TITLE 365. INSURANCE DEPARTMENT

CHAPTER 25. ~~LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE TRUSTS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS~~OTHER LICENSEES

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.

(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 as general hours 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) **Earthquake insurance education.** Beginning January 1, 2015, each resident insurance producer with a property line of authority shall complete one (1) hour of continuing education credit in the topic of earthquake insurance as part of the continuing education credit hours required each twenty-four month period.

~~(5)~~(6) **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.

~~(6)~~(7) **Prerequisite for renewal or reinstatement.** As a prerequisite for licensure renewal or upon reinstatement following a lapse of license, a producer must demonstrate that the education requirements have been reported for the previous renewal cycle.

(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 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, address, and email address of the provider;

(B) Contact person and his or her address and telephone number;

(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. The provider shall submit the following at the time of application:

(A) The number of CE hours requested for each course;

(B) 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;

(C) If a prior approved course has materially changed, a summarization of those changes.

(2) **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. An instructor shall have one of the following qualifications:

(A) Three (3) years of recent experience in the subject area being taught; or

(B) A degree related to the subject area being taught; or

(C) 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.

(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 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.

(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 insurance company specific courses in areas 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.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(9) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall electronically upload a list of all insurance producers who completed the course to the Commissioner's database system. 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.

(10) **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.

(11) **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.

(12) **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.-

(13) **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.

(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-four (24) 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-four (24) 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)(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 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 (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.** There shall hereby be established by 36 O.S. § 1435.29(B)(1)(b) the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry as designated by the Commissioner. 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. 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(f) 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.

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 designated home 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.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each adjuster shall submit upon each licensing renewal a certificate(s) of course completion as approved by the Insurance Department, which verifies 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 as general hours. Excess hours may be applied to bring a lapsed license into compliance.

(4) **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.

(5) **Earthquake insurance education**. Beginning January 1, 2015, all resident insurance adjuster licensees, or nonresident insurance adjusters who have designated Oklahoma as their home state, with a property line of authority shall complete one (1) hour of continuing education credit in the topic of earthquake insurance as part of the continuing education credit hours required each twenty-four month period.

~~(5)~~(6) **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.

~~(6)~~(7) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must demonstrate that the educational requirements have been reported for the previous renewal cycle.

(e) **Approval of continuing education providers.**

(1) **Information required.** Each provider shall apply for approval by 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 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, address, and email address of the provider.

(B) Contact person and his or her address and telephone number(s).

(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.

(3) **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.

(4) **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.

(f) **Courses; approval; records.**

(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. The provider shall submit the following at the time of application:

(A) The number of CE hours requested for each course.

(B) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.

(C) If a prior approved course has materially changed, a summarization of those changes.

(2) **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. An instructor shall have one of the following qualifications:

(A) Three (3) years of recent experience in the subject area being taught; or

(B) A degree related to the subject area being taught; or

(C) 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.

(3) **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.

(4) **Written approval required.** All courses shall require written approval by the Commissioner.

(5) **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.

(6) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(7) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(8) **Content of courses.** Courses must be of a meaningful nature and shall not include insurance company specific courses in areas 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.

(9) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(10) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall electronically upload a list of all insurance adjusters who completed the course to the Commissioner's database system. 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.

(11) **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.

(12) **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.

(13) **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.

(g) **Approved professional designation programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 6217(C), 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. § 6217(C), 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)(8) 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)(8) 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 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 365:25-3-14(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 365:25-3-14-(f) 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.

SUBCHAPTER 5. BAIL BONDSMEN

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-31. ~~Residence, business, mailing, and e-mail addresses~~Information to be included on applications

(a) Original and renewal applications shall include the ~~following~~applicant's:

(1) ~~applicant's~~ residence address,

(2) ~~applicant's~~ business address,

(3) ~~applicant's~~ mailing address, ~~and~~

(4) ~~applicant's~~ e-mail address~~.~~,

(5) telephone number, and

(6) legal name.

(b) An applicant's business address and mailing address shall be in the same county.

365:25-5-41. Special deposit

(a) In addition to the cash or securities deposited in trust with the ~~State Treasurer through the~~ Insurance Commissioner's office pursuant to 36 O.S. § 613, insurers writing bail bonds in this

state shall deposit in trust additional cash or securities equaling at least Three Hundred Thousand Dollars ($300,000.00), and insurers writing bail bonds in this state shall not exceed a twenty-to-one (20:1) ratio of outstanding liability-to-special deposit.

(b) An insurer shall comply with the following requirements to maintain the special deposit described in Subsection (a):

(1) The insurer's monthly report of outstanding liability shall be within ten percent (10%) of the outstanding liability reported by all the insurer's appointed surety bondsmen for that month.

(2) All bail bond forfeitures shall either be paid within 91 days after receipt of the Order and Judgment of Forfeiture or vacated by the court within 91 days from the date of receipt of the Order and Judgment of Forfeiture pursuant to Section 365:25-5-40.

(c) If the insurer fails to comply with either requirement of paragraph (b) more than three (3) times in a consecutive twelve (12) month period, the insurer's outstanding liability shall not exceed a ten-to-one (10:1) ratio of outstanding liability-to-special deposit. The Insurance Commissioner shall provide written notification of this requirement via certified mail, return receipt requested, to the insurer's address of record. The special deposit required by this paragraph shall become effective thirty (30) days from the date notification is received.

(d) If an insurer is authorized to write only bail bonds, any cash or securities deposited in trust with ~~the State Treasurer through~~ the Insurance Commissioner's office pursuant to 36 O.S. § 613 in excess of the minimum amount required by Section 613 shall apply towards the special deposit required by this section.

365:25-5-44. Notice of return to custody

Following a forfeiture, if the defendant has been returned to custody as defined in 59 O.S. § 1332(C)(~~3~~4), the bondsman shall file notice with the court clerk of the county where the forfeiture occurred by the ninety-first day after receipt of the order and judgment of forfeiture, certifying the defendant was returned to custody by the ninetieth day after receipt of the order and judgment of forfeiture. Failure to provide notice prior to the ninety-first day shall be a violation of 59 O.S. § 1310(A)(2).

365:25-5-48. Acts of a bail bondsman

Pursuant to 59 O.S. § 1311.3(A), it is unlawful for any individual whose license to act as a bail bondsman has been suspended, revoked, surrendered, or refused, to do or perform any of the acts of a bail bondsman. Likewise, pursuant to 59 O.S. § 1311.3(B), it is unlawful for any bail bondsman to assist, aid, or conspire with a person whose license as a bail bondsman has been suspended, revoked, surrendered, or refused, to engage in any acts as a bail bondsman. For the purposes of 59 O.S. § 1311.3, the "acts of a bail bondsman" include, but are not limited to:

(1) Soliciting for a bond as defined in 59 O.S. § 1301(B)(11);

(2) Accepting collateral and providing a written receipt for collateral pursuant to 59 O.S. § 1314(A);

(3) Collecting premiums in person at a location other than the bondsman's recorded place of business pursuant to 59 O.S. § 1316(C);

(4) Providing a written receipt for premium pursuant to 59 O.S. § 1316(C);

(5) Negotiating or posting bonds pursuant to 59 O.S. § 1317(D);

(6) Surrendering a defendant into custody pursuant to 59 O.S. § 1327(A);

(7) Returning a defendant to custody prior to forfeiture pursuant to 59 O.S. §§ 1327 & 1328;
(8) Filing or signing with the court clerk a notice of return to custody;
(9) Signing or filing with the court clerk a guarantee to pay travel expenses;
(10) Signing and presenting a request that a defendant be entered into the records of the National Crime Information Center (NCIC);
(11) Submitting monthly reports to the Insurance Department pursuant to 59 O.S. 1314(B);
(12) Providing to the Oklahoma Insurance Department required documentation regarding Notice of Appointment, Filing Fee, and Notice of Termination pursuant to 59 O.S. § 1317; and
(13) Any other act that imposes any duty or obligation upon a licensed bail bondsman or surety.

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION

365:25-15-2. Annual reporting requirements

(a) ~~A pure, association, sponsored, or industrial~~Except as provided in 36 O.S. § 6470.11, a captive insurance company doing business in this State shall annually, prior to March 1, submit to the Insurance Commissioner a report of its financial condition, verified by oath of two of its executive officers. The report shall be that prescribed by the Insurance Commissioner as "Oklahoma Captive Insurance Company Annual Report."
(b) A company that elects to file its annual report on a fiscal year basis pursuant to 36 O.S. § 6470.11(C), shall file such report no later than 60 days following the close of such fiscal year.
(c) A company that elects to file its annual report on a fiscal year basis shall submit, concurrently with each premium tax return required in connection with premium taxes due under36 O.S. § 6470.19 pages 1 through 7 of the "Captive Annual Statement: Pure or Industrial Insured," verified by oath of two of its executive officers.
(d) In order to verify results reported in the company's annual report, each company shall cause its books and records to be audited annually by an independent certified public accounting firm approved in accordance with Section 4 of this Subchapter.
(e) In order to further verify results reported in the company's annual report each company shall cause to be prepared an actuarial opinion by a qualified actuary certifying the accuracy of the company's life, health, or annuity insurance reserves, or its loss reserves and loss expense reserves, as reported in the annual report. "Qualified actuary" means an individual who is a member of the American Academy of Actuaries and who has met the Qualification Standards for Actuaries Issuing Statements of Actuarial Opinions in the United States promulgated by the American Academy of Actuaries.
~~(b)~~(f) A risk retention group doing business in this State shall annually submit to the Insurance Commissioner a report of its financial condition, verified by oath of two of its executive officers. The report shall be that required by Section 311 of Title 36 of the Oklahoma Statutes.

365:25-15-3. Annual Audit

(a) All companies shall have an annual audit by an independent certified public accountant, authorized by the Insurance Commissioner, and shall file such annual audited financial report with the Insurance Commissioner on or before June 30 for the year ending December 31

immediately preceding.

(b) A pure captive insurance company may make written application to file its annual report on a fiscal year basis and, if approved by the Commissioner, shall file such report no later than ~~sixty (60)~~one hundred eighty (180) days following the close of the fiscal year.

(c) A company that elects to file its annual report on a fiscal year basis shall submit, concurrently with each premium tax return required, a schedule detailing the net direct written premium and assumed premium for the fiscal year in question.

(d) The annual audited financial report shall be considered part of the company's annual report of financial condition except with respect to the date by which it must be filed with the Insurance Commissioner.

(e) The annual audited financial report shall consist of the following:

(1) **Opinion of Independent Certified Public Accountant**

(A) Financial statements furnished pursuant to this section shall be examined by independent certified public accountants in accordance with generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the company and approved by the Insurance Commissioner ~~and the National Association of Insurance Commissioners~~.

(B) The opinion of the independent certified public accountant shall cover all years presented.

(C) The opinion shall be addressed to the company on stationery of the accountant showing the address of issuance, shall bear original manual signatures and shall be dated.

(2) **Report of Evaluation of Internal Controls**

(A) ~~This report shall include an evaluation of the internal controls of the company relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to, such controls as the system of authorization and approval and the separation of duties.~~In addition to the annual audit, each company shall furnish the Commissioner with a written report, prepared in accordance with SAS No. 112, or any successor thereto, by the independent certified public accounting firm describing significant deficiencies and material weaknesses in the company's internal control structure.

(B) The review shall be conducted in accordance with generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the company and approved by the Insurance Commissioner, and the report shall be filed with the Insurance Commissioner.

(C) The company is required to provide a description of remedial actions taken or proposed to correct material weaknesses and, at the Commissioner's discretion, significant deficiencies, if such actions are not described in the independent certified public accounting firm's report.

(3) **Accountant's Letter.** The independent certified public accountant accountant shall furnish the company, for inclusion on the filing of the annual audited financial report, a letter stating:

(A) That ~~(s)he~~he or she is independent with respect to the company and conforms to the standards of his/her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.

(B) The general background and experience of the staff engaged in audit including the experience in auditing captives or other insurance companies.

(C) That the accountant understands that the audited annual report and his opinions thereon will be filed in compliance with this regulation with the Department, and that the Commissioner will be relying on this information in the monitoring and regulation of the financial position of the company.

(D) That the accountant consents to the requirements of 365:25-15-4(c) of this regulation and that the accountant consents and agrees to make available for review by the Insurance Commissioner, or his appointed agent, the work papers as defined in 365:25-15-4(c).

(E) That the accountant is properly licensed by an appropriate state licensing authority and that ~~(s)he~~he or she is a member in good standing in the American Institute of Certified Public Accountants.

(4) **Financial Statements.** Statements required shall be as follows:

(A) Balance sheet,

(B) Statement of gain or loss from operations,

(C) Statement of changes in financial position,

(D) Statement of changes in capital paid up, gross paid in and contributed surplus and unassigned funds (surplus), and

(E) Notes to financial statements. The notes to financial statements shall be those required by generally accepted accounting principles, or as required by any other comprehensive basis of accounting in use by the company and approved by the Insurance Commissioner, and shall include:

(i) A reconciliation of differences, if any, between the audited financial report and the statement or form filed with the Insurance Commissioner.

(ii) A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive.

(iii) A narrative explanation of all material transactions and balances with the company. "Material transactions" means sales, guarantees, purchases, exchanges, loans or extensions of credit or investments which, based upon an annual aggregate, involve more than three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of the insurer's surplus as regards policyholders, whichever is less, as of the latest annual financial statement filed with the Commissioner.

(5) **Certification of Loss Reserves and Loss Expense Reserves**

(A) The annual audit shall include an opinion as to the adequacy of the company's life, health, or annuity reserves, or its loss reserves and loss expense reserves.

~~(B) The individual who certifies as to the adequacy of reserves shall be approved by the Insurance Commissioner and shall be a Fellow of the Casualty Actuarial Society, a member in good standing of the American Academy of Actuaries, or an individual who has demonstrated his competence in loss reserve evaluation to the satisfaction of the Insurance Commissioner.~~

~~(C)~~(B) Certification shall be in such form as the Insurance Commissioner deems appropriate.

(f) ~~Any company having direct written premiums of Two Million Dollars ($2,000,000) or less in the preceding year may request exemption from the annual audit requirement.~~Upon request by

the company and for good cause shown, the Commissioner may grant an exemption from the annual audit requirement for any company having direct written and assumed premiums of Two Million Dollars ($2,000,000.00) or less in the preceding year.

365:25-15-4. Independent Certified Public Accountant

(a) **Designation of Independent Certified Public Accountant.** ~~Companies subject to an annual audit shall, within ninety days, report to the Insurance Commissioner in writing, the name and address of the independent certified public accountant retained to conduct the annual audit set forth in this subchapter.~~Each company shall provide to the Commissioner the name and address of the independent certified public accounting firm retained to conduct the annual audit required under this regulation not less than six months before the date on which the first annual audit conducted by such firm is to be filed with the Commissioner in accordance with Section 3 of this Subchapter. The certified public accountant that is retained to conduct the annual audit ~~may only be appointed~~must be selected from the list of approved certified public accounting firms or individual certified public accountants maintained by the Insurance Commissioner.

(b) **Notification of Adverse Financial Condition.** A company shall require the independent certified public accountant conducting its annual audit to immediately notify in writing an officer and all members of the Board of Directors of the company of any determination by the independent certified public accountant that the company has materially misstated its financial condition in its report to the Insurance Commissioner as required in Sections 311 or 6470.11 of Title 36 of the Oklahoma Statutes. The company, or its designated captive insurance manager, shall furnish such notification to the Insurance Commissioner within five working days of receipt thereof.

(c) **Availability and Maintenance of Working Papers of the Independent Certified Public Accountant.**

(1) Each company shall require the independent certified public accountant to make available for review by the Insurance Commissioner, or his appointed agent or examiner, the work papers prepared in the conduct of the audit of the company. The company shall require that the accountant retain the audit work papers for a period of not less than ~~five (5)~~seven (7) years after the period reported upon.

(2) The aforementioned review by the Insurance Commissioner shall be considered investigations and/or examination and all working papers obtained during the course of such investigations and/or examination shall be confidential pursuant to 36 O.S. § 6470.13(B). The company shall require that the independent certified public accountant provide copies of any of the working papers which the Insurance Commissioner considers relevant. Such working papers may be retained by the Insurance Commissioner.

(3) "~~Work~~Working Papers" as referred to in this section ~~include~~means procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to its audit of the financial statements of a company, including but ~~are~~ not necessarily limited to, schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of company records or other documents prepared or obtained by the accountant and his employees in the conduct of their examination of the company.

(d) **Rotation of Audit Partners.** A company shall not file an annual audit in which a partner or other person responsible for rendering such annual audit has acted in that capacity for more than

seven (7) consecutive years. Each company filing an annual audit shall disqualify such person from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. A company may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances.

365:25-15-5. Deposit Requirement

Whenever the Insurance Commissioner ~~deems~~determines, pursuant to 36 O.S. § 6470.6, that the financial condition of ~~the~~a company warrants additional ~~security~~capital and surplus based upon the type, volume, and nature of insurance business transacted, he may require such additional capital in the form of a ~~company to~~ deposit with the Department. Such additional capital shall consist of cash, securities approved by the Insurance Commissioner, or a clean irrevocable letter of credit issued by a bank chartered by the State of Oklahoma or a member bank of the Federal Reserve System and approved by the Insurance Commissioner. The company may receive interest or dividends from said deposit or exchange the deposits for others of equal value with the approval of the Insurance Commissioner. If such company discontinues business, the Insurance Commissioner shall return such deposit only after being satisfied that all obligations of the company have been discharged.

365:25-15-6. Organizational examination

In addition to the processing of the application, an organizational investigation or examination may be performed before or after an applicant is licensed. Such investigation or examination ~~shall~~may consist of a general survey of the company's corporate records, including charter, bylaws and minute books; verification of capital and surplus; verification of principal place of business; determination of assets and liabilities; biographical affidavits; and a review of such other factors as the Insurance Commissioner deems necessary.

~~**365:25-15-7. Reinsurance**~~

~~(a) Any captive insurance company authorized to do business in this State may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:~~

~~(1) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.~~

~~(2) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.~~

~~(b) Reinsurance under this section shall be effectuated through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.~~

~~(c) The Insurance Commissioner in his discretion may require that complete copies of all reinsurance treaties and contracts be filed and/or approved by the Insurance Commissioner.~~

365:25-15-9. Executive officers and directors

(a) Every company shall report to the Insurance Commissioner within thirty days after any change in its executive officers or directors, including in its report a statement of the business and professional affiliations of any new executive officer or director. Every executive officer or director shall provide a biographical affidavit to the Insurance Commissioner within forty-five (45) days of his/her appointment as an executive officer or to the board of directors of the

company.
(b) Except as otherwise permitted under the company's plan of operation approved by the Commissioner, ~~No~~no director, officer, or employee of a company shall, except on behalf of the company, accept, or be the beneficiary of, any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the company, but such person may receive reasonable compensation for necessary services rendered to the company in his or her usual private, professional or business capacity.
(c) Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the company.

365:25-15-10. Conflict of interest

~~(a)~~ Each company chartered in this State ~~is required to~~shall adopt a conflict of interest statement for its executive officers~~,~~ and directors ~~and key employees~~. Such ~~statement~~policy shall require that ~~disclose that the individual has no outside commitments, personal or otherwise, that would divert the individual from the individual's duty to further the interests of the company he represents but this shall not preclude such person from being a director or officer in more than one insurance company~~each such person disclose to the company's governing body, at least annually, any outside commitments that have the potential to create a conflict of interest with respect to the duty of such person to further the interests of the company.
~~(b) Each officer, director, and key employee shall file such disclosure with the Board of Directors yearly.~~

~~**365:25-15-11. Rescission of captive license**~~

~~(a) The Insurance Commissioner may, subject to the provisions of this section, by order rescind the license of the company:~~

~~(1) if the company has not commenced business according to its plan of operation within two years of being licensed; or~~

~~(2) if the company ceases to carry on insurance business in or from within Oklahoma; or~~
~~(3) at the request of the company; or~~
~~(4) for any reason provided in Section 6470.14 of Title 36 of the Oklahoma Statutes.~~

~~(b) Before the Insurance Commissioner rescinds the license of a company under paragraphs (a)(1) or (2) of this section, the Insurance Commissioner shall give the company notice in writing of the grounds on which he proposes to cancel the license, and shall afford the company an opportunity to make objection in writing within the period of thirty days after receipt of notice. The Insurance Commissioner shall take into consideration any objection received by him within that period and, if he decides to cancel the license, cause the order of cancellation to be served on the company.~~

365:25-15-12. Acquisition of control of or merger with domestic company

(a) ~~Companies~~All persons shall comply with ~~Section 1653~~Sections 1651-1653 of Title 36 and associated regulations when seeking to acquire control of or merge with a domestic ~~company~~captive insurer, notwithstanding that the Insurance Commissioner may waive or modify the requirements for public notice and hearing when the Insurance Commissioner concludes the public hearing is not necessary due to the limited public interest in the change of control.
(b) Definitions of terms found in Section 1651 of Title 36 shall apply when a captive insurance company seeks to acquire control of or merge with a domestic company. For purposes

of this section, the definition of the term insurer as set out in Section 1651 of Title 36 shall include captive insurance companies.

365:25-15-13. Change of business

(a) Except as otherwise provided, ~~Any~~any change in the nature of the captive business from that stated in the company's plan of operation filed with the Insurance Commissioner upon application requires prior approval from the Insurance Commissioner. ~~Any change in any other information filed with the application must be filed with the Insurance Commissioner within sixty (60) days of the change, but does not require prior approval.~~

(b) For purposes of this Section, "nature of the captive business" includes, but is not limited to, nonrecurring transactions such as loans or extensions of credit, reinsurance agreements or modifications thereto, management agreements, service contracts and all cost-sharing arrangements and changes in certificate of incorporation or bylaws.

365:25-15-14. Prior approval

Requests for the prior approval of the Insurance Commissioner of mergers, consolidations, conversions, mutualizations, redomestications or any other matter for which prior approval is required shall be made on the appropriate forms as set out in this Chapter for use by insurers or on forms as ~~determined~~prescribed by the Insurance Commissioner.

~~**365:25-15-15. Severability Provision**~~

~~If any provisions of this subchapter or its applicability to any person or circumstance are held invalid, the remainder of the subchapter, and the application of such provisions to other persons or circumstances shall not be affected. To this end, the provisions of this subchapter are declared severable.~~

365:25-15-16 Consolidated or combined audits

A company may make written application to the Commissioner for approval to submit a consolidated annual audit in lieu of separate annual audits if the company is part of a group of entities that consolidates its annual audit. In such cases, a consolidating or combining worksheet shall be prepared with the annual audit as follows:

(1) Amounts for each company subject to this section shall be stated separately.

(2) Non-insurance operations may be shown on the worksheet on a combined or individual basis.

(3) Explanations of consolidating and eliminating entries shall be included.

(4) A reconciliation shall be included of any differences between the amounts shown in the individual company columns of the worksheet and comparable amounts shown on the annual reports of such companies.

365:25-15-17. Sponsored captive shares and dividends

(a) A sponsored captive insurer shall be a single legal entity and each protected cell of or within a sponsored captive insurer may be established as a separate legal entity, which shall constitute a legal entity separate from the sponsored captive insurer. Each protected cell shall be separately identified or designated as being a part of the sponsored captive insurer.

(b) A sponsored captive insurer may create and issue shares in one or more classes or series for one or more protected cells. The proceeds of the issue shall be included in the assets of the

protected cell that issued the shares.
(c) The proceeds of the issue of shares, other than protected cell shares, shall be included in the sponsored captive insurer's general assets.
(d) Subject to prior approval by the Commissioner, a sponsored captive insurer may pay a dividend on protected cell shares of any class or series whether or not a dividend is declared on any other class or series of protected cell shares, or any other shares.
(e) Protected cell dividends may be paid on the protected cell shares from the protected cell assets. The dividends shall only be paid to the shareholders of the protected cell from which the protected cell shares were issued and otherwise in accordance with the rights of the shares.
(f) Any act, matter, deed, agreement, contract, instrument under seal, or other instrument or arrangement, which is to be binding on or to inure to the benefit of a protected cell, shall be executed by the sponsored captive insurer for and on behalf of such protected cell, and shall indicate that the execution is in the name of, by or for the account of, the protected cell.

365:25-15-18. Variable contracts

Any captive company that issues variable life or annuity contracts shall establish separate accounts subject to the requirements of 36 O.S. § 6061.

365:25-15-19. Qualification of sponsors

A sponsor of a sponsored captive insurance company may be any person approved by the Commissioner in the exercise of his or her discretion, based on a determination that the approval of such person as a sponsor is consistent with the purposes of this Subchapter. In evaluating the qualifications of a proposed sponsor, the Commissioner shall consider the type and structure of the proposed sponsor entity, its experience in financial operations, financial stability and strength, business reputation, and such other facts deemed relevant by the Commissioner. A risk retention group shall not be a sponsor of a sponsored captive insurance company.

365:25-15-20. Sponsored captive and cell assets

(a) The assets of a sponsored captive insurer shall be either protected cell assets or general assets. The protected cell assets shall comprise the assets of the sponsored captive insurer held within or on behalf of the protected cells of the sponsored captive insurer. The general assets of a sponsored captive insurer shall comprise the assets of the sponsored captive insurer which are not protected cell assets.
(b) The assets of a protected cell are comprised of assets representing the capital stock and reserves attributable to the protected cell or all other assets attributable to or held within the protected cell. For the purposes of this Section, "reserves" includes retained earnings, capital surplus, and paid-in capital.

365:25-15-21. Delinquency of sponsored captive insurance companies

(a) Upon any order of supervision, rehabilitation, or liquidation of a sponsored captive insurance company, the receiver shall manage the assets and liabilities of the sponsored captive insurance company pursuant to the provisions of this Subchapter.
(b) Notwithstanding any provision to the contrary:

(1) the assets of a protected cell may not be used to pay any expenses or claims other than those attributable to such protected cell; and

(2) a sponsored captive insurance company's capital and surplus shall at all times be

available to pay any expenses of or claims against the sponsored captive insurance company; and

(3) in the event of an insolvency of a sponsored captive insurance company where the Commissioner determines that one or more protected cells remain solvent, the Commissioner may separate such cells from the sponsored captive insurance company, and may allow, on application of the sponsor, for the conversion of such protected cells into one or more new or existing sponsored captive insurance companies with a sponsor or sponsors, or one or more other captive insurance companies, pursuant to such plan or plans of operation as the Commissioner deems acceptable.

365:25-15-22. Reinsurance of life insurance policies

(a) This Section establishes reserve requirements and the form of the annual report required of a captive insurance company that reinsures life insurance policies, including term, universal, and variable life policies, and related guarantees and riders (collectively, "Life Insurance Policies").

(b) A captive insurance company described in Section 20 of this Subchapter shall maintain reserves that are actuarially sufficient to support the liabilities incurred by the captive insurance company in reinsuring life insurance policies.

(c) For purposes of the annual report required by 36 O.S. § 6470.11:

(1) a captive insurance company described in Section 20 of this Subchapter that uses statutory accounting shall submit the annual report in the form of the annual statement approved by the National Association of Insurance Commissioners for life insurers, as modified or supplemented by the Commissioner, unless the Commissioner requires or approves a different form of annual report; and

(2) a captive insurance company described in Section 20 of this Subchapter that uses generally accepted accounting principles, including any appropriate or necessary modifications or adaptations thereto approved by the Commissioner, shall submit the annual report in the form approved by the Commissioner.

365:25-15-23. Dormant captive insurance companies

(a) As used in this Section, unless the context requires otherwise, "dormant captive insurance company" means a pure captive insurance company which has:

(1) at no time insured controlled unaffiliated business;

(2) ceased transacting the business of insurance, including the issuance of insurance policies;

(3) no remaining liabilities associated with insurance business transactions; and

(4) no unpaid premium taxes.

(b) A pure captive insurance company domiciled in Oklahoma which meets the criteria of paragraph (a) of this Section may apply to the Commissioner for a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company which has been issued a certificate of dormancy shall:

(1) possess and thereafter maintain unimpaired, paid-in capital and surplus of not less than $25,000.00;

(2) prior to March 15 of each year, submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers, in a form as may be prescribed by the Commissioner; and

(3) pay a license renewal fee as provided in 36 O.S. § 6470.3.

(d) A dormant captive insurance company shall not be subject to or liable for the payment of any premium tax.

(e) A dormant captive insurance company shall apply to the Commissioner for approval to surrender its certificate of dormancy and resume conducting the business of insurance prior to issuing any insurance policies.

(f) A certificate of dormancy shall be revoked if a dormant captive insurance company no longer meets the criteria of paragraph (a) of this Section.

(g) The Commissioner may establish guidelines and procedures as necessary to carry out the provisions of this section.

365:25-15-24. Severability

If any provision of this Subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provisions to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 19. ANNUITY DISCLOSURE REGULATION

365:25-19-3. Applicability and scope

This regulation applies to all group and individual annuity contracts and certificates except:

(1)~~.~~ **Registered or non-registered variable annuities**. Registered or non-registered variable annuities or other registered products;

(2) **Immediate and deferred annuities**. Immediate and deferred annuities that contain no nonguaranteed elements;

(3) **Annuities used to fund plans or ~~arrangments~~arrangements**

(A) Annuities used to fund:

(i) An employee pension plan which is covered by the Employee Retirement Income Security Act (ERISA);

(ii) A plan described by Sections 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer,

(iii) A governmental or church plan defined in Section 414 or a deferred compensation plan of a state or local government or a tax exempt organization under Section 457 of the Internal Revenue Code; or

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(B) Notwithstanding Paragraph (A), the regulation shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two (2) or more fixed annuity providers and there is a direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subsection, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement;

(4) Structured settlement annuities. Structured settlement annuities;
(5) Charitable gift annuities. Charitable gift annuities;
(6) Funding agreements. Funding agreements~~.~~;
(7) Annuities used to fund prepaid funeral benefits offered pursuant to 36 O.S. §§ 6121-6136.18.

SUBCHAPTER 25. OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

365:25-25-1. Purpose

The purpose of this Subchapter is to set forth the regulations and procedures for employers to secure compensation for their covered employees for work-related injuries under the Oklahoma Employee Injury Benefit Act, 85A O.S. §§ 200 et seq.

365:25-25-2. Scope

This Subchapter shall apply to all Oklahoma employers who voluntarily elect to be exempt from the Administrative Workers' Compensation Act and become a Qualified Employer under the Oklahoma Employee Injury Benefit Act. Employers seeking to self-insure under the Administrative Workers' Compensation Act are subject to the rules of the Oklahoma Workers' Compensation Commission in Title 810, Chapter 5 of the Oklahoma Administrative Code.

365:25-25-3. Authority

This Subchapter is promulgated under the authority granted to the Insurance Commissioner under the Administrative Workers' Compensation Act, 85A O.S. §§ 1 et seq., and the Oklahoma Employee Injury Benefit Act, 85A O.S. §§ 200 et seq.

365:25-25-4. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:
"Benefit plan" means a plan established by a Qualified Employer under the requirements of 85A O.S. § 203.
"Commission" means the Workers' Compensation Commission under the Administrative Workers' Compensation Act.
"Commissioner" means the Insurance Commissioner of the State of Oklahoma.
"Covered employee" means the employee whose employment with a Qualified Employer is principally located within the state.
"Employer," except when otherwise expressly stated, means a person, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, limited liability company, corporation, department, instrumentality or institution of this state and divisions thereof and other political subdivisions of this state and public trusts employing a person included within the term employee as defined herein.
"Financial Statement" means an employer's audited financial statement or financial statement signed by two (2) company executives that includes a balance sheet and income statement.
"Occupational Injury" means an injury, including death, or occupational illness, causing internal or external harm to the body, which arises out of and in the course of employment.

"Qualified Employer" means an employer otherwise subject to the Administrative Workers' Compensation Act that voluntarily elects to be exempt from such act by satisfying the requirements under the Oklahoma Employee Injury Benefit Act.

"Statutory Limits" means an insurer's amount of liability under a specific excess insurance policy, capped at the maximum amount allowed by statute.

Unless otherwise specified in this Subchapter, defined terms in the Administrative Workers' Compensation Act shall have the same meaning herein.

365:25-25-5. Election notification to the Oklahoma Insurance Department

(a) Each employer that elects to become a Qualified Employer shall electronically complete the Qualified Employer Election Form and provide all information requested at least sixty (60) days prior to the desired effective date of its election to become a Qualified Employer.

(b) If a Qualified Employer elects to renew its status as a Qualified Employer after the expiration of its initial one (1) year term as a Qualified Employer, or for any renewal thereafter, the Qualified Employer shall electronically complete the Qualified Employer Election Form and provide all information requested at least sixty (60) days prior to the expiration as a Qualified Employer.

(c) The Qualified Employer Election Form shall include complete answers to all questions therein and shall include satisfactory proof of the employer's ability to secure compensation for its covered employees for work-related injuries prior to being confirmed as a Qualified Employer by the Oklahoma Insurance Department.

(d) Upon written confirmation by the Oklahoma Insurance Department that the employer has satisfied all the requirements to be recognized as a Qualified Employer, the employer may proceed with its written benefit plan and notification of employees as provided in 365:25-25-8.

(e) Upon request by the Oklahoma Insurance Department, a Qualified Employer shall submit documentation to affirm its continued compliance with the Oklahoma Employee Injury Benefit Act and this Subchapter. In addition, a Qualified Employer shall notify the Oklahoma Insurance Department of any change in information required to be submitted to the Commissioner under this Subchapter within fourteen (14) days after the change. Upon a finding that a Qualified Employer is no longer in compliance with the Oklahoma Employee Injury Benefit Act or this Subchapter, the Oklahoma Insurance Department may withdraw its confirmation of the employer as a Qualified Employer.

365:25-25-6. Election fee

A nonrefundable fee of One Thousand Five Hundred Dollars ($1,500.00) is payable, via electronic funds transfer, upon filing an employer's initial Qualified Employer Election Form and upon filing a Qualified Employer Election Form for any annual renewal thereafter.

365:25-25-7. Written benefit plan

In addition to the Qualified Employer Election Form, the employer shall provide the following documents and information to the Oklahoma Insurance Department:

(1) A copy of the employer's written benefit plan;

(2) A written statement explaining the procedure used to notify the employer's covered employees that the employer has elected to become a Qualified Employer;

(3) The name, title, address, and telephone number for a covered employee to contact for injury benefit claims administration, and whether that party is in-house, a third-party administrator, or an insurance carrier; and

(4) A copy of the employer's Employee Notice.

365:25-25-8. Employee notice

No employer shall act as a Qualified Employer in this state until such employer provides written notification to its covered employees in substantially the same form as the "Notice To Employees Concerning Qualified Employer" notice as set forth in Appendix Z of this Chapter. Such notice shall be provided to all employees upon the employer's confirmation as a Qualified Employer by the Oklahoma Insurance Department. Subsequent newly hired employees shall receive the written notification upon the employees' date of hire. Such notice shall be necessarily posted at conspicuous locations at the Qualified Employer's places of business to provide reasonable notice to all employees that the employer is a Qualified Employer, that the employer does not carry workers' compensation insurance coverage, and that the employer's workers' compensation coverage has been terminated or cancelled.

365:25-25-9. Funding of Qualified Employer's benefit plan, liability, and other insurable risk

A Qualified Employer may self-fund or insure benefits payable under the benefit plan (which are in the nature of workers' compensation), the employer's liability under the Oklahoma Employee Injury Benefit Act, and any other insurable risk related to its status as a Qualified Employer.

365:25-25-10. Insuring Qualified Employer's benefit plan, liability, and other insurable risk

(a) A Qualified Employer that elects to insure benefits payable under the benefit plan, the employer's liability under the Oklahoma Employee Injury Benefit Act, and any other insurable risk related to its status as a Qualified Employer, shall obtain insurance coverage in an amount equal to the compensation obligation with an admitted insurance carrier, including property and casualty insurance carrier; life, health and accident insurance carrier; or surplus lines insurer; provided, however, that such admitted or surplus lines insurer has an AM Best Rating of B+ or better. The Oklahoma Insurance Department does not approve insurance rates for any type of coverage under the Oklahoma Employee Injury Benefit Act.

(b) Such insurance coverage pertains to Oklahoma covered employees only. Employers with employees working in state(s) other than Oklahoma shall arrange separate insurance coverage in compliance with that state(s)'s laws.

365:25-25-11. Self- Funding Qualified Employer's benefit plan, liability, and other insurable risk

A Qualified Employer that elects to self-fund the benefits payable under the benefit plan, the employer's liability under the Oklahoma Employee Injury Benefit Act, and any other insurable risk related to its status as a Qualified Employer, shall secure compensation to covered employees by furnishing satisfactory proof to the Oklahoma Insurance Department of the employer's financial ability to pay the compensation and must meet the following requirements:

(1) Provide the dollar amount and documentation to support its average of the yearly claims for the last three (3) calendar or fiscal years. Such documentation shall include the

total incurred claims cost for the prior three (3) calendar or fiscal years and an attachment of the loss runs that include the total incurred amounts (all paid and reserved medical and indemnity) for Oklahoma occupational injury claims incurred during a three (3) calendar or fiscal year period ending not more than one hundred twenty (120) days prior to the employer's notification to the Oklahoma Insurance Department of its election to become a Qualified Employer;

(2) Attach employer's most recent financial statement which shall include a balance sheet and income statement;

(3) Furnish satisfactory proof to the Oklahoma Insurance Department of the employer's financial ability to pay the compensation as follows:

(A) An employer must have been continuously engaged in business for not less than three (3) years immediately preceding the employer's notification to the Oklahoma Insurance Department of its election to become a Qualified Employer, have at least one hundred (100) employees (all states included) and at least One Million Dollars ($1,000,000.00) in net assets, and must secure a surety bond payable to the Oklahoma Insurance Department or an irrevocable letter of credit, in an amount determined by the Commissioner equal to at least the greater of: (1) One Hundred Thousand Dollars ($100,000.00); or (2) the employer's average of its yearly incurred occupational injury claims for the last three (3) calendar or fiscal years ending not more than one hundred twenty (120) days prior to the employer's notification to the Oklahoma Insurance Department of its election to become a Qualified Employer; or (3) if the employer is renewing its status as a Qualified Employer, the amount of outstanding occupational injury claims reserves for the employer, as determined by an approved third-party administrator or benefits administrator; or

(B) An employer provides proof of excess coverage with such terms and conditions as is commensurate with the employer's ability to pay the benefits required by the provisions of the Oklahoma Employee Injury Benefit Act, as determined by the Oklahoma Insurance Department. Such excess insurance must be from an admitted or surplus lines insurer with an AM Best Rating of B+ or better. The self insured retention must be approved by the Oklahoma Insurance Department, and the excess carrier's limits of liability must be statutory. An amount less than Statutory Limits must be approved in advance by the Oklahoma Insurance Department. Aggregate excess insurance may be required by the Oklahoma Insurance Department if necessary; or

(C) An employer that does not satisfy the requirements of Subsection 3(A) of this Section, may petition the Oklahoma Insurance Department for a waiver of the requirements. The Oklahoma Insurance Department may waive some or all of the requirements for good cause, subject to such security deposit and/or excess insurance requirements in an amount, determined by the Oklahoma Insurance Department, to be commensurate with the ability of the employer to pay the benefits required by the provisions of the Oklahoma Employee Injury Benefit Act.

365: 25-25-12. Surety bond and irrevocable letter of credit

Surety bonds must be from an admitted or surplus lines insurer with an AM Best Rating of B+ or better, and on a form prescribed by the Oklahoma Insurance Department. Irrevocable

letters of credit shall contain such terms as may be prescribed by the Oklahoma Insurance Department, include an automatic renewal clause, and cannot be non-renewed without at least sixty (60) days' prior written notice to the Oklahoma Insurance Department, and shall be issued for the benefit of the Oklahoma Insurance Department by a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). The financial institution must be approved in advance by the Oklahoma Insurance Department. The Oklahoma Insurance Department may make demand and collect on the posted letter of credit in whole or in part, in the case of actual or imminent default of the employer to pay compensation liabilities, or the cancellation of the letter of credit without an adequate replacement.

365: 25-25-13. Release of security deposit

(a) A security deposit posted with the Oklahoma Insurance Department as required by 365:25-25-11 must remain in place, at its existing amount, for two (2) years after a Qualified Employer ceases to self-insure its benefit plan. The Oklahoma Insurance Department may review the adequacy or excess of the security deposit in advance of the cessation date and require modifications to the security deposit amount as necessary.

(b) A security deposit may be reduced at the Oklahoma Insurance Department's discretion after the two (2) year waiting period upon application by the employer and submission of current financial statements and occupational injury loss runs.

(c) A security deposit may be released at the Oklahoma Insurance Department's discretion upon application by the employer and submission of current financial statements and a signed and notarized affidavit, from a duly authorized officer of the employer, affirming that all occupational injury claims incurred as a Qualified Employer have been permanently closed, and the statute of repose for reopening the claims has passed.

(d) The security deposit shall be released in full by the Oklahoma Insurance Department within a reasonable period following receipt of proof of an assumption agreement or equivalent, from a licensed insurance carrier, whereby the claims liability of the employer as a Qualified Employer is transferred to and assumed by the insurance company. The assumption agreement or equivalent may be entered into before expiration of the two (2) year period provided in Subsection (A) of this Section.

365:25-25-14. Oklahoma Option Self-Insured Guaranty Fund

Upon declaration by the Insurance Commissioner that a self-insurer has become an impaired insurer, the Insurance Commissioner shall petition the Commission for its approval that the Insurance Commissioner release the Qualified Employer’s required security from the Office of State Treasurer and shall advise the Oklahoma Property and Casualty Insurance Guaranty Association of the impairment.

365:25-25-15. Severability

If any provisions of this Subchapter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or application of this Subchapter which shall be given effect without the invalid provision or application, and to that end the provisions of the Subchapter are severable.

SUBCHAPTER 29. PHARMACY BENEFITS MANAGERS

365:25-29-1. Purpose

The purpose of this Subchapter is to set forth the regulations and procedures relating to the licensing and oversight of pharmacy benefits managers under 59 O.S. §§ 357-360.

365:25-29-2. Scope

This Subchapter shall apply to all pharmacy benefits managers which must be licensed pursuant to 59 O.S. § 358(A).

365:25-29-3. Authority

This Subchapter is promulgated under the authority granted to the Insurance Commissioner in 59 O.S. § 358(B).

365:25-29-4. Definitions

All definitions contained in 59 O.S. §§ 357-360 are applicable to this Subchapter and in addition:

(1) "Day" means a calendar day, unless otherwise defined or limited.

(2) "Drug product reimbursement" means the amount paid by a pharmacy benefits manager to a contracted Provider for the cost of a drug, medical products, or devices dispensed to a covered individual, and does not include a dispensing or professional fee.

(3) "Health coverage plan" means benefits consisting of prescription drugs, other products and supplies, and pharmacist services provided directly, through insurance or reimbursement or otherwise, and including items and services paid for as prescription drugs, other products and supplies, and pharmacist services under any hospital or medical service policy or certificate, hospital or medical service plan contract, preferred provider organization agreement, or health maintenance organization contract. However, "health coverage plan" shall not include any employee welfare benefit plan if preempted by the Employee Retirement Income Security Act of 1974.

(4) The "act" means 59 O.S. §§ 357-360.

(5) Pharmacy benefits manager and PBM may be used interchangeably in this Subchapter.

365:25-29-5. Forms and contents of application for PBM license

An application for PBM License shall be on a form provided by the Commissioner and shall include:

(1) The identity of the PBM and any company or organization controlling the operation of the PBM, including the name, business address, and contact person for the PBM and the controlling entity. For purposes of this subsection, "control" or "controlling" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the PBM, whether through the ownership of voting securities, by contract or otherwise, unless the power is the result of an official position with or corporate office held by the person;

(2) The name and address of the corporate officers and directors, members and managers (if an LLC), or names of all partners (if a partnership) of the applicant PBM;

(3) A license fee in the amount of One Thousand Dollars ($1,000.00);

(4) A "Certificate of Incorporation" or comparable organizational document from the domiciliary state of the PBM;

(5) In the case of a PBM domiciled without the State of Oklahoma, a certificate that the PBM is in good standing in the state of domicile or organization;
(6) A report of the details of any suspension, sanction, penalty, or other disciplinary action relating to the PBM and its officers and directors;
(7) The name and address of the agent of record or for services of process for the PBM in Oklahoma;
(8) The number of total covered individuals or lives served under all of the PBM's contracts or agreements in Oklahoma;
(9) The most recently concluded fiscal year-end financial statements for the PBM and its controlling entity, which statements have been audited by an independent certified public accountant (CPA) under U.S. generally accepted accounting principles (GAAP); and
(10) A certificate signed by the Chief Executive Officer of the PBM attesting to the accuracy of the information contained in the filing;

365:25-29-6. Surety bond

(a) Prior to the issuance of a pharmacy benefits manager license, the PBM applicant shall file with the Commissioner and thereafter keep in effect, as long as the license remains in effect, a surety bond in an amount determined to be sufficient by the Commissioner. The bond shall be in a form acceptable to the Commissioner and for the purpose of securing conformity with the laws and regulations governing pharmacy benefits managers. The bond shall be for the benefit of parties protected by the provisions 59 O.S. §§ 357-360.
(b) The surety bond must provide that no party may cancel the bond without first giving thirty (30) days written notice to the principal and the Commissioner.
(c) Absent a finding otherwise, a bond with limits of One Million Dollars ($1,000,000.00) for each claim and Five Million Dollars ($5,000,000.00) for each occurrence shall be deemed to be sufficient.

365:25-29-7. License term, renewals, and fees

(a) An application fee shall not be refundable if the application is denied, withdrawn, cancelled, or refused for any reason by either the applicant or the Commissioner.
(b) The PBM license shall continue in force no longer than twelve (12) months from the original month of issuance. Upon filing a PBM license renewal application on a form provided by the Commissioner, a renewal license may be issued by the Commissioner to a PBM licensee which is in compliance with the act, has continuously maintained such license, and has paid a renewal fee of Five Hundred Dollars ($500.00).
(c) If the PBM fails to timely apply for renewal of its license or fails to pay any applicable fees or outstanding fines by the last day of the month in which the license was originally issued, the license shall expire automatically. After expiration, the PBM license may be reinstated for up to one (1) year following the expiration date upon filing a PBM license renewal application on a form provided by the Commissioner and the payment of a reinstatement fee of One Thousand Dollars ($1,000.00). If after the one-year date the license has not been reinstated, the licensee shall be required to apply for a license as a new PBM licensee applicant.
(d) In the event that the Commissioner declines to issue or renew a PBM license, the Commissioner shall notify the applicant or licensee of such declination and advise the applicant or licensee, in writing, of the reason for the declination. The applicant or licensee may make written demand upon the Commissioner within thirty (30) days of the date of notification by the

Commissioner, for a hearing before the Commissioner or an independent hearing examiner appointed by the Commissioner to determine the existence of the grounds for the Commissioner's action. The hearing shall be held within a reasonable time period pursuant to the Oklahoma Administrative Procedures Act.

365:25-29-8. PBM to file certain financial statements with the Commissioner

(a) Before March 1 of each year, each PBM providing pharmacy benefits management shall submit to the Insurance Commissioner an audited report of its financial condition verified by the oath of two of its executive officers. The report shall be prepared using generally accepted accounting principles and supplemented by any additional information required by the Insurance Commissioner.

(b) The Commissioner may extend the time prescribed for filing annual statements or other reports or exhibits of any kind for good cause shown. However, the Commissioner shall not extend the time for filing annual statements beyond sixty (60) days after the time prescribed by this Section.

365:25-29-9. Contractual requirements—maximum allowable cost

(a) Regarding maximum allowable cost, contracts between a PBM and a provider shall conform to the following requirements:

(1) Specifically identify sources of information utilized by the PBM to create and modify the PBM's maximum allowable cost list ("MAC list") of multiple-source prescription drugs, medical products, or devices;

(2) The PBM shall provide an electronic process for providers to readily access the MAC list specific to drug product reimbursement claims (hereinafter "reimbursement") submitted by such providers;

(3) Dispensing fees will be separately shown and not included in the calculation of MAC reimbursement to pharmacy providers;

(4) If a provider's claim for reimbursement is denied, in whole or in part, the PBM shall provide a reasonable appeals procedure;

(5) A "reasonable appeals procedure" means a process which permits:

(A) a provider or a provider's representative to contest the denial, in whole or in part, of a reimbursement claim based upon PBM's assertion that the amount claimed exceeds the MAC list price; and

(B) a fair and timely consideration of a provider's contention that the MAC list is incorrect and the drug involved was not generally available to the provider, at the time the prescription was filled, from national or regional drug wholesalers at the MAC list price.

(6) A provider's appeal shall contain information including the date of claim, National Drug Code number, and the identity the national or regional wholesalers from which the drug was found to be unavailable for purchase by provider, at or below the PBM's Maximum Allowable Cost;

(7) Appeals filed under this subsection shall be presented by providers to the PBM within ten (10) business days following the receipt by the provider of the denial of the claim for reimbursement. The PBM must respond to a provider who has contested a denial through this appeal procedure within ten (10) business days and provide a response on the merits of the appeal within thirty (30) days following the receipt by the PBM of the notice that

provider is contesting the denial of the claim for reimbursement;

(8) If a provider's appeal is denied, the PBM shall provide the reason for the denial, including the National Drug Code number and the identity of the national or regional wholesalers from whom the drug was generally available for purchase at or below the PBM's Maximum Allowable Cost;

(9) If a provider's appeal is found to be justified, the PBM shall make the correction to its MAC, permit the provider to reverse and re-bill the claim in question, and make the MAC correction applicable for all similarly contracted Oklahoma providers whose claims for reimbursement were erroneously denied on the same basis.

(b) A PBM shall not require providers to submit paper documentation to perfect an appeal or submit appeals on a claim-by-claim basis or refuse to accept appeals from providers designated representative or require other commercially unreasonable impediments to the appeal process.

(c) Before beginning business and as amended thereafter, each PBM providing pharmacy benefits management services in this state shall submit to the Insurance Commissioner a specimen copy of all Oklahoma provider contracts utilized by such PBM. Such contract forms shall contain provisions that satisfy the requirements of 59 O.S. § 360 and this Subchapter. As to each such contract filed, the PBM shall include a certificate signed by an executive officer of the PBM attesting to compliance with the act and this Subchapter.

365:25-29-10. Disclosure of price—reimbursement differential

Pursuant to 59 O.S. § 359, a covered entity may request that any pharmacy benefits manager with which it has a pharmacy benefits management services contract disclose to the covered entity the amount of all rebate revenues and the nature, type, and amounts of all other revenues that the pharmacy benefits manager receives from each pharmaceutical manufacturer or labeler with whom the pharmacy benefits manager has a contract. The pharmacy benefits manager shall disclose in writing:

(1) The aggregate amount—and for a list of drugs to be specified in the contract, the specific amount—of all rebates and other retrospective utilization discounts received by the pharmacy benefits manager, directly or indirectly, from each pharmaceutical manufacturer or labeler that are earned in connection with the dispensing of prescription drugs to covered individuals;

(2) The nature, type, and amount of all other revenue received by the PBM, directly or indirectly, from each pharmaceutical manufacturer or labeler for any other products or services provided to the pharmaceutical manufacturer or labeler by the PBM with respect to programs that the covered entity offers or provides to its enrollees; and

(3) Any prescription drug utilization information requested by the covered entity relating to covered individuals.

365:25-29-11. Penalty for noncompliance

(a) After notice and opportunity for hearing, and upon determining that the PBM has violated any of the provisions of 59 O.S. §§ 357-360 of the Oklahoma Statutes, or this Subchapter, or upon finding the existence of grounds to refuse the issuance or renewal of such license, the Commissioner may suspend or revoke a PBM's license or assess a civil penalty of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) for each instance of violation, or both. Each day that a pharmacy benefits manager conducts business in the State of Oklahoma without a license shall be deemed to be an instance of violation. The

payment of the penalty may be enforced in the same manner as civil judgments may be enforced.
(b) Every PBM upon receipt of any inquiry from the Commissioner or the Commissioner's representative shall, within thirty (30) days from the date of the inquiry, furnish the Commissioner or the Commissioner's representative with an adequate response to the inquiry.

365:25-29-12. "Doing pharmacy benefits management business in this state" defined—venue—exceptions

(a) Unless otherwise indicated, the term "pharmacy benefits manager" or "PBM" as used in Sections 357 through 360 of title 59 of the Oklahoma Statutes includes all legal entities, associations, and individuals engaged as principals in the business of pharmacy benefits management.
(b) The venue of any act listed in this Section shall be Oklahoma County.
(c) Any one of the following acts in this state, effected by mail or otherwise, is defined to be doing pharmacy benefits management business in this state:

(1)The making of or proposing to make, as a PBM, a contract with a covered entity for the provision of pharmacy benefits management services to covered employees residing in Oklahoma;

(2) The provision of pharmacy benefit management services to covered employees residing in Oklahoma;

(3) Directly or indirectly acting as an agent for, or otherwise representing or aiding on behalf of another, any person or PBM in:

(A) the solicitation, negotiation, procurement, or effectuation of pharmacy benefits management services to citizens of this state;

(B) the dissemination of information as to coverage or rates, or delivery of policies or contracts providing pharmacy benefits management on behalf of covered entities or plan sponsors;

(C) the fixing of rates or investigation or adjustment of claims under contracts providing pharmacy benefits management services;

(D) the transaction of matters subsequent to effectuation of a contract providing pharmacy benefits management services and arising out of it; or

(E) any other manner representing or assisting a person in the transaction of the business of pharmacy benefits management to residents in this state;

(4) The doing or proposing to do any business in substance equivalent to any of the foregoing in a manner designed to evade the provisions of the act; or

(5) Any other transaction of business in this state by a PBM.

(d) The provisions of this section do not apply to transactions in this state involving a contract lawfully solicited, written and delivered outside of this state covering only subjects not residing, located, or expressly to be performed in this state.

APPENDIX Z. NOTICE TO EMPLOYEES CONCERNING QUALIFIED EMPLOYER [NEW]

Your employer is a Qualified Employer pursuant to 85A O.S. §202 of the Oklahoma Employee Injury Benefit Act. Your employer does not carry workers' compensation insurance coverage under the Administrative Workers' Compensation Act and that coverage has terminated or been cancelled. If injured on the job, your benefits are governed by a written benefit plan sponsored by your employer. Contact your employer if you have questions about your benefits, rights, and responsibilities under the benefit plan.

The name title, address, and telephone number of the person you should contact for injury benefit claims administration is:

Name: _____

Title: _____

Address: _____

Phone Number: _____

E-mail: _____

Effective Date: _____