

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 on the 5th Floor of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 10:00 a.m. CST on the 18th day of February, 2004.

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 hearing date, to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Division’s ADA Coordinator at Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 or (615) 741-6500.

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

Substance of Proposed Rule

Chapter 0780-1-56
Educational Requirements

Amendments

Chapter 0780-1-56 Educational Requirements is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

Chapter 0780-1-56
Educational Requirements

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0780-1-56-.01 Purpose

- (1) The purpose of this chapter is to prescribe the continuing education requirements for insurance/HMO producers, hereinafter, “insurance producers” licensed pursuant to T.C.A. §§ 56-6-106, 56-6-107 and 56-32-214; to establish standards by which continuing education will be evaluated for awarding of credit hours; and to ensure compliance with the statutes and these requirements by requiring periodic reporting of educational achievements.
- (2) As used in this chapter, insurance producer means an individual who has an agency contract or agreement and an appointment with an insurer to sell, solicit or negotiate a

policy of insurance on the insurer's behalf; 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; but does not include an individual enrolling members on behalf of an employer, union or other organization to which a master subscriber contract has been issued.

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

0780-1-56-.02 Basic Requirements

- (1) Continuing Education – Every individual seeking annual renewal of a license pursuant to T.C.A. § 56-6-107(c), unless otherwise exempt pursuant to such Section, must satisfactorily complete twelve (12) credit hours of study in approved courses, programs of instruction or seminars each year following the date of issuance of the original license. Certificates of completion for courses previously submitted and approved for credit may only be repeated and submitted for credit after three (3) years.

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

0780-1-56-.03 Qualifying programs

- (1) In order to qualify for credit towards satisfaction of the requirements of this chapter, 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.
- (2) Formal programs requiring attendance may be considered for credit if:
 - (a) A detailed outline is prepared and presented to the Department for approval;
 - (b) The program is at least one (1) credit hour [fifty (50) minutes] in length; and
 - (c) The program is conducted by a qualified instructor, discussion leader or lecturer.
- (3) 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.
- (4) The list of subjects that will be acceptable for continuing education credits includes, but is not limited to the following:
 - (a) Insurance, annuities, and risk management;
 - (b) Insurance laws and regulations;
 - (c) Mathematics, statistics, and probability;
 - (d) Economics;
 - (e) Business law;
 - (f) Finance;
 - (g) Taxes;

- (h) Business environment, management or organization; and
 - (i) 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 chapter. The responsibility for substantiating that a particular program meets the requirements of this chapter rests solely upon the insurance producer.
- (5) Subjects that will not be acceptable for continuing education credits include, but are not limited to the following:
- (a) Any course used to prepare for taking an insurance licensing examination;
 - (b) Committee service in any professional organization;
 - (c) Computer science courses;
 - (d) Motivational, psychology, or sales training courses; and
 - (e) Securities courses, other than variable annuities.
- (6) Continuing education programs which shall be deemed to meet the Commissioner's standards, if properly submitted to the Department are:
- (a) Any part of the Life Underwriter Training Counsel Life Course Curriculum or Health Course;
 - (b) Any part of the American College "CLU-CHFC" diploma curriculum;
 - (c) Any part of the Insurance Institute of America's programs;
 - (d) Any part of the American Institute for Property and Liability Underwriters Chartered Property Casualty Underwriter (CPCU) professional designation program;
 - (e) Any part of the Certified Insurance Counselor Program;
 - (f) Any part of the American Land Title Association's, the Land Title Institute's, or the Tennessee Land Title Association's programs;
 - (g) 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; and
 - (h) Successful completion of any insurance related course approved by the Commissioner and taught by an accredited college or university per credit hour granted.
- (7) Any correspondence or self-study program approved by the Commissioner shall qualify for the equivalent number of classroom hours, provided that:
- (a) All correspondence or self-study programs shall include a final examination; and
 - (b) 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.

- (8) 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.
- (9) The Commissioner specifically reserves the right to approve and disapprove credit for continuing education claimed under this chapter.
- (10) The Commissioner may require any original publisher or provider to submit all material to be used in the program to the Department for review.
- (11) 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.
- (12) 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.
- (13) 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 chapter shall meet the following continuing minimum operational standards:
 - (a) 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, supplies, and other similar items.
 - (b) 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.

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

0780-1-56-.04 Control and reporting systems

- (1) Each insurance producer shall annually 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.
- (2) If any continuing education credit hours claimed in a statement submitted by an insurance producer pursuant to paragraph (1) of this Section 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.

- (3) 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.
- (4) 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.
- (5) The Commissioner may require providers to electronically transmit a record of those students who have successfully completed a continuing education program to the Department of its designee.

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

0780-1-56-.05 Extensions of time

- (1) 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 chapter for reasons of poor health, military service, or other reasonable and just causes.
- (2) Any insurance producer who requests or is granted an extension of time under this chapter shall remain subject to rule 0780-1-56-.04, and shall note such extension on any report required thereunder.

Authority: T.C.A. §§ 56-6-107(e), 56-35-122, and 56-35-201.

0780-1-56-.06 Reciprocity

A non-resident producer's satisfaction of the 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 producer's home state recognizes the satisfaction of its continuing education requirements imposed upon 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, 56-6-112, 56-6-118(b), 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.07 Penalty

Any individual or provider who violates the provisions of this chapter shall be subject to disciplinary action pursuant to T.C.A. § 56-6-112.

Authority: T.C.A. §§ 56-6-107, 56-6-112, 56-6-124, 56-32-214, 56-35-122, and 56-35-201.

0780-1-56-.08 Educational advisory committee

- (1) A continuing educational advisory committee comprised of no less than three (3) and no more than seven (7) individuals who are representatives from each segment of the insurance industry, may be appointed by and shall serve at the pleasure of the

Commissioner to advise the Commissioner concerning continuing educational standards. The chairman of the committee shall be appointed by and shall serve at the pleasure of the Commissioner. All members of the committee shall serve without any compensation.

- (2) A majority of those present at any meeting of the Educational Advisory Committee shall be deemed to be a quorum for purposes of acting to perform the duties of the committee pursuant to this chapter. In the event of a tie vote, the chairman shall vote to break the tie.
- (3) The Committee may advise the Commissioner on program content and exceptions as permitted under this chapter.
- (4) The Committee will be available to consider other related matters as the Commissioner may assign.

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

0780-1-56-.08 Effective date

The effective date of chapter 0780-1-56 is July 1, 2004.

Authority: T.C.A. §§ 56-2-301 and 56-7-401.

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.

Barbara A. Doak
Staff Attorney

Subscribed and sworn to before me this the ____ day of _____, 2003.

Notary Public

My commission expires on the ____ day of _____, 2003.

The notice of rulemaking set out herein was properly filed in the Department of State on the ____ day of _____, 2003.

Riley C. Darnell
Secretary of State

By: _____