

**CHAPTER 39. CONTINUING EDUCATION FOR
INSURANCE AGENTS AND BROKERS****GENERAL**

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Authority

The provisions of this Chapter 39 issued under sections 602(a)(3) and 622(h) of The Insurance Department Act of 1921 (40 P. S. §§ 232(a)(3) and 252(h)), unless otherwise noted.

Source

The provisions of this Chapter 39 adopted March 17, 1995, effective March 18, 1995, 25 Pa.B. 1053, unless otherwise noted.

GENERAL**§ 39.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Insurance Department Act of 1921 (40 P. S. §§ 1—297.4).

Agent—A person holding a certificate of qualification issued by the Department.

Approved course—An educational program presented by means of classroom or correspondence study, certified by the Commissioner as meeting the continuing education requirements.

Broker—A person holding a license issued by the Department.

Certificate—A Certificate of Qualification issued by the Department attesting that a person has met the standards to act as an agent as set forth under section 603 of the act (40 P. S. § 233) and Chapter 37 (relating to agent certificates of qualification and broker licenses).

Commissioner—The Insurance Commissioner of the Commonwealth.

Credit hour—Fifty minutes of classroom instruction or the equivalent thereof as determined by the Commissioner.

Department—The Insurance Department of the Commonwealth.

Instructor—An individual responsible for teaching an approved course.

License—A document issued by the Department authorizing the named recipient to do business as an insurance broker in this Commonwealth.

Licensing period—The period of time from the effective date to the expiration date stated on the certificate or license.

Nonresident—A person whose business address and legal residence are both outside this Commonwealth.

Person—An individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, beneficial association and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters. The term also includes health care plans as defined in 40 Pa.C.S. Chapters 61, 63, 65 and 67 and in the Health Maintenance Organization Act (40 P. S. §§ 1551—1568). For purposes of this chapter, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

Resident—A person whose business address or legal residence is located in this Commonwealth.

Sponsor—A person offering or providing an approved course.

Successfully complete—To complete an approved course for which a valid course completion certificate is issued.

Transition date—The date of the Department's initial issuance of certificates of qualification.

§ 39.2. Purpose.

The purpose of this chapter is to implement the provisions of the act by establishing requirements and standards for continuing education programs for licensees.

§ 39.3. Applicability.

This chapter applies to agents or brokers for any line of authority except for agents or brokers exempted under § 39.4 (relating to exemptions).

§ 39.4. Exemptions.

- (a) This chapter does not apply to:

- (1) An agent who was licensed for a particular line of authority prior to January 1, 1971, and has been continuously licensed for that line of authority (*See* section 602(a)(3) of the act (40 P. S. § 232(a)(3)). The agent shall be subject to this chapter if an additional line of authority, or a broker's license in the same line is added, at any time after December 31, 1970.
- (2) A broker who was licensed for a particular line of authority prior to January 1, 1971, and has been continuously licensed for that line of authority (*See* section 622(h) of the act (40 P. S. § 252(h)). The broker shall be subject to this chapter if an additional line of authority is added at any time after December 31, 1970.
- (3) An agent who, as confirmed by the appointing entity on each renewal, is appointed as a resident agent solely to countersign policies and is not engaged in the solicitation or sale of insurance.
- (4) The holder of a certificate whose only line of authority is a restricted line.
- (5) An agent or broker that is a firm, an institution, a partnership, a corporation or an association.
- (6) A nonresident agent or broker whose state of domicile has continuing education requirements, and the agent or broker has satisfied those requirements. If the agent or broker does not satisfy the state of domicile's requirements, the agent or broker shall be subject to this chapter.
- (7) An agent whose only line of authority is title insurance.
- (8) An agent whose only line of authority is restricted fraternal.
- (9) An agent who first obtained a license without examination under section 609(c) of the Fraternal Benefit Societies Code (40 P. S. § 1142-609(c)) and whose appointments are limited to fraternal benefit societies.
- (10) An agent or broker who has other good cause for exemption, as approved by the Commissioner.
 - (b) An agent or broker requesting an exemption under this section shall apply to the Commissioner on a form approved by the Commissioner.
 - (c) The following documentation is acceptable for establishing an agent's or broker's status under subsection (a)(1) or (2).
 - (1) Department licensing history or other records.
 - (2) Copies of licenses provided by agents or entities.
 - (3) Other records deemed acceptable by the Commissioner.

Cross References

This section cited in 31 Pa. Code § 39.3 (relating to applicability).

§ 39.5. Administration of continuing education.

The Commissioner may contract with a competent person or corporation to review sponsor qualifications, course content and credit hour assignment for continuing education courses; record successful course completion by agents and

brokers; and perform other services deemed appropriate by the Commissioner. The Commissioner will approve sponsor registration, courses and assignment of credit hours to approved courses.

(b) The Commissioner will:

(1) Approve only sponsors who are of sound business reputation and who agree to satisfy the requirements of this chapter pertaining to sponsors.

(2) Approve only courses that impart substantive and procedural knowledge relating to the insurance field, satisfying the standards contained in § 39.7 (relating to courses).

(3) Approve only instructors that satisfy the standards contained in § 39.9 (relating to instructors).

(4) Show no bias or favoritism towards a sponsor, course or instructor.

Cross References

This section cited in 31 Pa. Code § 39.12 (relating to fees); and 31 Pa. Code § 39.22 (relating to Advisory Board).

§ 39.6. Sponsors.

(a) A sponsor shall apply for registration on an application approved by the Commissioner.

(b) A sponsor shall have the responsibility to:

(1) Ensure compliance with this chapter.

(2) Provide the name, address and phone number of a contact person for each course submitted for approval.

(3) Provide the name of each course instructor and identify the qualifications under § 39.9 (relating to instructors) that the instructor satisfies.

(4) Notify the Commissioner of a change in information on applications for course or instructor approval.

(5) Ensure that the course provides students with current and accurate information.

(6) Provide students with the following information in writing:

(i) The course title.

(ii) The dates and times when the course is offered.

(iii) The name, address and telephone number of a contact person for each course.

(iv) A general outline of the subject matter being covered.

(v) Other information the sponsor believes may benefit the students.

(7) Provide a textbook or a detailed outline of the subject matter being taught.

(8) Supervise and evaluate courses and instructors.

(9) Investigate complaints relating to courses or instructors.

(10) Maintain accurate records of courses offered, instructors, student attendance and student course completion for at least 6 years from the date of course completion.

(11) Within 30 days of a student's successful completion of a course, provide the student with a course completion certificate on a form approved by the Commissioner.

(12) Notify the Commissioner or the contractor in a prescribed format of agents or brokers who have successfully completed a course within 15 business days of the date of course completion. A sponsor that is an insurance company may include this information with its monthly report on agent appointments and terminations filed under § 37.61 (relating to appointments and termination by entity).

(c) A sponsor shall comply with the following advertising standards:

(1) A sponsor may not advertise a course unless it has been approved in writing. A sponsor may advertise a course before approval if the advertisement prominently displays or announces that approval is under review.

(2) A sponsor shall prominently display or announce in an advertisement the number of credit hours assigned to the course and the fee for the course.

(3) A sponsor may not engage in false, misleading or deceptive advertising.

(d) A sponsor shall comply with the following standards regarding fees:

(1) If a course is cancelled for any reason, the sponsor shall refund the fees within 30 days of cancellation or, at the request of the agent or broker shall transfer the fee to another course offered by the sponsor.

(2) A sponsor shall provide each student with a written refund policy that addresses withdrawal from or failure to complete a course.

(e) A sponsor that is a business or organization employing agents or brokers or having agents or brokers as members may not require the agents or brokers to attend the sponsor's course to receive continuing education credit.

(f) A sponsor shall apply for course approval on an application approved by the Commissioner. The application shall be filed at least 60 days before the date the course is to begin. The sponsor shall be notified within 45 days of the date of the receipt of an application regarding approval or disapproval. If the Commissioner or Commissioner's delegate requests additional information to review the application, the sponsor will have up to 45 days to comply with the request. If the request is not satisfied within the 45-day period, the application will be disapproved.

§ 39.7. Courses.

(a) The Commissioner will approve only courses that contribute directly to the professional insurance competence of agents or brokers. Accordingly, the following types of courses will not be approved:

- (1) A course designed solely to prepare a person for a certificate or license examination.
 - (2) A course in mechanical, office or business skills, including typing, speed reading, or the use of calculators or other machines or equipment.
 - (3) A course in sales promotion.
 - (4) A course in motivation, salesmanship, stress management, time management, psychology, communication or writing.
 - (5) A course relating solely to office management, client relations or improving the operation of the agent or broker's business.
- (b) Courses or programs shall meet the Commissioner's standards for an approved course. Examples of courses or programs which may meet the Commissioner's standards for an approved course are:
- (1) Any part of the Life Underwriter Training Council (LUTC) course curriculum.
 - (2) Any part of the American College diploma curriculum for Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC) or Master in Financial Sciences (MSFS) or courses required for or to maintain CLU, ChFC or MSFS designations.
 - (3) Any part of the College of Financial Planning diploma curriculum for Certified Financial Planning (CFP) program.
 - (4) Any part of the Insurance Institute of America curriculum.
 - (5) Any part of the American Institute for Chartered Property Casualty Underwriters (CPCU) program.
 - (6) Any part of the National Association of Health Underwriters Registered Health Underwriter (RHU) program.
 - (7) Any part of the Health Insurance Association of America (HIAA) program.
 - (8) Any part of the Academy of Life Underwriting Education Council curriculum (LUEC) program.
 - (9) Any part of the Certified Insurance Counselor (CIC) program.
 - (10) Any part of the Blue Cross and Blue Shield Association's Certified Health Consultant curriculum.
 - (11) Any part of the Accredited Adviser in Insurance (AAI) designation program.

Cross References

This section cited in 31 Pa. Code § 39.5 (relating to administration of continuing education).

§ 39.8. Credit hours.

(a) *General information.*

- (1) The Commissioner will determine the number of credit hours to be assigned to each approved course. Credit hours will not include time spent on meals, breaks or other activities unrelated to the course.

(2) To receive credit, an agent or broker shall complete the requirements of an approved course, including attendance and examination requirements.

(3) An agent or broker may not earn credit for attending a subsequent offering of the same course within the same licensing period.

(4) The instructor of an approved course shall earn twice the number of assigned credit hours. The instructor may not earn credit for instructing a subsequent offering of the same course within the same licensing period.

(5) An agent or broker shall maintain records of credits earned for at least the two most recently completed licensing periods in addition to the current licensing period.

(b) *Credit hour requirements.*

(1) An agent or broker shall be exempted from continuing education requirements for the initial licensing period if the initial licensing period is less than 24 months in duration. Thereafter, compliance with paragraph (2) is mandatory.

(2) To receive a license or certificate renewal, an agent or broker shall successfully complete approved courses equivalent to 48 credit hours of instruction during each of the first two complete 24-month periods following the date of original certificate or license issuance. Following the first two complete 24-month licensing periods, an agent or broker shall, for each subsequent 24-month period, successfully complete approved courses equivalent to 24 credit hours of instruction.

(3) An agent or broker as of the transition date is required to successfully complete approved courses equivalent to 24 credit hours of instruction for each complete 24-month licensing period.

(4) An agent or broker may carry forward excess continuing education credit hours up to a maximum of 24 credit hours from one licensing period to the next.

(5) The continuing education requirement for an agent or broker adding a line of authority as defined in § 37.39 (relating to lines of authority) to an existing certificate or license shall be as follows, regardless of years licensed:

(i) At the time of the first renewal subsequent to the addition of the line, there is no change in the continuing education requirement.

(ii) At the time of all other subsequent renewals, the requirements of paragraph (3) apply.

§ 39.9. Instructors.

(a) The instructor shall possess one or more of the following qualifications:

(1) A minimum of 3 years experience in the subject matter being taught.

(2) A degree in the subject matter being taught.

(3) A minimum of 2 years experience as an agent or broker and a minimum of 6 months experience in the subject matter being taught.

(b) An individual shall be prohibited from acting as an instructor if a suspension or revocation of that individual's certificate or license is in force.

(c) Individuals desiring to become instructors shall provide the sponsor with a signed statement that a criminal violation has not been committed, as found in § 37.46(7)(i) (relating to standards for denial of certificate/license), within the past 5 years, and specifying the individual's qualification for an instructor.

(d) Instructors shall have the responsibility to:

- (1) Comply with this chapter.
- (2) Provide students with current and accurate information.
- (3) Provide accurate records of successful course completion to the course sponsor within 10 working days.

Cross References

This section cited in 31 Pa. Code § 39.5 (relating to administration of continuing education); and 31 Pa. Code § 39.6 (relating to sponsors).

§ 39.10. Waivers.

(a) If an agent or broker provides satisfactory documentation to the Commissioner that the licensee is unable to attend classroom courses during the licensing period because of a disability, medical condition or similar reason, the Commissioner may waive the continuing education requirement or may require the licensee to complete the required number of credit hours through correspondence courses or other approved courses as determined by the Commissioner.

(b) The Commissioner may grant additional waivers if it is determined that other circumstances warrant the waiver.

§ 39.11. Penalties for failure to comply with continuing education requirements.

(a) An agent or broker shall be notified by the Department, 150 days prior to the expiration date stated on his certificate or license, of the number of credit hours needed to satisfy the continuing education requirements. An agent or broker who has not earned the required number of credit hours as of 60 days prior to the date of renewal shall have his certificate or license terminated as of the expiration date.

(b) A person notified of termination of his license or certificate for failure to comply with the continuing education requirements shall have the opportunity to present to the Department documentary evidence showing compliance with the continuing education requirements. The aggrieved party shall present the evidence prior to the expiration date of the license or certificate.

(c) Termination will not occur if the agent or broker has successfully completed the required number of credit hours, but completion has not been reported by the sponsor to the Department.

(d) Failure to comply with continuing education requirements will be deemed voluntary termination of the agent's certificate or broker's license. See §§ 37.35(g) and 37.36(f) (relating to renewal of agent's certificate; and renewal of broker license).

(e) An applicant whose certificate or license was terminated under subsection (d) will be required to complete the deficient number of credit hours prior to regaining a certificate or license in addition to satisfying other requirements set forth in Chapter 37 (relating to agent certificates of qualification and broker licenses), unless the Commissioner grants a waiver for good cause shown.

§ 39.12. Fees.

(a) Fees will be established under subsection (b) or (c) for initial approval of a sponsor, approval of each course offered by a sponsor and for the sponsor's reporting of course completion. Following initial approval, each sponsor and the sponsor's course will be subject to recertification every 2 years for which fees shall be established. Fees will reflect the administrative costs for the continuing education program.

(b) If the Department administers the continuing education program, the fees described in subsection (a) will be established by regulation.

(c) If the Department contracts with a competent person or corporation in accordance with § 39.5 (relating to administration of continuing education) for the administration of the continuing education program, the fees described in subsection (a) will be established by contract pursuant to the standards and procedures established for procurement of contractual services by Commonwealth agencies and will be published as a notice in the *Pennsylvania Bulletin*.

ADMINISTRATIVE RESPONSIBILITIES

§ 39.21. Powers of the Commissioner.

(a) The Commissioner may deny, suspend or revoke the approval of a sponsor, course or program of courses if the sponsor, instructor, course or program of courses is not in compliance with this chapter.

(b) If the Commissioner determines that an agent or broker has knowingly falsified a continuing education report, has misrepresented any fact or material submitted to the Commissioner under the continuing education requirements, or has knowingly submitted a false continuing education report, the Commissioner may suspend or revoke the individual's certificate or license and impose appropriate civil penalties under section 639 of the act (40 P. S. § 279).

(c) The Commissioner may audit, monitor and review courses with or without notice to the sponsor.

§ 39.22. Advisory Board.

(a) By April 17, 1995, the Commissioner will reconvene the Single Licensing/Continuing Education Task Force (Task Force) for the purpose of developing recommendations to the Commissioner with respect to the composition of a continuing education advisory board. The Commissioner will consider the Task Force's recommendations in appointing members to the Advisory Board. The Board will be composed of company, agent, course sponsor, Department and other representatives deemed appropriate by the Commissioner, including members of the Task Force wishing to serve on the Advisory Board.

(b) The Advisory Board will make recommendations to the Commissioner regarding the continuing education requirements provided in this chapter, including the following:

(1) Periodically make recommendations to the Commissioner regarding the development of criteria for awarding a contract for the administration of continuing education as set forth in § 39.5 (relating to administration of continuing education).

(2) Offer guidance regarding approval or disapproval of courses, credit hours, qualifications of course sponsors and instructors.

(3) Make recommendations as to liaison with the National Association of Insurance Commissioners continuing education task force.

(4) Recommend changes to this chapter.

(c) If the Commissioner or the Commissioner's delegate determines that a course sponsor application or the qualifications for courses and instructors do not meet the requirements of this chapter, the aggrieved party may request the Advisory Board to review the Commissioner's or Commissioner's delegate's decision. Following the review, the Board will make its recommendations to the Commissioner. The Commissioner will consider the recommendations of the Advisory Board in reaching a final decision.

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