FS 06-43-07
DB/D680-681

Notice of Rulemaking Hearing
Department of Commerce and Insurance
Insurance Division

There will be a hearing before the Insurance Division of the Department of Commerce and Insurance ("Division") to consider the promulgation of rules. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4—5—204 and will take place in Conference Room A of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 10:00 a.m. CST on the 15th day of August, 2007.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator at Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 and (615) 741-6500.

For a copy of this notice of rulemaking hearing contact: Dakasha Winton, Staff Attorney, Office of Legal Counsel, Davy Crockett Tower, Twelfth Floor, Nashville, Tennessee 37243, Department of Commerce and Insurance, and (615) 741-2199.

Substance of Proposed Rules
Of
Department of Commerce and Insurance
Division of Insurance

Chapter 0780-1-56
Education Requirements

Amendments

0780-1-56 Education Requirements is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

Chapter 0780-1-56
Licensing Requirements for Insurance Producers
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0780-1-56-.01 Purpose.

The purpose of this Chapter is to:

(1) Prescribe the pre-licensing, examination, continuing education, and renewal requirements for insurance/HMO producers licensed pursuant to T.C.A. §§ 56-6-106, 56-6-107 and 56-32-214;

(2) Establish standards by which continuing education will be evaluated for awarding of credit hours; and

(3) Ensure compliance with applicable statutes and the provisions delineated in this Chapter by requiring periodic reporting of educational achievements.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.02 Scope.

This Chapter shall apply to all insurance/HMO producers licensed pursuant to T.C.A. §§ 56-6-106, 56-6-107 and 56-32-214.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.03 Authority.

This Chapter is issued under the authority of T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.04 Definitions.

(1) "Commissioner" means the Commissioner of the Tennessee Department of Commerce and Insurance;

(2) "Department" means the Tennessee Department of Commerce and Insurance;

(3) "Insurance producer" means an individual who is required to be licensed under the laws of this state to sell, solicit or negotiate insurance, whether or not such licensee has an agency contract, agreement or an appointment with an insurer; and/or an individual who is appointed or employed by a health maintenance organization "HMO" and who engages in solicitation for membership in such organization.

(4) "Insurer" means any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's, fraternal benefit society, and any other legal entity which is defined as an "insurer" in the insurance code of this state or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

(5) "NAIC" means the National Association of Insurance Commissioners;

(6) "Person" means any natural or artificial person including, but not limited to, an individual, partnership, association trust or corporation;

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.05 Procedures for Initial Licensure.

(1) An insurance producer shall apply for and receive from the commissioner an insurance producer license to act as an insurance producer in this State. All applications for licensure shall contain the following:

(a) A completed application form adopted by the commissioner and/or the NAIC signed by the applicant or an officer or director of the business entity;

(b) Unless otherwise exempt by law, proof of the completion and passing of an examination required by Rule 0780-1-56-.07; and

(c) A non-refundable filing fee of fifty dollars ($50.00).

(2) Unless directed otherwise by the Department, an applicant shall file the information required under this Rule with the commissioner, and in a manner approved by the commissioner, by electronic submission, personal delivery, or mail addressed to: Tennessee Department of Commerce and Insurance, 500 James Robertson Parkway, Davy Crockett Tower, Ninth Floor, Nashville, Tennessee 37243, Attention: Agent Licensing Section.

(3) Applicants should allow thirty (30) days for the Department's review and granting of the application upon receipt of all required information. The commissioner may, in the commissioner's discretion, issue a license under this Chapter subject to the verification of the applicant's answers to the application through the background check performed by the Tennessee Bureau of Investigation. In the event that the commissioner invalidates a license due to information learned through the background check, the commissioner shall notify the applicant and any insurance companies represented by the applicant within fourteen (14) days.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.06 Pre-licensing Education Requirements.

(1) All applicants for an insurance producer license, unless exempt pursuant to Paragraph (5) of this Rule or otherwise exempted by law, are required to complete an online or classroom pre-licensing course of study prior to taking the examination required.

(2) The pre-licensing course taken by the applicant must be approved by the commissioner in order for an applicant to receive credit under this Rule.

(3) The amounts of total hours which an insurance producer is required to take are listed as follows:

Lines of Insurance	Number of Hours
Title	5
Life	20
Accident and Health	20
Property	20
Casualty	20
Personal Lines	30

(4) The applicant shall certify to the commissioner in or with the application for insurance producer license that such applicant has completed a pre-licensing course of study approved by the commissioner for each line of insurance for which an insurance producer license is requested.

(5) The following persons are exempt from the pre-licensing education requirements prescribed by this Rule for the specified lines of authority:

(a) Persons holding a Chartered Life Underwriter (CLU) designation for a life line of authority;

(b) Persons holding a Chartered Property and Casualty Underwriters (CPCU) designation for property, personal lines, and casualty lines of authority;

(c) Persons holding a Certified Insurance Counselors (CIC) designation for life, health, property, personal lines, and casualty lines of authority;

(d) Persons holding a Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Fellow of Life Management Institute (FLMI), or Life Underwriter Training Council Fellow (LUTCF) designation for a life line of authority;

(e) Persons holding a Registered Health Underwriter (RHU), Certified Employee Benefit Specialist (CEBS), Registered Employee Benefit Consultant (REBC), or Health Insurance Advisor (HIA) designation for a health line of authority;

(f) Persons holding an Accredited Advisor in Insurance (AAI) or Associate in Risk Management (ARM) designation for property, personal lines, and casualty lines of authority; and

(g) Persons holding an insurance degree from an accredited college or university for all lines of authority.

Authority: T.C.A. §§ 56-6-105, 56-6-106, 56-6-124, 56-32-214, 56-35-122 and 56-35-201.

0780-1-56-.07 Examination Requirements.

(1) All applicants for an insurance producer license, unless otherwise exempted by law, are required to pass a written examination in order to test the applicant's knowledge as to the line of insurance for which a license is applied, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. There shall be a separate examination for each line of insurance in which an insurance producer may be licensed. Applicants wishing to be licensed as an insurance producer in more than one line of insurance shall take each applicable examination.

(2) Each examination for a license shall be approved for use by the commissioner. Examinations for licensing shall be at such reasonable times and places accessible to the applicants as are designated by the Commissioner.

(3) An individual taking an examination pursuant to this Rule shall pay a non-refundable fee in order to take such examination. An individual who takes an examination more than once shall pay the examination fee for each subsequent taking of the examination, regardless of the reason for the subsequent examinations.

(4) The minimum score that will be considered as a passing score for any examination given hereunder is seventy percent (70%). Any score on an exam below seventy percent (70%) shall be considered a failing score.

(a) An individual who has failed to pass an examination for a license applied for may take another examination following the expiration of thirty (30) days from the date of the applicant's last unsuccessful examination upon submission of the examination fee.

(b) An individual who has received a failing score on three (3) successive attempts of taking an examination for a license applied for will not be permitted to take a subsequent examination until the expiration of one (1) year from the date of the taking of the individual's last unsuccessful examination. After the one (1) year period, the individual may retake the examination upon completing all pre-licensing education requirements enumerated in Rule 0780-1-56-.06. The individual shall also be required to file a new application accompanied by the appropriate filing and examination fees.

(5) The commissioner may enter into a contract with a testing organization for the examination of applicants for license as an insurance producer. Notwithstanding any other provisions of this chapter, such contract may provide that the testing organization shall:

(a) Assume responsibility for administration and grading of the examination; and

(b) Charge and collect reasonable non-refundable examination fees, subject to the approval of the commissioner.

(6) No individual taking an examination for an insurance producer license shall possess or examine the examination questions and/or answers prior to the time of examination, nor shall any such individual use improper notes or other reference materials during the examination. Furthermore, no person shall have such questions or answers reproduced and/or disseminated for the purposes of assisting an insurance producer in passing an examination.

(7) All individuals desiring to take a test under this Rule shall submit to the commissioner:

(a) Two (2) full sets of fingerprints;

(b) A certified check made payable to the Tennessee Bureau of Investigation representing the cost of having criminal history record checks performed; and

(c) A reasonable administrative fee representing the cost of the collection and transmission of fingerprint data made payable to the contractor; or

(d) Alternate methods of fingerprint submission if approved by the commissioner.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.08 Continuing Education.

(1) Basic Requirement. Every individual seeking biennial renewal of a license pursuant to T.C.A. § 56-6-107(c), unless otherwise exempt, must satisfactorily complete twenty-four (24) credit hours of study in approved courses, programs of instruction or seminars every two (2) years following the date of issuance of the original license. Three (3) hours shall have course concentration in ethics during each continuing education biennium.

Certificates of completion for courses previously submitted and approved for credit may only be repeated and submitted for credit after three (3) years.

(2) Qualifying Programs.

(a) In order to qualify for credit towards satisfaction of the requirements of this Rule, an educational program must be a formal program of learning which contributes directly to the professional competence of the insurance producer and such program must meet the standards outlined for continuing educational programs.

(b) Formal programs requiring attendance may be considered for credit if:

1. A detailed outline is prepared and presented to the commissioner for approval;

2. The program is at least one (1) credit hour [fifty (50) minutes] in length; and

3. The program is conducted by a qualified instructor, discussion leader or lecturer.

(c) An instructor of a certified continuing education program shall receive continuing education credit. Credit for presenting a certified continuing education program will be awarded only for the first presentation, unless a program has been substantially revised since credit was last awarded. The amount of credit awarded shall not exceed two (2) times the number of approved class hours for the program.

(d) The list of subjects that will be acceptable for continuing education credits includes, but is not limited to the following:

1. Insurance, annuities, and risk management;

2. Insurance laws and regulations;

3. Mathematics, statistics, and probability;

4. Economics;

5. Business law;

6. Finance;

7. Taxes;

8. Business environment, management or organization; and

9. Subjects other than those listed above may be acceptable if the insurance producer can demonstrate that they contribute to professional competence and otherwise meet the standards set forth in this Rule. The responsibility for substantiating that a particular program meets the requirements of this Rule rests solely upon the insurance producer.

(e) Subjects that will not be acceptable for continuing education credits include, but are not limited to the following:

1. Any course used to prepare for taking an insurance licensing examination;

2. Committee service in any professional organization;

3. Computer science courses;

4. Motivational, psychology, or sales training courses; and

5. Securities courses, other than variable annuities.

(f) Continuing education programs which shall be deemed to meet the commissioner's standards, if properly submitted to the commissioner and approved, are:

1. Any part of the Life Underwriter Training Counsel Life Course Curriculum or Health Course;

2. Any part of the American College "CLU-CHFC" diploma curriculum;

3. Any part of the Insurance Institute of America's programs;

4. Any part of the American Institute for Property and Liability Underwriters Chartered Property Casualty Underwriter (CPCU) professional designation program;

5. Any part of the National Alliance for Insurance Education programs;

6. Any part of the American Land Title Association's, the Land Title Institute's, or the Tennessee Land Title Association's programs;

7. Any program relating to the field of real property law or title insurance law approved by the Committee on Continuing Legal Education of the Supreme Court of Tennessee;

8. Successful completion of any insurance related course approved by the Commissioner and taught by an accredited college or university per credit hour granted;

9. Any part of the Tennessee Association of Health Underwriters' or the National Association of Health Underwriters' programs; and

10. Any part of the Independent Insurance Agents of Tennessee's programs.

(g) Any correspondence or self-study program approved by the commissioner shall qualify for the equivalent number of classroom hours, provided that:

1. All correspondence or self-study programs shall include a final examination; and

2. Any provider of correspondence or self-study programs shall be the originally published provider or have the written authorization of the originally published provider to present such program.

(h) All programs for continuing education must be submitted for approval on a form prescribed by the commissioner and submitted at least thirty (30) days prior to the program's presentation.

(i) The commissioner specifically reserves the right to approve and disapprove credit for continuing education claimed under this Rule.

(j) The commissioner may require any original publisher or provider to submit all material to be used in the program to the commissioner for review.

(k) Any applicant who seeks approval as a provider of certified continuing education programs shall submit an application on a form prescribed by the commissioner with a non-refundable filing fee in the amount of five hundred ($500) dollars. All providers shall be required to annually renew their authority to provide certified continuing education programs on a form prescribed by the commissioner with a non-refundable filing fee in the amount of two hundred and fifty ($250) dollars. Any material change in or to a certified continuing education program shall require prior approval before an insurance producer may receive credit for such altered program. Program certification shall expire at such time as the commissioner may determine. State educational institutions are exempt from these filing fees, but must comply with all other requirements in order to obtain/maintain provider authority.

(l) All providers must maintain, for not less than four (4) years from the date the program was presented, a record of persons attending each program and upon completion of the program requirements, provide a certificate of completion with credit hours earned to each successful student. The certificate shall bear the provider's identification number as assigned by the commissioner upon the granting of authority to provide continuing education programs.

(m) Any insurance company, trade association, individual corporation, partnership, firm or agency that has been approved and been given authority by the commissioner to be a continuing education provider under this Rule shall meet the following continuing minimum operational standards:

1. A minimum of one (1) business office open to the public, with a minimum of one (1) telephone to be answered by an employee, during normal business hours, equipped with the usual office equipment such as a desk, filing cabinets, typewriter/word processor, supplies, and other similar items; and

2. Classroom(s) (not applicable to self-study programs) in compliance with the Americans with Disabilities Act (ADA), comprised of a room large enough to accommodate a minimum of ten (10) students with comfortable chairs and appropriate writing surfaces for each student and a chalk board or flip chart.

(n) Any individual or provider who violates the provisions of this chapter shall be subject to disciplinary action pursuant to Tenn. Code Ann. § 56-6-112.

(3) Reporting of Continuing Education Compliance.

(a) Prior to the expiration of the biennium period, each insurance producer shall submit on a form prescribed by the commissioner, a signed statement setting forth the continuing education program(s) in which the insurance producer has participated during the reporting period. Such insurance producer shall retain

documentation supporting such statement for the most recent two (2) year period subsequent to the date of submission.

(b) If any continuing education credit hours claimed in a statement submitted by an insurance producer pursuant to subparagraph (a) of this Paragraph are disapproved, the commissioner shall notify such insurance producer of the reason for the disapproval. The commissioner may allow a specified period of time for correction of the deficiencies noted.

(c) The original certificate of completion received for each continuing education program shall be retained by the insurance producer as evidence of completion of the program for the most recent two (2) year period. The statement submitted by the insurance producer will be reviewed and verified by the commissioner.

(d) The responsibility for establishing whether a particular program for which credit is claimed is acceptable and meets the continuing educational requirements as set forth in this Chapter rests solely with the insurance producer claiming the credit.

(e) The commissioner may require providers to electronically transmit a record of those students who have successfully completed a continuing education program to the Department or its designee.

(4) Extensions of Time.

(a) The commissioner may, upon written request, extend the time in which an insurance producer must comply with or grant exception to the continuing education requirements of this Rule for reasons of poor health, military service, or other reasonable and just causes.

(b) Any insurance producer who requests or is granted an extension of time under this Rule shall remain subject to Paragraph (3) of this Rule, and shall note such extension on any report required thereunder.

(5) A non-resident insurance producer's satisfaction of the insurance producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the non-resident insurance producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from this state on the same basis. The commissioner may, within his/her sole discretion, enter into reciprocity agreements with other state's insurance regulators to grant recognition to the continuing education credits received from other jurisdictions for non-resident insurance producers.

Authority: T.C.A. §§ 56-6-107(c), 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.09 Procedures for License Renewal

(1) An insurance producer shall renew his/her/its license every other year prior to the anniversary date, unless T.C.A. § 56-6-107 is amended to provide for the renewal in the producer's birth month at which time the anniversary date shall be in the birth month, of the initial granting of the license in order to continue to operate in this State. All applications for renewal shall contain the following:

(a) A completed renewal form adopted by the commissioner signed by the applicant or an officer or director of the business entity in a manner acceptable to the commissioner;

(b) If applicable, proof of compliance with Rule 0780-1-56-.08; and

(c) A non-refundable renewal fee of sixty dollars ($60.00).

(2) Unless directed otherwise by the Department, an applicant shall file the information required under this Rule with the commissioner, and in a manner approved by the commissioner, by electronic submission, personal delivery, or mail addressed to: Tennessee Department of Commerce and Insurance, 500 James Robertson Parkway, Davy Crockett Tower, Ninth Floor, Nashville, Tennessee 37243, Attention: Agent Licensing Section.

(3) In order to ensure the prompt review and granting of a renewal application, applicants should file all information required under Paragraph (1) of this Rule thirty (30) days prior to the anniversary date of granting of the initial license.

Authority: T.C.A. §§ 56-6-102, 56-6-107(c), 56-6-115, 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.10 Agents for Health Maintenance Organizations.

All agents of health maintenance organizations, as that term is defined in T.C.A. § 56-32-214(a), must obtain an insurance producer license in the line of accident and health insurance prior to acting as an agent. Such persons are required to meet all requirements for licensure, to include, but not necessarily be limited to, the requirements under T.C.A. Title 56, Chapter 6, as well as any other rules or regulations promulgated by the commissioner, such as any pre-licensing and continuing education requirements, examination requirements.

Authority: T.C.A. § 56-32-214.

0780-1-56-.11 Severability.

If any Rule, term or provision of this Chapter shall be judged invalid for any reason, that judgment shall not affect, impair or invalidate any other Rule, term or provision of this Chapter, and the remaining Rules, terms and provisions shall be and remain in full force and effect.

Authority: T.C.A. §§ 56-6-102, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.12 Effective Date.

This Chapter, with the exception of Rule 0780-1-56-.07 (7), shall take effect for all licenses applied for or renewed on or after January 1, 2008. Rule 0780-1-56-.07 (7) shall take effect July 1, 2008.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

Chapter 0780-1-74

Pre-Licensing Education and Examination Requirements for Insurance Producers

Repeal

Chapter 0780-1-74 Pre-Licensing Education and Examination Requirements for Insurance Producers is repealed.

Authority: T.C.A. §§ 56-6-102, 56-6-105, 56-6-106, 56-6-107(c), 56-6-121, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

Legal Contact and/ or party who will approve final copy for publication:
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I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Commissioner of Commerce and Insurance.

DENISE M. LEWIS
STATE OF TENNESSEE NOTARY PUBLIC
WILSON COUNTY, TENN.
Expires MAR. 22, 2008

Dakasha Winton
Staff Attorney

Subscribed and sworn to before me this the 29th day of June, 2007.

Denise M Lewis
Notary Public

My commission expires on the 22nd day of March, 2008.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29 day of June, 2007.

Riley C. Darnell
Secretary of State

By: _____