

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. OTHER LICENSEES**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7.	Companies
Part 17.	Corporate Governance [NEW]
365:25-7-90.	Authority [NEW]
365:25-7-91.	Purpose [NEW]
365:25-7-92.	Definitions [NEW]
365:25-7-93.	Filing procedures [NEW]
365:25-7-94.	Contents of Corporate Governance Annual Disclosure [NEW]
365:25-7-95.	Severability clause [NEW]
Part 19.	Annual Financial Reporting [NEW]
365:25-7-100.	Authority [NEW]
365:25-7-101.	Purpose and scope [NEW]
365:25-7-102.	Definitions [NEW]
365:25-7-103.	General requirements related to filing and extensions for filing of annual audited financial reports and audit committee reports [NEW]
365:25-7-104.	Contents of annual audited financial report [NEW]
365:25-7-105.	Designation of independent certified public accountant [NEW]
365:25-7-106.	Qualifications of independent certified public accountant [NEW]
365:25-7-107.	Consolidated or combined audits [NEW]
365:25-7-108.	Scope of audit and report of independent certified public accountant [NEW]
365:25-7-109.	Notification of adverse financial condition [NEW]
365:25-7-110.	Communication of internal control related matters noted in audit [NEW]
365:25-7-111.	Accountant's letter of qualifications [NEW]
365:25-7-112.	Definition, availability and maintenance of independent certified public accountants work papers [NEW]
365:25-7-113.	Requirements for audit committees [NEW]
365:25-7-114.	Internal audit function requirements [NEW]
365:25-7-115.	Conduct of insurer in connection with the preparation of required reports and documents [NEW]
365:25-7-116.	Management's report of internal control over financial reporting [NEW]
365:25-7-117.	Exemptions and effective dates [NEW]
365:25-7-118.	Canadian and British companies [NEW]
365:25-7-119.	Severability provision [NEW]
Subchapter 29.	Pharmacy Benefits Managers
365:25-29-1.	Purpose [AMENDED]
365:25-29-2.	Scope [AMENDED]
365:25-29-3.	Authority [AMENDED]
365:25-29-4.	Definitions [AMENDED]

365:25-29-5.	Forms and contents of application for PBM license [AMENDED]
365:25-29-6.	Surety bond [AMENDED]
365:25-29-7.1	Retail pharmacy network access [NEW]
365:25-29-9.	Contractual requirements – maximum allowable cost [AMENDED]
365:25-29-10.	Penalty for noncompliance [AMENDED]
365:25-29-12.	Commissioner's authority – advisory committee [NEW]
365:25-29-13.	Claims payment [NEW]
365:25-29-14.	Inquiry/complaint handling process [NEW]
365:25-29-15.	Examinations of PBMs and health insurers [NEW]
Appendix B.	Form B: Oklahoma Insurance Holding Company System Registration Statement [REVOKED]
Appendix B.	Form B: Oklahoma Insurance Holding Company System Registration Statement [NEW]
Appendix D.	Fidelity Bond [REVOKED]
Appendix D.	Fidelity Bond [NEW]
Appendix E.	Application to Withdraw Funds Deposited for Prepaid Funeral Expenses [REVOKED]
Appendix E.	Application to withdraw funds deposited for prepaid funeral expenses [NEW]
Appendix F.	Buyers Application to Terminate Contract or Withdraw Funds Previously Deposited for Prepaid Funeral Benefits Under a Non-Specified or Guaranteed Contract [REVOKED]
Appendix F.	Buyers Application to Terminate Contract or Withdraw Funds Previously Deposited for Prepaid Funeral Benefits Under a Non-Specified or Guaranteed Contract [NEW]
Appendix G.	Annual Report [REVOKED]
Appendix G.	Annual Report [NEW]
Appendix H.	Annual Statement of Financial Condition (Reconciliation of Trust Accounts) [REVOKED]
Appendix H.	Annual Statement of Financial Condition (Reconciliation of Trust Accounts) [NEW]
Appendix N.	Form C: Summary of Registration statement [REVOKED]
Appendix N.	Form C: Summary of Registration Statement [NEW]
Appendix O.	Form D: Prior Notice of a Transaction [REVOKED]
Appendix O.	Form D: Prior Notice of a Transaction [NEW]
Appendix Q.	Form E [REVOKED]
Appendix Q.	Form E [NEW]
Appendix R.	Conversion From Pre-Paid Funeral Trust to Insurance Funded Contracts [REVOKED]
Appendix R.	Conversion From Pre-Paid Funeral Trust to Insurance Funded Contracts [NEW]

SUMMARY:

365:25-7-90 through 365:25-7-95 is added to support the Corporate Governance Annual Disclosure Act (36 O.S. § 1534-1541) passed by the legislature in 2019. The Corporate Governance Annual Disclosure Act was passed to provide the Commissioner a summary of an insurer or insurance group's corporate governance structure, policies and practices to permit the Commissioner to gain and maintain an understanding of the insurer's corporate governance framework, and to provide the requirements for completing the Corporate Governance Annual Disclosure.

365:25-7-100 through 365:25-7-119 is added to support the Oklahoma Annual Financial Report Act (36 O.S. §§ 311A.1-311A.18) which is to improve the surveillance of the Insurance Commissioner over the financial condition of insurers. This act was passed by the legislature in 2019.

365:25-29-1 and 365:25-29-3 are amended to include 36 O.S. §§ 6858-6968 in this subchapter.

365:25-29-2 is amended to provide clarification as to the applicability of the act.

365:25-29-4 is amended to provide a definition for "Preferred participating pharmacy" and "provider".

365:25-29-5 is amended for clarification and a word correction.

365:25-29-7.1 is added to address the standards required by the act for the retail pharmacy network access. Specifically, health insurers are required to audit their contracting PBMs to confirm compliance with the act and provide those audits along with verification of the audit to the Department to confirm compliance. The insurers are required to report situations of inadequate access to the Department. This section addresses the use of mail-order pharmacies for adequacy standards, clarification of the act applying to specialty drugs, and use of pharmacy, hospital or other providers on mail and ID cards.

365:25-29-9 is amended for formatting purposes and adds instructive language regarding the insurer's responsibility to confirm the PBM contracts are in compliance with the act. It requires insurers to conduct an audit of its contracting PBMs to confirm the requirements of 36 O.S. § 6962 are being met and provide that information to the Department.

365:25-29-10 is amended to include 36 O.S. §§ 6858-6968 and to include penalty language for insurers for failing to comply with the act.

365:25-29-12 is added to clarify the authority of the Commissioner over the advisory committee and the role of the advisory committee. The advisory committee will function in an advisory capacity. The committee members will be privy to confidential material and will therefore need to submit to a background check.

365:25-29-13 is added to clarify that claims payments are the obligation of the insurer that issues the policy.

365:25-29-14 addresses the inquiry or complaint handling process.

365:25-29-15 is added to address examinations of PBMs and insurers by the Department for compliance with the act.

The changes to the appendices B, D, E, F, G, H, N, O, and Q update the dates without any substantive changes. The change to appendix R is to strike the former requirement of 36 O.S. § 6136(C)(2) superseded November 1, 2009.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1541, 1641, 6123, 6958-6968; 59 O.S. § 358

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendments shall be received on or before 5:00 p.m. on March 23, 2020. Comments shall be directed to Sara A. Worten, Assistant General Counsel, Oklahoma Insurance Department, 400 N.E. 50th, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendments will be held March 25, 2020, at 10:00 a.m. at the Oklahoma Insurance Department, 400 N.E. 50th, Oklahoma City, Oklahoma 73105.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Sara A. Worten Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before 5:00 p.m. on March 23, 2020.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Copies of the rules may also be inspected and obtained on the Insurance Department's website at www.ok.gov/oid.

RULE IMPACT STATEMENT:

A rule impact statement will be available on and after February 18, 2020, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above and will be available on the Insurance Department's website at www.ok.gov/oid.

CONTACT PERSON:

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