verify that an insurance producer has completed the annuity training course required under this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by Commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(d) Training received in other states. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

[Source: Added at 27 Ok Reg 1551, eff 7-14-10]