



INSURANCE COMMISSIONER
State of Oklahoma

BULLETIN NO. 2013-09

TO: All licensed insurance producers, licensed insurance brokers, and other insurance related entities

RE: The sale, solicitation, and negotiation of insurance

FROM: OKLAHOMA INSURANCE DEPARTMENT

DATE: August 15, 2013

Questions or comments applicable to this bulletin should be directed to:

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The Oklahoma Insurance Department encourages readers of this notice to periodically check the Department's web site <http://www.oid.ok.gov/> for news and updates to Bulletins and other relevant material.

The protection of consumers is of the utmost importance to the Oklahoma Insurance Department. The Oklahoma Legislature has limited the sale, solicitation, and negotiation of insurance to those who are licensed under the Oklahoma Producer Licensing Act ("the OPLA"), 36 O.S. §§ 1435.1 et seq., to effectuate necessary protections for consumers seeking to purchase insurance products. The OPLA serves to create safeguards which allow consumers to know that an individual with whom that consumer shares private and personal information has been through a background check, tested on the types of insurance that person is transacting, and continues to take educational courses to stay up

to date on changes in the insurance marketplace and its regulation.

The terms "sell," "solicit," and "negotiate" are defined broadly by statute, 36 O.S. § 1435.2(17), 1435.2(18), 1435.2(15). However, to assist producers and non-producers in determining which activities require a producer license and which activities are considered clerical in nature, the Department is providing the following non-comprehensive list, which provides an outline and examples of several routine activities.

Licensed producer activities:

1. Discussing the effect of age, health or other risk-related conditions of the prospective policyholder;
2. Urging or advising any prospective purchaser to buy any particular policy or to insure with any particular company;
3. Initiating sales over the telephone or otherwise;
4. Completing or signing applications for insurance if the person is other than the applicant's authorized representative;
5. Collecting premiums in person at other than a recorded place of business;
6. Making or proposing to make an insurance contract;
7. Disseminating information as to coverages in general or for any particular policy, except that this shall not prohibit the dissemination of buyer's guides or applications for coverage in response to requests from prospective policyholders;
8. Disseminating information as to rates in general or for any particular policy where the rate cannot be secured by referring to a published or printed list of standard rates;
9. Initiating an inquiry as to the terms of existing coverage, except exclusively in the course of clerical duties;
10. Discussing or describing the coverages or terms of a proposed contract of insurance with a prospective policyholder, including counseling as to which coverages to buy;

Example: If an insured or prospective insured requests advice in any communication with an unlicensed employee, the response must be made by a licensed producer.
11. Recommending or independently initiating additions or deletions to an insured's policy;

12. Signing binders, endorsements and insurance policies;
13. Authorizing the issuance or delivery of certificates of insurance, endorsements, binders or insurance policies or insurance identification cards; and
14. Responding to a policyholder's request for advice or counsel regarding policy provisions or coverage.

Example: In the course of requesting an application form or a change to an existing policy, if a policyholder or prospective policyholder, while speaking to an unlicensed person, requests an opinion about the terms of the proposed insurance contract or the proposed change to the existing contract, the response must be made by a licensed producer.

Clerical (non-licensed) activities:

1. Receiving requests for coverage for transmittal to a licensed insurance producer or for processing through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer;
2. Mailing billings;
3. Scheduling appointments with insurance producers;
4. Office filing;
5. Marketing research or prospecting so long as no attempt is made to solicit or to discuss a specific insurance product or to encourage replacement of an existing policy;
6. Receiving and recording information from an applicant or policyholder and preparing for an insurance producer's review and signature all binders, certificates, endorsements, identification cards or policies pursuant to instructions from the insurance producer;
7. Receiving and recording information from an applicant or policyholder and preparing an application for insurance pursuant to instructions from and for the review of an insurance producer;
8. Receiving and recording information from a policyholder or prospective policyholder to give to an insurance producer for his or her response, or transmitting information to a policyholder or prospective policyholder under the supervision of an insurance producer;

Example: An unlicensed sales representative in a car dealership collects information from a car buyer that is given to a licensee to complete a credit insurance transaction.

9. Receiving and recording an insured's request concerning any additions or deletions to an existing policy and preparing the appropriate endorsements or processing the appropriate changes through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer and notifying the insurance producer of the endorsements or changes;

Example: An unlicensed person may receive and process a request from an insured to delete an automobile on an existing policy and to add a replacement automobile, or may receive and process a request to delete physical damage coverage on a particular automobile, or receive and process a request for similar routine policy changes initiated by an insured. An unlicensed person may not, however, initiate a change by, for example, telephoning a life insurance policyholder and suggesting that the insured increase the face amount of the policy.

10. Opening mail;
11. Receiving premiums at the recorded place of business where the payment is being made on a binder, endorsement or existing policy;
12. Taking factual information relative to a claim;
13. Communicating with the policyholder or prospective policyholder in order to obtain factual information necessary for an insurance producer to complete a review;

Example: An unlicensed person may call an applicant to request the submission of additional documents.

14. Informing the insured as to his or her coverages as indicated in policy records;
15. Communicating with a prospective or existing insured for the purpose of auditing records or providing loss control on underwriting verifications and inspections;
16. Disseminating buyer's guides, applications for coverage, coverage selection forms or other similar forms in response to a request from prospective or current policyholders;

Example: An unlicensed person may receive a request for an application and respond by mailing or giving an application for insurance and

other related literature. The unlicensed person may not, however, initiate the conversation.

17. Disseminating information as to rates secured by reference to a published or printed list or computer data base of standard rates;

Example: An unlicensed person may respond to a specific request for the cost of a specific coverage from a rate manual published in print or in an electronic format. However, an unlicensed person may not provide advice or suggestions concerning the benefits or drawbacks of a particular coverage, deductible, limit, etc., in the course of disseminating this information;

18. As an underwriter employed by an insurer or by a licensed insurance producer, upon receipt of an application submitted by a licensed producer, requesting and reviewing information under paragraph 15 above, requesting and reviewing the results of a physical examination of a prospective insured named in a submitted application, requesting and reviewing information from persons other than the applicant, making a determination that the applicant meets the insurer's underwriting criteria, and mailing the policy to the policyholder or the producer.

Example: An unlicensed full-time salaried underwriter not compensated based on sales receives a non-bound life insurance application from a licensed producer. The underwriter requests that the applicant take a physical examination. Pursuant to authorizations in the application, the underwriter requests medical records from the applicant's physicians. The underwriter reviews the application, results of the physical examination and the medical records, and decides to issue the life insurance policy applied for. The underwriter mails the policy with a printed explanatory brochure to the applicant. All of these activities are permissible activities for the unlicensed underwriter; and

19. Providing information to and receiving and recording information from an applicant for travel insurance or car rental insurance for processing by a licensee where the unlicensed person is an employee of the licensee.

Example: An unlicensed counter person in a car rental or travel agency may receive and record an applicant's request for personal effects coverage or travel insurance. The car rental company or travel agency must be a licensee and the counter person must provide the customer with written information about the coverage.