

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1210 05.0009.0121

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-16-86
DATE FOR REVIEW 5-27
DATE DUE 5-30

Adopted w/a hearing
Adopted w/o hearing ✓
Temporary rule

Approved 5.30.86 mjc Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency 5.13.86

Date filed w/Secretary of State 5-30-86 Revisor approved 5.19.86 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.13.86 Date combined w/ FF

Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking appears to have incorrect citation to stat authority. Should be 5 60A.17
? Sufficiency small biz statement referencing SONR

✓ Affidavit of Mailing Notice or rulemaking
10.25.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register cites different stat. authority than in Notice cs
10.28.85 At least 30/~~20~~ days prior to hearing/adoption. Mailed - appears to be correct citation

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
Approving agency action

✓ Agency's Findings of Fact combined w/ Order Adopting

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of ~~Mailing~~ Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: MICHAEL A. HATCH
Commissioner of Commerce

ATTN: JOHN C. BJORK
Special Assistant Attorney General

DATE: 5/30/86

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Rules Relating to Insurance Prelicense Education

The above-referenced rule has been approved as to its legality by the Attorney General on May 30, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1278

AG copy

Department of Commerce

Adopted Rules Relating to Insurance Prelicense Education

Rules as Adopted

2725.0100 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 1a. **Applicant.** "Applicant" means a person who has applied to the commissioner of commerce pursuant to Minnesota Statutes, section 60A.17, subdivision 1, paragraph (a), for a license as an insurance agent.

Subp. 2. **Coordinator.** "Coordinator" means an individual who is responsible for monitoring insurance education offerings.

Subp. 3. [Unchanged.]

Subp. 4. **Instructor.** "Instructor" means an individual lecturing in an insurance education offering.

Subp. 5. to 7. [Unchanged.]

Subp. 8. **Sponsor.** "Sponsor" means a person offering or providing insurance education ~~and satisfying~~. A sponsor of prelicense education must satisfy the requirements for a private vocational school as mandated by the Minnesota Department of Education.

FF

2725.0110 GENERAL REQUIREMENTS.

Subpart 1. **Courses approved for continuing education credit.** Only courses which impart substantive and procedural knowledge relating to the insurance field shall be approved for credit.

Subp. 1a. **Curriculum for prelicense education.** The following are the curriculum requirements for insurance prelicense courses for Minnesota resident agents.

BASIC FUNDAMENTALS COURSE

30 hours

Part I Minimum time: 15 hours

Maximum time: 22.5 hours

1. Rules, Regulations, and Law

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

A. Rules from the Administrative Procedure Act

a. Chapter 2795 - Agent Conduct

b. Chapter 2790 - Insurance Marketing Standards

B. Minnesota law regarding general requirements

2. Fundamentals of Insurance

A. What is insurance?

B. What is the insurance organization?

C. How does insurance relate to society?

D. What is management of risk?

Part II Minimum time: 3 hours
Maximum time: 7.5 hours

PROPERTY AND CASUALTY

1. Insurance and insurance-related concepts
2. Policy provisions
3. Types of policies
4. Perils, exclusions, deductibles, and liability
5. Prospecting and evaluating needs
6. Servicing clients
7. Presentation and acceptance of policy

Part III Minimum time: 3 hours
Maximum time: 7.5 hours

LIFE/ACCIDENT AND HEALTH

1. Types of policies and coverages
2. Policy provisions, options, and benefits
3. Completing the application/delivering the policy
4. Taxes, retirement, and other insurance concepts
5. Group insurance
6. Other provisions affecting insurance benefits

LIFE/ACCIDENT AND HEALTH

15 Hours

A. Life

Including but not limited to the following:

1. Whole life

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_____

2. Endowment

3. Term

4. Variable

5. Universal

B. Health

Including but not limited to the following:

1. Major medical

2. Hospital

3. Disability

4. Medicare supplement

C. Minnesota laws, rules, and regulations pertinent to life/accident and health insurance only.

PROPERTY/CASUALTY COURSE

15 hours

A. Personal lines

Including but not limited to the following:

1. Homeowners

2. Auto

3. Inland marine

B. Commercial lines

Including but not limited to the following:

1. Fire

2. Auto

3. Crime

4. Umbrella

5. Inland marine

C. Minnesota laws, rules, and regulations pertinent to property and casualty insurance only.

Subp. 2. **Nonapproved courses for continuing education.** The following are not approved courses:

A. a course which is approved for prelicense training;

B. courses designed to prepare students for a license examination;

C. courses in mechanical office or business skills, including typing, speed reading, or use of calculators or other machines or equipment;

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D. courses in sales promotion, including meetings held in conjunction with the general business of the licensee;

E. courses in motivation, salesmanship, psychology, time management, or communication;

F. courses related to office management or intended to improve the operation of the licensee's business; or

G. courses which are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subp. 3. **Automatic approval.** The commissioner shall grant automatic approval for continuing education for insurance related courses approved by the Department of Commerce for real estate education, the Board of Continuing Legal Education for legal education, or similar regulatory offices within Minnesota.

The commissioner shall grant approval for the purpose of continuing education for courses approved by the insurance regulatory agency in another state if the continuing education laws and rules governing course accreditation in that state do not conflict with parts 2725.0100 to 2725.0240.

Subp. 4. **Credit hours.** Continuing education courses must be attended in their entirety in order for a licensee to receive full credit. Proportional credit will be given for partial attendance at a continuing education course. Sponsors may not issue certificates of compliance to students that have not attended the entire prelicensing course. Certificates of compliance may be issued to students who have completed the entire course even if the student did so by attending more than one offering of the course.

Upon completion of approved courses, students shall receive credit for the number of hours approved for the course based on one hour of credit for each hour of attendance.

~~If the number of credit hours for which a course is approved is fewer than the total number of hours of the course, the student must attend the entire course in order to receive credit for the number of approved hours.~~

FF

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The number of approved hours will include only time spent on educational activities.

The approved instructor for a continuing education course shall earn ~~three~~ one and one-half hours of continuing education credit for each one hour of instruction of approved continuing education courses.

Neither students nor instructors may earn continuing education credit for attending or instructing at any subsequent offering of the same continuing education course for three years after attending or teaching the course.

Subp. 5. **Examinations.** Course examinations will not be required for insurance education courses unless the sponsor requires an examination.

Subp. 6. **Textbooks.** Textbooks are not required for insurance education courses. If textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title, times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject matter to be covered. A textbook or syllabus must be available for the use of each student during the course. Any printed material disbursed to the students must be of a readable quality. Any textbook required must contain accurate and current information relating to the subject being taught.

Subp. 7. [Unchanged.]

Subp. 8. **Approval of continuing education courses not submitted for approval.** Licensees may receive continuing education credit for courses attended which have not been submitted for approval by a coordinator. Requests for approval of these courses must be submitted on forms prescribed by the commissioner.

Subp. 9. **Advertising.** Courses cannot be advertised in any manner as approved unless approval has been granted, in writing, by the commissioner.

Upon written request by a sponsor, the commissioner shall grant permission, in writing, to the sponsor to use the term

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"approval pending" if it is clearly visible in the advertisement and if in fact the course has been submitted to the commissioner for approval in accordance with subpart 7.

All advertising relating to approved course offerings must contain either of the two following statements as is appropriate: "This course has been approved by the commissioner of commerce for insurance continuing education credit." or "This course has been approved by the commissioner of commerce for prelicensing education credit." The statement must be prominently displayed on the cover of any pamphlet, advertisement, or circular.

The number of hours for which a course has been approved shall be prominently displayed on any advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

Advertising must be truthful, clear, and not deceptive or misleading.

Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

Subp. 10. [Unchanged.]

Subp. 11. **Continuing education courses must be open.** All continuing education course offerings shall be open to any interested individuals. Access to prelicensing course offerings may be restricted by the sponsor.

Subp. 12. and 13. [Unchanged.]

Subp. 14. **National examinations.** Courses leading to a recognized national examination shall be assigned continuing education credit hours in the same manner as other courses. A licensee who passes a national examination shall receive 20 hours of continuing education credit, even though the licensee has not attended 20 or more hours of courses leading to the examination.

Subp. 15. **Correspondence courses.** The amount of continuing education credit received by an agent for a

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correspondence course shall be based on successful completion of the course and subject to the number of hours assigned by the commissioner.

Any offeror of correspondence courses shall clearly disclose to any agent wishing to receive credit in Minnesota the number of continuing education hours for which that particular course has been approved by the commissioner.

2725.0120 FALSIFICATION OF REPORTS.

A licensee or applicant found to have falsified an insurance education report to the commissioner shall be considered to have violated the insurance licensing law, and shall be subject to suspension or revocation of his or her insurance license or denial of his or her application for licensing.

2725.0130 COMMISSIONER'S RIGHT TO AUDIT.

The commissioner has the right to audit subject offerings with or without notice to the sponsor.

2725.0140 GENERAL POWERS OF COMMISSIONER.

The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined not to be in compliance with the statute or rules governing the offering of insurance education courses. The commissioner may also refuse to approve courses by specific sponsors if it is determined that past offerings have not been in compliance with insurance education laws and rules.

2725.0150 MANDATORY NOTICE TO STUDENTS.

At the beginning of each approved insurance education offering, one of the following notices, as is appropriate, shall be read to the students: "This course has been approved by the commissioner of commerce for ..... (number) hours of insurance continuing education credit. If you have any comments about this offering, please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101." or "This course has been approved by the commissioner of commerce

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for ..... (number) hours of insurance prelicensing education credit. If you have any comments about this offering, please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101."

2725.0160 COURSE COORDINATOR.

Subpart 1. **General requirement.** Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with the statutes and rules governing the offering of insurance education courses. Assistants may be hired by the sponsor; however, the approved coordinator remains responsible for compliance with the laws.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Responsibilities.** The coordinator must:

A. Assure compliance with all laws and rules pertaining to insurance education.

B. Notify the commissioner of any material change in applications for course or instructor approval.

C. Assure that students are provided with current and accurate information.

D. Supervise and evaluate courses and instructors. The commissioner may request written evaluations of courses and/or instructors either by students or coordinators.

E. Investigate written complaints relating to course offerings and/or instructors, and forward a copy of the written complaints to the Department of Commerce.

F. Maintain accurate records relating to course offerings, instructors, and student attendance for a period of five years from the date the course was completed. If the coordinator leaves the employ of the sponsor, the records must be turned over to the replacement coordinator or an officer of the sponsor. If a sponsor ceases operation, the coordinator shall be responsible for maintaining the records or providing a custodian of the records acceptable to the commissioner. In order to be acceptable, custodians must agree to make copies of

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student records available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records.

G. Be available to instructors and students throughout the course offerings, and provide the name of the coordinator and a telephone number at which he or she can be reached.

H. Provide students with course completion certificates, on a form prescribed by the commissioner, within 30 days of completion of the course. Notwithstanding the preceding sentence, a coordinator may require payment of the course tuition as a condition for receiving the course completion certificate.

2725.0170 INSTRUCTORS.

Subpart 1. **General requirement; continuing education.** Failure to have only approved instructors teach at an approved continuing education offering will result in loss of course approval.

If, after approval of a course, the instructor named in the application for course approval is unable to teach the course and there is insufficient time to obtain approval of a substitute instructor, proportional credit will be given for those parts of the course taught by approved instructors.

Credit for the parts of a course taught by an unapproved instructor may be obtained if the following requirements are satisfied:

A. Within 15 business days after the course is taught by an unapproved instructor, a request for approval of the instructor is filed with the department. The request must be made on forms prescribed by the commissioner.

B. Notice of the use of an unapproved instructor must be given to all enrollees as soon as that fact is known and again prior to the commencement of the course. The notice must state:

(1) that fewer credit hours may be earned for the

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course than the course was originally approved for;

(2) that a full refund will be given if the enrollee decides not to attend the course;

(3) that if the enrollee does attend the course and does not earn the number of credit hours for which the course was originally approved, a refund will be automatically made in proportion to the reduction in credit hours earned. The refund will be made when the department's determination is made as to the approval of the substitute instructor.

Subp. 1a. **General requirement; prelicensing education.** Failure to have only approved instructors teach at an approved prelicensing education offering will result in loss of course approval. If, after approval of a course, the instructor named in the application for course approval is unable to teach the course and there is insufficient time to obtain approval of a substitute instructor, credit for the parts of a course taught by an unapproved instructor may be obtained if the following requirements are satisfied:

A. Within 15 business days after the course is taught by an unapproved instructor, a request for approval of the instructor is filed with the department. The request must be made on forms prescribed by the commissioner.

B. Notice of the use of an unapproved instructor must be given to all enrollees as soon as that fact is known and again prior to the commencement of the course. The notice must state:

(1) that no credit may be earned for the course;

(2) that a full refund will be given if the enrollee decides not to attend the course;

(3) that if the enrollee does attend the course and does not earn credit for the course, a refund will be automatically made. The refund will be made when the department's determination is made as to the approval of the substitute instructor.

Subp. 2. [Unchanged.]

Subp. 3. **Responsibilities.** Approved instructors must:

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A. comply with all laws and rules pertaining to insurance education;

B. provide students with current and accurate information;

C. maintain an atmosphere conducive to learning in a classroom; and

D. provide assistance to the students and respond to questions relating to course material.

2725.0180 MANAGEMENT RESPONSIBILITY OF SPONSORS.

Sponsors of insurance education courses are responsible for the actions of the coordinators and instructors.

2725.0210 REPORTING REQUIREMENTS.

A. Insurance education credit must be reported by the licensee on forms and in a manner prescribed by the commissioner.

B. Persons licensed for the first time on or after June 1 in any year shall not be subject to the continuing education requirements of Minnesota Statutes, section 60A.1701, subdivision 8, until the commencement of the following annual reporting period.

2725.0230 CONTINUING EDUCATION EXTENSIONS.

Upon appropriate showing of a bona fide financial or medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship.

Requests for extensions must be submitted in writing no later than April 1 of the year due and shall include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study.

2725.0240 CONTINUING EDUCATION EXEMPTIONS.

A currently licensed insurance agent shall be exempted from continuing education requirements if the agent's age and years licensed as an insurance agent in good standing in Minnesota

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exceed 85 years, as long as that agent has maintained an active insurance agent license in the state for the last ten consecutive years.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

10:44AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 30 1986
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
May 30 19 86
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Insurance Prelicense Education

FINDINGS OF FACT AND CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT A PUBLIC HEARING

Notice of the Commissioner's proposed adoption of the above entitled rules was published in the State Register on October 28, 1985 at page 986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, Section 14.14, subd. 1, paragraph (a) and 14.22 on October 25, 1985.

All persons were given the opportunity to submit comments on the rule for thirty days after notice of proposed rulemaking. Fewer than twenty five requests for hearing within the thirty day comment period were received. No submissions or comments on the rules were received by the department. Based upon the comments and evidence on the record before the agency, I find the following:

That part 2725.0100, subd. 8 which defines sponsor is confusing as it is presently proposed. The rules contained in chapter 2725 are intended to apply to both prelicense education and continuing education. The definition of sponsor as proposed is consistent with the intent of the department as to sponsors of prelicense education but imposes an undue burden upon sponsors of continuing education that was never intended. The insurance continuing education rules were the subject of a contested hearing proceeding. The definition arrived at as part of that process is appropriate to continuing education. Therefore the definition of sponsor should be changed to read as follows:

> "Sponsor" means a person offering or providing insurance education. A sponsor of prelicense education must satisfy the requirements for private vocational schools as mandated by the Department of Education.

p-1

This definition retains the current language found in the rule while at the same time incorporating, in a clear and more specific manner, the additional definition that was part of the current rulemaking process as it pertains to prelicensing education. Therefore, the changes are not substantial.

Part 2725.0110, subpart 4 pertaining to credit hours was changed to allow for proportional credit to be given for partial attendance at courses. The third paragraph of that subpart reads as follows: "If the number of credit hours for which a course is approved is fewer than the total number of hours of the course, the student must attend the entire course in order to receive credit for the number of approved hours.".

This provision is inconsistent with the changes made in the rule and was inadvertently overlooked when the changes allowing proportional credit were made. This section should be deleted so as not to create confusion or preclude the intended change to allow proportional credit. This is not a substantial change because its only result is to remove inconsistent language which was inadvertently overlooked. p.4

In the same subpart, the fifth paragraph includes a change increasing the amount of credit hours an instructor can receive from one and one-half hours to three hours for each hour of instruction. Minnesota Statute 60A.1701, subdivision 8 specifically allows only one and one-half hours credit for each hour taught. Therefore the change to an amount in excess of that statutory limitation is not permissible. The proposed change must be deleted and the original language restored. As this change merely withdraws a change prohibited by statute it is not substantial. p.5

NOW, THEREFORE, IT IS ORDERED these rules identified as Rules Relating to Insurance Prelicense Education are adopted as modified above this 13th day of May 1986 pursuant to the authority vested in me by Minnesota Statutes, Sections 45.023 and 60A.17.

MICHAEL A HATCH
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Insurance Prelicense Education	ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 8th day of October, 1985 that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules Relating to Prelicense Education

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and does not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30 day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, Section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 telephone (612) 296-5689. Any person requesting a public hearing should state her or his name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, Chapter 62F. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minnesota Laws 1983, chapter 188 codified as Minnesota Statute Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonablenss, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

_____

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Rules
Relating to Insurance Prelicense Education

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF
MAILING

Jane Schaub, being first duly sworn, deposes and says:

That on the 25th day of October 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, the attached Notice of Intent to Adopt Rules Without a Hearing was served by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Commerce for the purpose of receiving notice of the proposed adoption of rules by the department.

Jane Schaub
Jane Schaub

Subscribed and sworn to before me
this 25th day of October 1986.

Richard G. Gomsrud
Notary Public

RICHARD G. GOMSRUD
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Dec. 3, 1986

In the Matter of the Proposed Rules
Relating to Insurance Prelicense Education

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

AFFIDAVIT OF MAILING

Jane Schaub, being first duly sworn, deposes and says:

That on the 25th day of October 1985, at the City of St. Paul, County of Ramsey, State of Minnesota, the attached Notice of Hearing was served by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly prepared with first-class postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Commerce for the purpose of receiving notice of the proposed adoption of rules by the department.

Jane Schaub

Subscribed and sworn to before me
this 25th day of October 1985.

Notary Public

RICHARD G. GOMSRUD
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires Dec. 3 198

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE
500 METRO SQUARE BUILDING
ST. PAUL, MN 55101

ATTENTION:
RULE RELATED MATERIAL

FIRST CLASS MAIL

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption
of Rules Relating Insurance Prelicense Education

Notice of Intent ot Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21. The proposed rules amend Minnesota Rules 2725.0100 to 2725.0240 which currently deal with Insurance Continuing Education. After adoption of the proposed rules, the cited sections will deal with both prelicense and continuing education.

Persons interested in these rules shall have 30 days to submit comments in support of or opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 45.023 and 60A.17. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minn. Laws 1983, ch. 188 codified as Minn. Stat. section 14.115, subd. 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect

on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101. (612) 296-5689.

A copy of the proposed rules is attached to this Notice. Copies of this Notice and the proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Proposed Rules Relating to Insurance Prelicense Education

Rules as Proposed

2725.0100 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 1a. Applicant. "Applicant" means a person who has applied to the commissioner of commerce pursuant to Minnesota Statutes, section 60A.17, subdivision 1, paragraph (a), for a license as an insurance agent.

Subp. 2. Coordinator. "Coordinator" means an individual who is responsible for monitoring ~~continuing~~ insurance education offerings.

Subp. 3. [Unchanged.]

Subp. 4. Instructor. "Instructor" means an individual lecturing in a ~~continuing~~ an insurance education offering.

Subp. 5. to 7. [Unchanged.]

Subp. 8. Sponsor. "Sponsor" means a person offering or providing insurance education and satisfying the requirements for a private vocational school as mandated by the Minnesota Department of Education.

2725.0110 GENERAL REQUIREMENTS.

Subpart 1. Courses approved for continuing education credit. Only courses which impart substantive and procedural knowledge relating to the insurance field shall be approved for credit.

Subp. 1a. Curriculum for prelicense education. The following are the curriculum requirements for insurance prelicense courses for Minnesota resident agents.

BASIC FUNDAMENTALS COURSE

30 hours

Part I Minimum time: 15 hours

Maximum time: 22.5 hours

1. Rules, Regulations, and Law

APPROVED BY THE REVISOR OF STATUTES

A. Rules from the Administrative Procedure Act

a. Chapter 2795 - Agent Conduct

b. Chapter 2790 - Insurance Marketing Standards

B. Minnesota law regarding general requirements

2. Fundamentals of Insurance

A. What is insurance?

B. What is the insurance organization?

C. How does insurance relate to society?

D. What is management of risk?

Part II Minimum time: 3 hours

Maximum time: 7.5 hours

PROPERTY AND CASUALTY

1. Insurance and insurance-related concepts

2. Policy provisions

3. Types of policies

4. Perils, exclusions, deductibles, and liability

5. Prospecting and evaluating needs

6. Servicing clients

7. Presentation and acceptance of policy

Part III Minimum time: 3 hours

Maximum time: 7.5 hours

LIFE/ACCIDENT AND HEALTH

1. Types of policies and coverages

2. Policy provisions, options, and benefits

3. Completing the application/delivering the policy

4. Taxes, retirement, and other insurance concepts

5. Group insurance

6. Other provisions affecting insurance benefits

LIFE/ACCIDENT AND HEALTH

15 Hours

A. Life

Including but not limited to the following:

1. Whole life

2. Endowment

3. Term

4. Variable

5. Universal

B. Health

Including but not limited to the following:

1. Major medical

2. Hospital

3. Disability

4. Medicare supplement

C. Minnesota laws, rules, and regulations pertinent to life/accident and health insurance only.

PROPERTY/CASUALTY COURSE

15 hours

A. Personal lines

Including but not limited to the following:

1. Homeowners

2. Auto

3. Inland marine

B. Commercial lines

Including but not limited to the following:

1. Fire

2. Auto

3. Crime

4. Umbrella

5. Inland marine

C. Minnesota laws, rules, and regulations pertinent to property and casualty insurance only.

Subp. 2. Nonapproved courses for continuing education. The following are not approved courses:

A. a course which is approved for prelicense training;

B. courses designed to prepare students for a license examination;

C. courses in mechanical office or business skills, including typing, speed reading, or use of calculators or other machines or equipment;

D. courses in sales promoti[redacted] including meetings held in conjunction with the general business of the licensee;

E. courses in motivation, salesmanship, psychology, time management, or communication;

F. courses related to office management or intended to improve the operation of the licensee's business; or

G. courses which are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subp. 3. **Automatic approval.** The commissioner shall grant automatic approval for continuing education for insurance related courses approved by the Department of Commerce for real estate education, the Board of Continuing Legal Education for legal education, or similar regulatory offices within Minnesota.

The commissioner shall grant approval for the purpose of continuing education for courses approved by the insurance regulatory agency in another state if the continuing education laws and rules governing course accreditation in that state do not conflict with parts 2725.0100 to 2725.0240.

Subp. 4. **Credit hours.** Continuing education courses must be attended in their entirety in order for a licensee to receive full credit. Proportional credit will be given for partial attendance at a continuing education course. Sponsors may not issue certificates of compliance to students that have not attended the entire prelicensing course. Certificates of compliance may be issued to students who have completed the entire course even if the student did so by attending more than one offering of the course.

Upon completion of approved courses, students shall receive credit for the number of hours approved for the course based on one hour of credit for each hour of attendance.

If the number of credit hours for which a course is approved is fewer than the total number of hours of the course, the student must attend the entire course in order to receive credit for the number of approved hours.

The number of approved hours will not include only time spent on ~~meals, breaks, or other unrelated~~ educational activities.

The approved instructor for a continuing education course shall earn ~~1-1/2~~ three hours of continuing education credit for each one hour of instruction of approved continuing education courses.

Neither students nor instructors may earn continuing education credit for attending or instructing at any subsequent offering of the same continuing education course for three years after attending or teaching the course.

Subp. 5. **Examinations.** Course examinations will not be required for ~~continuing~~ insurance education courses unless the sponsor requires an examination.

Subp. 6. **Textbooks.** Textbooks are not required for ~~continuing~~ insurance education courses. If textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title, times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject matter to be covered. A textbook or syllabus must be available for the use of each student during the course. Any printed material disbursed to the students must be of a readable quality. Any textbook required must contain accurate and current information relating to the subject being taught.

Subp. 7. [Unchanged.]

Subp. 8. **Approval of continuing education courses not submitted for approval.** Licensees may receive continuing education credit for courses attended which have not been submitted for approval by a coordinator. Requests for approval of these courses must be submitted on forms prescribed by the commissioner.

Subp. 9. **Advertising.** Courses cannot be advertised in any manner as approved unless approval has been granted, in writing, by the commissioner.

Upon written request by a sponsor, the commissioner shall

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grant permission, in writing, to the sponsor to use the term "approval pending" if it is clearly visible in the advertisement and if in fact the course has been submitted to the commissioner for approval in accordance with subpart 7.

All advertising relating to approved course offerings must contain either of the two following statement statements as is appropriate: "This course has been approved by the commissioner of commerce for insurance continuing education credit." or "This course has been approved by the commissioner of commerce for prelicensing education credit." The statement must be prominently displayed on the cover of any pamphlet, advertisement, or circular.

The number of hours for which a course has been approved shall be prominently displayed on any advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

Advertising must be truthful, clear, and not deceptive or misleading.

Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

Subp. 10. [Unchanged.]

Subp. 11. Continuing education courses must be open. All continuing education course offerings shall be open to any interested individuals. Access to prelicensing course offerings may be restricted by the sponsor.

Subp. 12. and 13. [Unchanged.]

Subp. 14. National examinations. Courses leading to a recognized national examination shall be assigned continuing education credit hours in the same manner as other courses. A licensee who passes a national examination shall receive 20 hours of continuing education credit, even though the licensee has not attended 20 or more hours of courses leading to the examination.

Subp. 15. Correspondence courses. The amount of

continuing education credit received by an agent for a correspondence course shall be based on successful completion of the course and subject to the number of hours assigned by the commissioner.

Any offeror of correspondence courses shall clearly disclose to any agent wishing to receive credit in Minnesota the number of continuing education hours for which that particular course has been approved by the commissioner.

2725.0120 FALSIFICATION OF REPORTS.

A licensee or applicant found to have falsified a ~~continuing~~ an insurance education report to the commissioner shall be considered to have violated the insurance licensing law, and shall be subject to suspension or revocation of his or her insurance license or denial of his or her application for licensing.

2725.0130 COMMISSIONER'S RIGHT TO AUDIT.

The commissioner ~~reserves~~ has the right to audit subject offerings with or without notice to the sponsor.

2725.0140 GENERAL POWERS OF COMMISSIONER.

The commissioner may deny, censure, suspend, or revoke the approval of a coordinator, instructor, or course if it is determined not to be in compliance with the statute or rules governing the offering of insurance ~~continuing~~ education courses. The commissioner may also refuse to approve courses by specific sponsors if it is determined that past offerings have not been in compliance with ~~continuing~~ insurance education laws and rules.

2725.0150 MANDATORY NOTICE TO STUDENTS.

At the beginning of each approved ~~continuing~~ insurance education offering, one of the following ~~notice~~ notices, as is appropriate, shall be read to the students: "This course has been approved by the commissioner of commerce for ..... (number) hours of insurance continuing education credit. If you have any comments about this offering, please mail them to the

Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101." or "This course has been approved by the commissioner of commerce for ..... (number) hours of insurance prelicensing education credit. If you have any comments about this offering, please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101."

2725.0160 COURSE COORDINATOR.

Subpart 1. General requirement. Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with the statutes and rules governing the offering of insurance ~~continuing~~ education courses. Assistants may be hired by the sponsor; however, the approved coordinator remains responsible for compliance with the laws.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Responsibilities.** The coordinator must:

A. Assure compliance with all laws and rules pertaining to insurance ~~continuing~~ education.

B. Notify the commissioner of any material change in applications for course or instructor approval.

C. Assure that students are provided with current and accurate information.

D. Supervise and evaluate courses and instructors. The commissioner may request written evaluations of courses and/or instructors either by students or coordinators.

E. Investigate written complaints relating to course offerings and/or instructors, and forward a copy of the written complaints to the Department of Commerce.

F. Maintain accurate records relating to course offerings, instructors, and student attendance for a period of five years from the date the course was completed. If the coordinator leaves the employ of the sponsor, the records must be turned over to the replacement coordinator or an officer of the sponsor. If a sponsor ceases operation, the coordinator shall be responsible for maintaining the records or providing a custodian of the records acceptable to the commissioner. In

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order to be acceptable, custodians must agree to make copies of student records available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records.

G. Be available to instructors and students throughout the course offerings, and provide the name of the coordinator and a telephone number at which he or she can be reached.

H. Provide students with course completion certificates, on a form prescribed by the commissioner, within 30 days of completion of the course. Notwithstanding the preceding sentence, a coordinator may require payment of the course tuition as a condition for receiving the course completion certificate.

2725.0170 INSTRUCTORS.

Subpart 1. **General requirement; continuing education.** Failure to have only approved instructors teach at an approved continuing education offering will result in loss of course approval.

If, after approval of a course, the instructor named in the application for course approval is unable to teach the course and there is insufficient time to obtain approval of a substitute instructor, proportional credit will be given for those parts of the course taught by approved instructors.

Credit for the parts of a course taught by an unapproved instructor may be obtained if the following requirements are satisfied:

A. Within 15 business days after the course is taught by an unapproved instructor, a request for approval of the instructor is filed with the department. The request must be made on forms prescribed by the commissioner.

B. Notice of the use of an unapproved instructor must be given to all enrollees as soon as that fact is known and again prior to the commencement of the ~~cause~~ course. The notice must state:

(1) that fewer credit hours may be earned for the

course than the course was originally approved for;

(2) that a full refund will be given if the enrollee decides not to attend the course;

(3) that if the enrollee does attend the course and does not earn the number of credit hours for which the course was originally approved, a refund will be automatically made in proportion to the reduction in credit hours earned. The refund will be made when the department's determination is made as to the approval of the substitute instructor.

Subp. 1a. General requirement; prelicensing education. Failure to have only approved instructors teach at an approved prelicensing education offering will result in loss of course approval. If, after approval of a course, the instructor named in the application for course approval is unable to teach the course and there is insufficient time to obtain approval of a substitute instructor, credit for the parts of a course taught by an unapproved instructor may be obtained if the following requirements are satisfied:

A. Within 15 business days after the course is taught by an unapproved instructor, a request for approval of the instructor is filed with the department. The request must be made on forms prescribed by the commissioner.

B. Notice of the use of an unapproved instructor must be given to all enrollees as soon as that fact is known and again prior to the commencement of the course. The notice must state:

(1) that no credit may be earned for the course;

(2) that a full refund will be given if the enrollee decides not to attend the course;

(3) that if the enrollee does attend the course and does not earn credit for the course, a refund will be automatically made. The refund will be made when the department's determination is made as to the approval of the substitute instructor.

Subp. 2. [Unchanged.]

Subp. 3. Responsibilities. Approved instructors must:

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Rules
Relating to Insurance Prelicense Education

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 25th day of October 1985.

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STATE REGISTER

STATE OF MINNESOTA



VOLUME 10, NUMBER 18

October 28, 1985

NOTE TO READERS: Two weeks ago, you received 2 *State Registers*—Issue #16, dated October 14; and Issue #16R, dated October 16. PLEASE KEEP BOTH ISSUES. Most of the rules were printed correctly in Issue #16, and, for legal purposes, were proposed or adopted October 14. Only 3 rules go by the October 16 date for legal purposes. If you have already tossed Issue #16, mark Issue #16R according to the sample provided in the Errata in #18.

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Rules Relating to Insurance Prelicense Education

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21. The proposed rules amend Minnesota Rules 2725.0100 to 2725.0240 which currently deal with Insurance Continuing Education. After adoption of the proposed rules, the cited sections will deal with both prelicense and continuing education.

Persons interested in these rules shall have 30 days to submit comments in support of or opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.41, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard G. Gomsrud, Department Counsel, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, sections 45.023 and 60A.17. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Pursuant to Minn. Laws 1983, ch. 188 codified as Minn. Stat. section 14.115, subd. 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Richard G. Gomsrud, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101. (612) 296-5689.

A copy of the proposed rules is attached to this notice. Copies of this notice and the proposed rules are available and may be obtained by contacting Richard G. Gomsrud at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2725.0100 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 1a. **Applicant.** "Applicant" means a person who has applied to the commissioner of commerce pursuant to Minnesota Statutes, section 60A.17, subdivision 1, paragraph (a), for a license as an insurance agent.

Subp. 2. **Coordinator.** "Coordinator" means an individual who is responsible for monitoring ~~continuing~~ insurance education offerings.

Subp. 3. [Unchanged.]

Subp. 4. **Instructor.** "Instructor" means an individual lecturing in ~~a continuing~~ an insurance education offering.

Subp. 5. to 7. [Unchanged.]

Subp. 8. **Sponsor.** "Sponsor" means a person offering or providing insurance education and satisfying the requirements for a private vocational school as mandated by the Minnesota Department of Education.

2725.0110 GENERAL REQUIREMENTS.

Subpart 1. **Courses approved for continuing education credit.** Only courses which impart substantive and procedural knowledge relating to the insurance field shall be approved for credit.

Subp. 1a. **Curriculum for prelicense education.** The following are the curriculum requirements for insurance prelicense courses for Minnesota resident agents.

BASIC FUNDAMENTALS COURSE

30 hours

Part I Minimum time: 15 hours
Maximum time: 22.5 hours

1. Rules, Regulations, and Law
   - A. Rules from the Administrative Procedure Act
     - a. Chapter 2795—Agent Conduct
     - b. Chapter 2790—Insurance Marketing Standards
   - B. Minnesota law regarding general requirements
2. Fundamentals of Insurance
   - A. What is insurance?
   - B. What is the insurance organization?
   - C. How does insurance relate to society?
   - D. What is management of risk?

Part II Minimum time: 3 hours
Maximum time: 7.5 hours

PROPERTY AND CASUALTY

1. Insurance and insurance-related concepts
2. Policy provisions
3. Types of policies
4. Perils, exclusions, deductibles, and liability
5. Prospecting and evaluating needs

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6. Servicing clients
7. Presentation and acceptance of policy

PART III Minimum time: 3 hours
Maximum time: 7.5 hours

LIFE/ACCIDENT AND HEALTH

1. Types of policies and coverages
2. Policy provisions, options, and benefits
3. Completing the application/delivering the policy
4. Taxes, retirement, and other insurance concepts
5. Group insurance
6. Other provisions affecting insurance benefits

LIFE/ACCIDENT AND HEALTH
15 Hours

A. Life

Including but not limited to the following:

1. Whole life
2. Endowment
3. Term
4. Variable
5. Universal

B. Health

Including but not limited to the following:

1. Major medical
2. Hospital
3. Disability
4. Medicare supplement

C. Minnesota laws, rules, and regulations pertinent to life/accident and health insurance only.

PROPERTY/CASUALTY COURSE
15 hours

A. Personal lines

Including but not limited to the following:

1. Homeowners
2. Auto
3. Inland marine

B. Commercial lines

Including but not limited to the following:

1. Fire
2. Auto
3. Crime
4. Umbrella
5. Inland marine

C. Minnesota laws, rules, and regulations pertinent to property and casualty insurance only.

Subp. 2. **Nonapproved courses for continuing education.** The following are not approved courses:

A. a course which is approved for prelicense training;

B. courses designed to prepare students for a license examination;

C. courses in mechanical office or business skills, including typing, speed reading, or use of calculators or other machines or equipment;

D. courses in sales promotion, including meetings held in conjunction with the general business of the licensee;

E. courses in motivation, salesmanship, psychology, time management, or communication;

F. courses related to office management or intended to improve the operation of the licensee's business; or

G. courses which are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subp. 3. **Automatic approval.** The commissoiner shall grant automatic approval for continuing education for insurance related courses approved by the Department of Commerce for real estate education, the Board of Continuing Legal Education for legal education, or similar regulatory offices within Minnesota.

The commissioner shall grant approval for the purpose of continuing education for courses approved by the insurance regulatory agency in another state if the continuing education laws and rules governing course accreditation in that state do not conflict with parts 2725.0100 to 2725.0240.

Subp. 4. **Credit hours.** Continuing education courses must be attended in their entirety in order for a licensee to receive full credit. Proportional credit will be given for partial attendance at a continuing education course. Sponsors may not issue certificates of compliance to students that have not attended the entire prelicensing course. Certificates of compliance may be issued to students who have completed the entire course even if the student did so by attending more than one offering of the course.

Upon completion of approved courses, students shall receive credit for the number of hours approved for the course based on one hour of credit for each hour of attendance.

If the number of credit hours for which a course is approved is fewer than the total number of hours of the course, the student must attend the entire course in order to receive credit for the number of approved hours.

The number of approved hours will ~~not~~ include only time spent on ~~meals, breaks, or other unrelated~~ educational activities.

The approved instructor for a continuing education course shall earn ~~1 1/2~~ three hours of continuing education credit for each one hour of instruction of approved continuing education courses.

Neither students nor instructors may earn continuing education credit for attending or instructing at any subsequent offering of the same continuing education course for three years after attending or teaching the course.

Subp. 5. **Examinations.** Course examinations will not be required for ~~continuing~~ insurance education courses unless the sponsor requires an examination.

Subp. 6. **Textbooks.** Textbooks are not required for ~~continuing~~ insurance education courses. If textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title, times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject matter to be covered. A textbook or syllabus must be available for the use of each student during the course. Any printed material disbursed to the students must be of a readable quality. Any textbook required must contain accurate and current information relating to the subject being taught.

Subp. 7 [Unchanged.]

Subp. 8. **Approval of continuing education courses not submitted for approval.** Licensees may receive continuing education credit for courses attended which have not been submitted for approval by a coordinator. Requests for approval of these courses must be submitted on forms prescribed by the commissioner.

Subp. 9. **Advertising.** Courses cannot be advertised in any manner as approved unless approval has been granted, in writing, by the commissioner.

Upon written request by a sponsor, the commissioner shall grant permission, in writing, to the sponsor to use the term "approval

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pending" if it is clearly visible in the advertisement and if in fact the course has been submitted to the commissioner for approval in accordance with subpart 7.

All advertising relating to approved course offerings must contain either of the two following ~~statement~~ statements as is appropriate: "This course has been approved by the commissioner of commerce for insurance continuing education credit." or "This course has been approved by the commissioner of commerce for prelicensing education credit." The statement must be prominently displayed on the cover of any pamphlet, advertisement, or circular.

The number of hours for which a course has been approved shall be prominently displayed on any advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

Advertising must be truthful, clear, and not deceptive or misleading.

Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

Subp. 10. [Unchanged.]

Subp. 11. **Continuing education courses must be open.** All continuing education course offerings shall be open to any interested individuals. Access to prelicensing course offerings may be restricted by the sponsor.

Subp. 12. and 13. [Unchanged.]

Subp. 14. **National examinations.** Courses leading to a recognized national examination shall be assigned continuing education credit hours in the same manner as other courses. A licensee who passes a national examination shall receive 20 hours of continuing education credit even though the licensee has not attended 20 or more hours of courses leading to the examination.

Subp. 15. **Correspondence courses.** The amount of continuing education credit received by an agent for a correspondence course shall be based on successful completion of the course and subject to the number of hours assigned by the commissioner.

Any offeror of correspondence courses shall clearly disclose to any agent wishing to receive credit in Minnesota the number of continuing education hours for which that particular course has been approved by the commissioner.

2725.0120 FALSIFICATION OF REPORTS.

A licensee or applicant found to have falsified ~~a continuing~~ an insurance education report to the commissioner shall be considered to have violated the insurance licensing law and shall be subject to suspension or revocation of his or her insurance license or denial of his or her application for licensing.

2725.0130 COMMISSIONER'S RIGHT TO AUDIT.

The commissioner ~~reserves~~ has the right to audit subject offerings with or without notice to the sponsor.

2725.0140 GENERAL POWERS OF COMMISSIONER.

The commissioner may deny censure suspend or revoke the approval of a coordinator, instructor, or course if it is determined not to be in compliance with the statute or rules governing the offering of insurance ~~continuing~~ education courses. The commissioner may also refuse to approve courses by specific sponsors if it is determined that past offerings have not been in compliance with ~~continuing~~ insurance education laws and rules.

2725.0150 MANDATORY NOTICE TO STUDENTS.

At the beginning of each approved ~~continuing~~ insurance education offering, one of the following ~~notice~~ notices as is appropriate, shall be read to the students: "This course has been approved by the commissioner of commerce for ..... (number) hours of insurance continuing education credit. If you have any comments about this offering please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101." or "This course has been approved by the commissioner of commerce for ..... (number) hourse of insurance prelicensing education credit. If you have any comments about this offering, please mail them to the Commissioner of Commerce, 500 Metro Square Building, Saint Paul, Minnesota 55101."

2725.0160 COURSE COORDINATOR.

Subpart 1. **General requirement.** Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with the statutes and rules governing the offering of insurance ~~continuing~~ education courses. Assistants may be hired by the sponsor; however, the approved coordinator remains responsible for compliance with the laws.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Responsibilities.** The coordinator must,

A. Assure compliance with all laws and rules pertaining to insurance ~~continuing~~ education.

B. Notify the commissioner of any material change in applications for course or instructor approval.

C. Assure that students are provided with current and accurate information.

D. Supervise and evaluate courses and instructors. The commissioner may request written evaluations of courses and/or instructors either by students or coordinators.

E. Investigate written complaints relating to course offerings and/or instructors and forward a copy of the written complaints to the Department of Commerce.

F. Maintain accurate records relating to course offerings, instructors, and student attendance for a period of five years from the date the course was completed. If the coordinator leaves the employ of the sponsor, the records must be turned over to the replacement coordinator or an officer of the sponsor. If a sponsor ceases operation, the coordinator shall be responsible for maintaining the records or providing a custodian of the records acceptable to the commissioner. In order to be acceptable, custodians must agree to make copies of student records available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records.

G. Be available to instructors and students throughout the course offerings, and provide the name of the coordinator and a telephone number at which he or she can be reached.

H. Provide students with course completion certificates, on a form prescribed by the commissioner, within 30 days of completion of the course. Notwithstanding the preceding sentence, a coordinator may require payment of the course tuition as a condition for receiving the course completion certificate.

2725.0170 INSTRUCTORS.

Subpart 1. **General requirement**; continuing education. Failure to have only approved instructors teach at an approved continuing education offering will result in loss of course approval.

If, after approval of a course, the instructor named in the application for course approval is unable to teach the course and there is insufficient time to obtain approval of a substitute instructor, proportional credit will be given for those parts of the course taught by approved instructors.

Credit for the parts of a course taught by an unapproved isntructor may be obtained if the following requirements are satisfied:

A. Within 15 business days after the course is taught by an unapproved instructor, a request for approval of the instructor is filed with the department. The request must be made on forms prescribed by the commissioner.

B. Notice of the use of an unapproved instructor must be given to all enrollees as soon as that fact is known and again prior to the commencement of the ~~cause~~ course. The notice must state:

(1) that fewer credit hours may be earned for the course than the course was originally approved for;

(2) that a full refund will be given if the enrollee decides not to attend the course;

(3) that if the enrollee does attend the course and does not earn the number of credit hours for which the course was originally approved, a refund will be automatically made in proportion to the reduction in credit hours earned. The refund will be made when the department's determination is made as to the approval of the substitute instructor.

Subp. 1a. **General requirement; prelicensing education.** Failure to have only approved instructors teach at an approved prelicensing education offering will result in loss of course approval. If, after approval of a course, the instructor named in the application for course approval is unable to teach the course and there is insufficient time to obtain approval of a substitute instructor, credit for the parts of a course taught by an unapproved instructor may be obtained if the following requirements are satisfied:

A. Within 15 business days after the course is taught by an unapproved instructor, a request for approval of the instructor is filed with the department. The request must be made on forms prescribed by the commissioner.

B. Notice of the use of an unapproved instructor must be given to all enrollees as soon as that fact is known and again prior to the commencement of the course. The notice must state:

(1) that no credit may be earned for the course;

(2) that a full refund will be given if the enrollee decides not to attend the course;

(3) that if the enrollee does attend the course and does not earn credit for the course, a refund will be automatically made.

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The refund will be made ~~when~~ the department's determination is made as to the approval of the substitute instructor.

Subp. 2. [Unchanged.]

Subp. 3. **Responsibilities.** Approved instructors must:

A. comply with all laws and rules pertaining to insurance ~~continuing~~ education;

B. provide students with current and accurate information;

C. maintain an atmosphere conducive to learning in a classroom; and

D. provide assistance to the students and respond to questions relating to course material.

2725.0180 MANAGEMENT RESPONSIBILITY OF SPONSORS.

Sponsors of ~~continuing~~ insurance education courses are responsible for the actions of the coordinators and instructors.

2725.0210 ~~LICENSEE~~ REPORTING ~~REQUIREMENT~~ REQUIREMENTS.

A. ~~Continuing~~ Insurance education credit must be reported by the licensee on forms and in a manner prescribed by the commissioner.

B. Persons licensed for the first time on or after June 1 in any year shall not be subject to the continuing education requirements of Minnesota Statutes, section 60A.1701, subdivision 8, until the commencement of the following annual reporting period.

2725.0230 CONTINUING EDUCATION EXTENSIONS.

Upon appropriate showing of a bona fide financial or medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship.

Requests for extensions must be submitted in writing no later than April 1 of the year due and shall include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study.

2725.0240 CONTINUING EDUCATION EXEMPTIONS.

A currently licensed insurance agent shall be exempted from continuing education requirements if the agent's age and years licensed as an insurance agent in good standing in Minnesota exceed 85 years, as long as that agent has maintained an active insurance agent license in the state for the last ten consecutive years.

Department of Education
Management Effectiveness Division

Proposed Rules Governing Public Library Construction Grants

Notice of Hearing

Notice is hereby given that a public hearing concerning the proposed rules (Minn. Rules, parts 3530.2610-.2644) will be held at Room 716, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101, on Monday, December 2, 1985, commencing at 9:00 a.m. and continuing until all interested persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612) 341-7606 either before the hearing or within five working days after the close of the hearing. The Administrative Law Judge may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. In addition, following the close of the initial comment period, interested persons and the agency will be allowed to submit responses to any new information submitted in the comments received during the initial comment period. Comments received during this comment period will be available for review at the Office of Administrative Hearings. The responses must be filed within three working days of the close of the initial comment period. Additional evidence may not be submitted during this three-day period. The rule hearing procedure is governed by Minn. Stat. §§ 14.14 to 14.20, and by Minnesota Rules Parts 1400.0200-1400.1200. If you have any questions about the procedure, call or write the Administrative Law Judge.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Governing Continuing Education for Insurance Licensees

STATEMENT OF NEED AND REASONABLENESS OF PROPOSED RULES

STATEMENT OF AUTHORITY

Minnesota Statutes § 60A.1701, subd. 6(c), requires that the Commissioner of Commerce adopt rules to carry out the purposes of Minnesota Statutes § 60A.1701. These rules are proposed pursuant to that mandate. The purpose of the rules is to provide direction to those offering courses and to licensees in the area of continuing education, and to provide a basis upon which the Commissioner can approve those offering courses, courses and instructors for continuing education for insurance licensees.

Minnesota Statutes § 60A.1701, subds. 4 and 5 provide that the Commissioner may appoint a task force consisting of industry and consumer members. This task force was charged by the legislature to make recommendations to the Commissioner on "rules which may be promulgated by the Commissioner." The thirteen members met repeatedly and considered input from all sectors. These proposed rules are the result of recommendations by the task force.

FACTS ESTABLISHING NEED AND REASONABLENESS

As more specifically stated below, the proposed rules are necessary to set guidelines which will result in quality and meaningful educational programs being available for insurance licensees.

Policy, rate, and enforcement regulation in Minnesota has produced a long series of needs for legislative and regulatory responses. As the law, rules, and market conditions have changed, agents have been responsible for legally meeting their responsibilities. Consumer complaint frequency, dynamic change in the insurance markets, and legislative response have contributed to the agent's professional need for regular education to keep abreast of changes in the marketplace and in laws and regulation. Up-to-date knowledge will result in better service to the consumers and decrease the chances of inappropriate products being sold to them.

Part 2725.0100 Definitions.

Part 2725.0100 defines terms as they relate to insurance continuing education, and helps clarify their usage in the body of the rules.

Subpart 2. Coordinator. This subpart indicates that the coordinator is the person responsible for monitoring continuing education courses as opposed to a teacher, instructor and other persons who might potentially be responsible in the process.

Subpart 3. Correspondence Course. This subpart requires that for purposes of these rules to be deemed a correspondence course the provider of said courses must have been in existence for at least five years or that the courses have been approved by the National Home Study Council. This is a narrower definition than the general idea of what a correspondence course is. It is necessary to prevent credit being given for courses which do not provide meaningful course content. Experience and/or approval by the nationally recognized National Home Study Council is indicative of the fact that the offeror provides meaningful course content, as well as certification of completion.

Subpart 4. Instructor. This subpart is an expansive definition meant to include everyone that lectures in a continuing education offering thereby requiring all such persons to comply with the rules and removing any question as to when someone appearing before students in such courses is a lecturer or not.

Subpart 5. Licensee. This subpart in effect adopts the definition of Minn. Stat. § 60A.1701, subd. 2, as to those parties that are subject to insurance continuing education. The department licenses others to sell insurance who are not subject to licensing examinations so it is important to limit the definition from the generally understood concept of licensee to only those that are subject to licensing examinations.

Subpart 6. National Examinations. It was the belief of the task force preparing the rules that certain national examinations are subject to sufficient criteria and review and/or have been in existence for a sufficient period of time so as to not require re-

evaluation and qualification under these rules. It was felt that this would be an unnecessary and wasteful requirement which would serve no practical benefit to anyone. Accordingly, certain national examinations or courses taken in regard to them which clearly met the requirements of the rules the law and were deemed to be appropriate for exemption by a consensus of the industry are listed here in the definition of national examinations. It should be noted that this is a closed list and that new courses or examinations can only be added by amending the rules. That would only be done in the instance in which new courses or examinations would be able to obtain the kind of support and acceptance that the enumerated ones already have.

Subpart 7. Person. Person is defined as including a natural person, firm, institution, partnership, corporation or association thereby adopting the definition of person that is incorporated in the definition of insurance agent at Minn. Stat. § 60A.02, Subd. 7, with the addition of firm, institution, or association to that definition to more fully clarify all the types of entities that might come within the scope of these rules.

Subpart 8. Sponsor. Sponsor is defined as any "person" (as defined by Subpart 7) offering or providing insurance education of any type. This is also extremely expansive definition so as to remove any doubt that anyone offering any type of insurance education comes within the scope of the rules.

Part 2725.0110 General Requirements.

Subpart 1. Courses Approved for Credit. Minn. Stat. § 60A.1701 sets forth the criteria restricting course approval to only those courses that impart substantive and procedural knowledge relating to the insurance field. This subpart is a restatement of the principles set forth in that statute. That criteria is reiterated for the purpose of clarifying the courses to be approved as opposed to those set forth in subpart 2 which will not be approved for credit.

Subpart 2. Nonapproved Courses. Subpart 2 sets forth the courses specifically not approved and enumerates those that are absolutely not acceptable.

Subpart 2, item A. As set forth by Minn. Stat. § 60A.1701, subd. 7, subpart (b)(1), the commissioner may not approve a course that prepares students for licensing examination. Accordingly, A, a course which is approved for prelicense training, would fall within that criteria.

Subpart 2, item B. These courses are specifically encompassed in the statutory prohibition of Minn. Stat. § 60A.1701, subd. 7(b)(1).

Subpart 2, item C. These courses are specifically prohibited by Minn. Stat. § 60A.1701, subd. 7(b)(2).

Subpart 2, item D. These courses are specifically prohibited by § 60A.1701, subd. 7(b)(3).

Subpart 2, item E. These courses are specifically prohibited by § 60A.1701, subd. 7(b)(4).

Subpart 2, item F. These courses are of the same general type as those prohibited by Minn. Stat. 60A.1701, subd. 7(b)(2), (3), and (4) in that they don't relate to educating the insurance agent in regard to the insurance business but rather pertaining to business in general.

Subpart 2, item G. As it is not the intent of the insurance education rules to assist in the promotion of any insurance companies' individual products, and so as not to allow the insurance education program to become a subterfuge for a marketing program by insurance companies, courses which relate to specific products of a company are denied accreditation. Courses should be of benefit to any agent whether or not they happen to be licensed with a particular company or not. Courses relating to specific company products do not aid the consumer by educating the agent in general insurance principles. An agent educated as to a product does not understand how his/her client's needs may be satisfied by other products or variations of his/her product and may attempt to sell the specific product rather than a more suitable program. While an agent certainly must understand the product he or she is selling and it is in their interest to do so it doesn't further the public protection intent of continuing education for that agent as to the insurance business.

Subpart 3. Automatic Approval. This subpart clarifies that the directive contained in Minn. Stat. § 60A.1701, subd. 7, that the commissioner shall approve any other educational course approved by Minnesota Continuing Legal Education relating to the insurance field is an automatic approval for continuing legal education and in

addition provides for automatic approval for insurance related courses approved by the department of commerce for real estate education or insurance related courses approved by other regulatory offices within the State of Minnesota. The purpose of this subpart is to not subject the same courses to multiple approval requirements and the accompanying additional expense and time expenditure. Courses that have been approved and are germane to the subject of insurance need not be reapproved by the department of commerce for insurance purposes. Additionally, the commissioner may also grant automatic approval for courses approved by the insurance regulatory agency of a sister state provided, of course, that the courses do not conflict with these rules.

This is similar to what is already found in the continuing education requirements for lawyers and other practitioners and allows the licensees to have a broader range of courses available to them. This is especially critical for those licensees that may have a rather narrow or unique field. Because of the limited number of people that deal in that particular area it may not be financially prudent for someone to offer a course only in Minnesota for that type of licensee. Accordingly, he or she may have to seek courses on a national level which would be of benefit to them. Otherwise, that licensee may have to adopt the sham of taking courses that are of no benefit to them for the purpose of complying with the continuing education rules.

Subpart 4. Credit Hours. This subpart clarifies that a course must be attended in its entirety in order for credit to be received. This portion is designed to prevent an agent from attending only an

hour or so of a longer course, if he or she needs only that amount of time to fulfill their requirement. By attending only a portion of a course a person does not learn the material a course is intended to impart. Instructors build on material throughout a course and a person does not obtain benefit by attending only a portion of the course.

In the case of courses which are approved by another entity, for example, legal education, only a portion of a full day's program (8 hours) may be of value to an insurance licensee. Yet the entire course would have to be attended to extract that portion that is of benefit to the licensee. In addition, courses may be approved that have tax and other ramifications pertaining to other areas not pertinent to insurance continuing education even if they are titled or intended for insurance licensees. There is no direct correlation required between the number of hours attended and the number of hours of credit given. Credit hours given relate to benefit to the licensee in regard to insurance continuing education and do not represent an acknowledgement of time attended alone. In that respect, hours in attendance which are spent on other activities, such as meals and the like, do not accrue to the benefit of the licensee. The latter part of this section reiterates the statutory requirement that an approved instructor earns 1-1/2 hours in continuing education credit for each hour of instruction. This acknowledges that preparation time is necessary for lecturing at such courses.

Courses may be approved for a smaller number of hours than the length of the course. This allows the approval of a course even if some of the course may not comply with the rules. In these situations an agent must attend the entire course because content which is approvable may be interspersed throughout the entire course.

To preclude someone from either teaching or attending the same course year after year and thus not being exposed to any new information a prohibition has been placed in the rules that credit cannot be received for attending a same course for three years after attending or teaching the course. Since credits can be carried over for 3 years, this will prevent an agent from repeating the same material in a cycle. This is intended to encourage exposure to different material.

Subpart 5. Examinations. This subpart clarifies that course examinations are not required for continuing education courses but also that they are not prohibited.

Subpart 6. Textbooks. This subpart clarifies that textbooks are not mandatory for continuing education courses but that if textbooks are not used certain criteria are set forth to assure that the students obtain the maximum benefit from the course. As a minimum requirement certain information including the course title, times and dates of the course offering, names and addresses or telephone numbers of the course coordinator and instructor, and an outline of the subject matter to be covered is required. The textbook or syllabus must be available for each individual student's use during the course. This precludes sharing of materials and other inconven-

iences that might reduce the educational value of the course. Also, any material dispersed must be useable, accurate and current as to the material being taught.

Subpart 7. Approval of Course Offerings. This section requires that the sponsors must submit their materials at least 30 days prior to the date on which the course is being taught. This allows the commissioner sufficient time to review the course, the sponsors and the instructors and advise the sponsors as to any particular problems the commissioner may have in sufficient time so that they might be corrected before the course is offered. This, of course, is the minimum amount of time that the course should be submitted to the commissioner prior to the offering date. The sponsor is not required to wait until only 30 days before the offer date of the course. Additional material pertaining to the approval of the instructor must also accompany that application. The commissioner is charged by this rule to prescribe the form for the applications to ensure uniformity in the application materials and for ease of processing.

Subpart 8. Approval of Courses not Submitted for Approval. In certain instances, licensees may attend courses sponsored by parties that have not sought the approval of the commissioner. If a licensee believes that they are entitled to credit for said courses, this subpart provides the mechanism by which they, on their own, may submit the request for such approval. Once again, the commissioner will prescribe the forms for requesting such approval for expediency reasons.

Subpart 9. Advertising. This subpart provides the guidelines for the advertising of approved courses and is intended to provide a disclosure to potential students regarding approval and the credit to be given. Prospective students should know whether the course is approved and for how many hours. Brochures and other materials are often printed far in advance of the date of the course and prior to when the courses may be submitted to the commissioner for approval. This subpart provides a mechanism by which a sponsor may advertise prior to approval being received if they use the term "approval pending" in their advertisement and if in fact the course has been submitted to the commissioner for approval. The term "approval pending" puts the agent on notice that he or she should check the status of the course prior to attending it. This subpart also requires that advertising must contain a statement that this course has been approved by the commissioner of commerce for insurance continuing education credit in any pamphlet, advertisement or circular as well as setting fortn the hours for which the course has been approved for credit. This information allows the licensee who may wish to attend the course to be fully cognizant of the number of credit hours for which the course has been approved and more importantly that in fact the course has been approved for credit. The licensee thus does not attend a course or pay for a course for which they are going to receive less credit than they believes they will get or will receive no credit at all. There is also a general requirement in this rule that advertising must be truthful clear and not deceptive or misleading. Licensees are spending a substantial amount of their funds on such courses and must attend the same to

ensure their continued licensure. Accordingly, they must be able to rely on the veracity of the advertisements upon which they base their course attendance.

Subpart 10. Approval of Subsequent Offering. This particular subpart is an additional attempt to cut down on unnecessary and duplicative course approval. If in the past the commissioner has approved a course, subsequent offerings of identical courses can be made without going through the entire approval process again provided that the notice of subsequent offering is filed with the commissioner 30 days prior to the date of the course. The notice requirement is appropriate in that it allows the commissioner to be aware of the times and dates of courses being offered. He is therefore able to respond to agents' questions or, if appropriate, to audit a course to determine whether or not the course is as represented and as to subsequent courses, that the course is in fact identical to the original course approved.

Subpart 11. Courses Must Be Open. This subpart prevents special considerations and conflicts of interest. It also means that courses offered by any entity, such as one particular insurance company, are therefore available to all agents, including those not licensed to that particular insurance company. This increases the availability of courses to licensees.

Subpart 12. Fees. This subpart follows the general premise of these rules that all information be clear and understandable to the licensees. In addition, fees are required to be reasonable in regard to the courses offered. Discounts are allowed, but once again they must be reasonable. The basis of the discounts are not set forth in

the rule to allow for a wide variety of basis for such discounts. Because the refund process leads to many complaints in regard to how promptly the fees for cancellation of a course are returned this rule specifies that under all circumstances fees must be returned no later than 30 days after cancellation. In the case of postponement, the choice of attending the rescheduled course or having the tuition refunded must be provided. Once again, that refund must be made within 30 days of the postponement. Both the course cancellation mechanism and the postponement mechanism protect the rights of the licensees and preclude sponsors and others offering courses from holding onto the fees and the students for an undue length of time. This subpart also requires that a sponsor must have a refund policy regarding the student's cancellation or failure to complete a course and that that policy be clear to potential students. The intent being to cut down any possible misunderstandings and problems by fully disclosing in advance what the student's rights and expectations are.

Subpart 13. Adequate Facility Be Used. This subpart states what should probably not have to be stated but is stated so as to remove any possible doubt -- namely that the classroom or other place where the course is offered must be adequate so that it is conducive to learning. Once again, it is the intent of the rules to assure that education in fact takes place in regard to these courses and that the sponsor does not sacrifice that principle by attempting to reduce its cost.

Subpart 14. National Examinations. The national examinations set forth in the definitions are determined to have sufficient worth to insurance licensees so as to not require their application for approval by the commissioner. Accordingly, no credit hours would be specifically assigned to these courses through the approval process. Accordingly, based upon the knowledge of these courses it has been determined that 20 hours would be appropriate for their completion. It is recognized that there may be more hours involved in these courses than 20 hours but that for the purposes set forth in regard to insurance continuing education 20 hours would be appropriate credit towards those goals. Additionally, so as not to allow duplication, credit cannot be received for both attending courses leading to the national examination and passing the national examination itself. This acknowledges that preparing for the examination and actually taking it and passing it involves reviewing and learning the same materials. It does not result in any new information being obtained by the licensee.

Subpart 15. Company Sponsored Programs. This subpart recognizes that many companies offer substantive educational courses. In order that agents receive a more broad exposure to insurance principles, they should not be allowed to receive all of their credits from such a narrow perspective. Since a company's primary interest is the maximum production from their agents, this subpart is designed to help prevent agents from being compelled to attend their companies courses, but rather to allow them some freedom in choosing educational opportunities they feel are of benefit to them.

The Department feels that as a matter of prudence it is unwise to create a situation where companies, that have a vested interest in the continued licensure of their agents, to be able to certify that they have satisfied their educational requirements. Too great a potential conflict of interest would be created between the companies role as educator, responsible to the public of ensuring the competency of their agents, and some companies purely financial self-interest in maintaining the largest possible sales force. Allowing the companies to certify as to half the educational requirements would reduce the danger of the conflict while still allowing the companies to be part of the educational process.

Subpart 16. Correspondence Courses. This subpart allows credit to be received through the completion of correspondence courses. Because monitoring the actual completion of these courses is difficult, standards for approval of correspondence courses were set forth in 2725.0100, subpart 3. In many instances, correspondence courses are necessary to provide information that may not be available in courses offered within the state of Minnesota. Because of the possibilities of abuse in correspondence courses and the difficulty in monitoring their use no more than 1/2 of an agent's requirements may be satisfied in this manner. In addition, anyone offering correspondence courses must, as in the case of others offering insurance continuing education courses, clearly set forth the hours for which the course has been approved by the commissioner.

Part 2725.0120 Falsification of Reports

This part provides that falsification of continuing education report to the commissioner is of such magnitude and reflects upon the honesty and worthiness of the agent so that the act of falsifying such a report shall be deemed to be a violation of the insurance licensing laws and will subject the agent to suspension or revocation of his or her license. The reporting system is basically an honor system which relies upon the truthfulness and honesty of the licensees as an alternative to a more rigid, cumbersome and expensive system. Additionally, the character of anyone who falsifies such a report would be so questionable the their performance of their duties as a licensee to their clients and others would be suspect.

Part 2725.0130 Commissioner's Right to Audit

This part allows the Commissioner to audit courses. It is necessary so that the Commissioner may determine compliance with these rules. On occasion the Commissioner may wish to determine compliance without notice so a more accurate picture may be seen. The possibility of an audit, unannounced or otherwise, is a regulatory device which places any sponsor or other person offering a course or an instructor at risk in not complying with the statutes, rules and the disclosures made in the course application.

Part 2725.0140 General Powers of Commissioner

In order to provide quality and meaningful educational offerings and to prevent abuses, it is necessary to allow the commissioner to take disciplinary action against those who have demonstrated failure to comply with these requirements. This subpart provides the various means by which the commissioner may proceed against such persons and the actions he may take up to and including the permanent barring of sponsors who have shown a pattern of noncompliance in the past.

Part 2725.0150 Mandatory Notice to Students

As an additional means for assuring that each student knows the number of credit hours for which a course he is attending has been approved, a notice is required to be made at the beginning of each course stating the number of hours for which the course has been approved. It also clarifies that the students have the right to make comments about the course offerings to the commissioner of commerce and gives the address of the commissioner.

Part 2725.0160 Course Coordinator

Subpart 1. General Requirement. This subpart mandates that each course have one coordinator who is responsible for assuring compliance with the laws relating to continuing education. This person is the one accountable in all respects regarding the course

and its compliance with the applicable statutes and rules. This subpart allows for assistants to be hired but does not remove the ultimate responsibility from the coordinator.

Subpart 2. Qualifications. The qualifications of the course coordinators are enumerated as follows:

A. Minimum of five years as an active licensed insurance agent. This assures that the coordinator has a working knowledge of the practical aspects of what the licensees are facing and accordingly can better relate the course materials to their concerns than someone who has no knowledge of what the licensees are.

B. At least three years full time experience in the administration of an education program. This assures that a coordinator has a practical education background and is not merely someone who decided he or she could offer a course. The coordinator will thus have some skills which will allow him to make sure that the education is actually imparted to the students in a useful manner.

C. A degree in education plus at least two years insurance experience is an alternative to meeting the requirements of A and B. A combination of the two would meet the needs expressed in regard to A and B above.

Subpart 3. Forms. The commissioner's ability to prescribe the forms for coordinator approval is necessary to ensure that the applications contain the necessary information to determine the individuals qualifications, and that the applications are standardized to ensure timely approval.

Subpart 4. Responsibilities. Since the coordinator is responsible for the conducting of the course offering, this subpart is necessary to set standards by which the courses must be conducted. This subpart reiterates the requirement that it is the coordinator's responsibility to assure compliance with all laws and rules pertaining to insurance continuing education. To ensure that the commissioner has accurate information relating to course approval request coordinator is required to notify the commissioner of any changes in information previously submitted. Several sections of this subpart pertain to the coordinator's responsibility in regard to students and the courses. It establishes a requirement for monitoring by the coordinator that will assure that the information provided these students is current and accurate and therefore of benefit and use to them. It requires the coordinator to supervise the courses and instructors and evaluate both to assure that students are actually getting what they expect to be getting and what has been represented that they will be getting from the courses. To assure this the commissioner is allowed to request written evaluation of the courses and instructors either by the students or the coordinators themselves.

The coordinator is also the person to whom written complaints may be made regarding the course offerings and instructors. He/she is charged with the duty of forwarding the same to the department of commerce no matter what his feelings are in regard to their merit. The general intent of these responsibilities is to make the coordinator a guarantor of the quality of the courses and the instructors and to clarify that it is his responsibility is to do this rather

than to assure the profitability of the course or some other commercial end. In that regard the coordinator is charged with maintaining all the appropriate records in regard to these rules and his/her responsibilities. The mechanism for transfer of records is specified as well as making it clear that student records are available to the students. The commissioner is specifically prohibited from acting as custodian of the records to assure that he is an impartial party in regard to the activities of the coordinator and not involved in any manner with the coordinator. The responsibilities of the coordinator in addition to those already set forth require that he/she be available to the instructors and students throughout the time of the course offerings and that information be provided as to his/her name and telephone number. This guarantees accessability to any interested persons so that the coordinator may discharge his or her responbilities. It is further provided that the commissioner, as he may deem it appropriate, may require the attendance of coordinators at workshops or instructional programs. This will allow for the continuing education of the coordinators in regard to their responsibilities.

As a final requirement the coordinators are charged with providing students with the course completion certificates. These certificates must be provided within 30 days completion of the course, provided of course the coordinator may require prepayment of the tuition before getting this certificate. This provides the mechanism by which verification of the student's attendance and completion of the course is assured but does not preclude the sponsor from obtaining payment for the course.

Part 2725.0170 Instructors.

Subpart 1. General Requirement. This subpart clearly provides that loss of course approval results in the the use of instructors who have not been approved. In order to assure the quality of course content, it is necessary to require qualified instructors for all courses.

Subpart 2. Qualifications. This subpart sets forth the specific qualifications for instructors. Because of the wide range of potential course content and the need for an adequate number of qualified instructors, it is necessary to provide for different categories of qualifications. These criteria provide for education and/or experience as being suitable basic criteria, and are necessary to ensure competent instruction. Three years of recent experience in the subject area being taught are deemed to be a minimum for making sure that the information being imparted to the students is timely and applicable to them. In addition, a degree in the subject area being taught assures the value of the instruction being imparted. As an alternative to qualifications A and B, it is believed that two years of experience in the subject and 60 hours of course work are an adequate equivalency to ensure the ability of the instructor to impart worthwhile information to the students.

Subpart 3. Responsibilities. This subpart describes the responsibilities of the instructors and provides clear guidelines to them as to those responsibilities. For the most part these requirements are basic common sense requirements which will ensure competent

instruction and a good educational experience for the students. As is the case for the coordinators, instructors must comply with all laws and rules pertaining to insurance continuing education. This is a minimal and obvious requirement for anyone giving instruction. Students must be provided with current and accurate information. Once again, this is an obvious requirement intended to ensure that the course instruction is meaningful and not a sham or of little or no value to the student. To assure that an educational experience is actually occurring the instructor must maintain an atmosphere conducive to learning. Education and the imparting of knowledge is the intent of these rules and the instructors are charged with assuring that that occurs. Instructors must also provide assistance to the students and respond to questions relating to the course material. Merely expounding the material and not providing adequate explanation and interpretation detracts from the learning experience and may negate the entire process. Accordingly, to assure that the imparting of information in a useable and comprehensible form occurs the instructors must do more than merely repeat the material to the class in general. As a final requirement, the commissioner may require instructors to attend workshops or instructional programs as he deems appropriate. This allows the commissioner to assure that the instructors are knowledgeable as to their responsibilities and their obligations, as well as their areas of expertise.

Part 2725.0180 Management Responsibility of Sponsors

This part clearly sets forth the accountability of the sponsors of continuing education courses. Coordinators and instructors are generally employees of the sponsors and are subject to their direction. It is thus necessary to also make sponsors responsible for compliance with the statutes and rules governing continuing education.

Part 2725.0190 Prohibited Practices.

This part specifies conduct which is unacceptable on the part of the sponsors, coordinators and instructors.

For the commissioner to assure that quality continuing education courses are provided, it is necessary that the commissioner have accurate and truthful information available to him. Accordingly, it is a prohibited practice to misrepresent any materials submitted to the commissioner.

Because continuing education is meant to provide instruction to licensees in regard to insurance related principles and practices, not to be a recruiting or sales tool for any particular insurance agency or company the promotion of any particular insurance agency or company or their products is a prohibited practice. The principle of insurance continuing education is to educate licensees and therefore enable them to provide better services to the consumer. It is an additional burden upon the licensees which the state has determined is appropriate to meet this end. However, it is an appropriate

burden only to the extent that this particular end is carried out. Allowing sponsors, coordinators and instructors to require students to participate in other services or programs as a condition to attending a required course must be prohibited since it serves no purpose except the aggrandizement of the sponsor, coordinator and instructor.

Part 2725.0200 Notification Requirements for Coordinators and Instructors.

Because it would be unduly expensive and for the most part counterproductive to conduct an extensive independent examination as to the qualifications and background of each instructor or coordinator the approval process for instructors and coordinators is based upon disclosure to the commissioner rather than independent investigation. As circumstances that may relate to the qualifications of these parties may occur after the initial application of approval of the instructor and/or coordinator, certain ongoing requirements to notify the commissioner are required. They include the notification to the commissioner of any felony, gross misdemeanor or license disciplinary action against the instructor or coordinator. This allows the commissioner to have timely information as to the qualifications of these parties. Any of these particularly enumerated offenses may also be grounds for denying or revoking the approval of the instructor or coordinator. This allows the commissioner, where he deems it appropriate to assure the quality of the educational experience to the students, to disqualify such persons. Coordinators

and instructors are charged with advising the commissioner as to any change in the material contained in the application for approval. This is an ongoing requirement which allows the commissioner again to reevaluate his approval of these persons if their circumstances change and requires that the burden of so informing the commissioner be upon those parties.

Part 2725.0210 Licensee Reporting Requirement

This part requires that licensees report their continuing education to the Commissioner in a manner prescribed by the Commissioner. This is necessary to establish the licensee's responsibility to report his/her credits. It is necessary that the Commissioner have some flexibility in the manner in which these are reported, because of changing laws and staff and recordkeeping capabilities.

Part 2725.0220 Waivers

This part allows the Commissioner to waive actual classroom course work in the event a licensee is unable for appropriate reasons to attend courses classroom, but who want to assure that they meet the educational requirements during the period of their incapacity. Types of incapacities specified indicate the intent to apply this waiver only to severely debilitating conditions, not merely ones which inconvenience the licensee. Additionally, agents who may have ceased active involvement in the insurance business and would, for example, reside in a nursing home or similar place may have to

maintain their licenses for the purpose of obtaining their renewal commissions for business accumulated in past years. In many instances this income is the agent's "retirement and pension plan" and it would be an undue hardship for an agent with an incapacity to lose this source of income merely because of the disability. In situations similar to this and others that would merit the commissioner's waiver, alternatives to classroom work may be prescribed by the commissioner. Verification of the condition precluding attendance is provided for. This entire section allows for a viable means of carrying out the intent of the statutes and rules while still allowing for unusual circumstances pertaining to incapacity.

Part 2725.0230 Extensions.

This part allows the Commissioner to grant an extension, for up to 90 days, to those who are temporarily unable to attend classroom study. Loss of income is not a valid reason since anyone that attends a course loses income for the period of time that they are attending the course. Loss of income would entirely negate the attendance requirement. April 1st is set as the deadline for requesting a waiver so as to allow sufficient time for the licensee to act if the waiver is denied. The licensee is required to show compliance with the education requirement at the time of renewal (May 15-31) and therefore would know by May 1 of the denial of the request for waiver.

Part 2725.0240 Exemptions.

It was requested by various industry groups and others affected by these rules that an acknowledgement be made and credit given for the educational value of years of experience in the insurance industry. Also it was felt that older agents who might be winding down their practices should not have to meet the same requirements as more active agents. Accordingly, the rule of 85 was designed to meet these situations.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes § 14.115 requires that the impact of proposed rules on small businesses be considered in the development of those rules. Specifically, the statute, at subdivision 2, requires that less stringent compliance standards and reporting requirements for small businesses be considered. The statute also requires that methods designed to reduce the impact of the rules on small businesses be incorporated into the rules if they are feasible and consistent with the statutory objectives associated with the rules.

Despite the lack of comments, the Department considered whether the provisions of the rule might be modified to accomodate the interests of small businesses.

Each of the methods described at Minnesota Statutes § 14.115, subdivision 2 (a) - (e) was considered in proposing the rule. The provisions contained in the proposed rule are believed to be necessary to achieve the legislative purposes.

It was determined that in all likelihood everyone affected by these rules would be a small business; therefore, the impact on small businesses was a part of the entire rulemaking process.

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Insurance Prelicense Education

STATEMENT OF NEED AND REASONABLENESS

The authority for the adoption of these rules is found in Minnesota Statute § 60A.17 and Minnesota Statute § 45.023.

Prior to 1985 the method of meeting the educational requirements for licensing of insurance agents in Minnesota can best be termed as relatively loose. In many respects it was an honor system with little policing and little in the way of specific requirements. As a result of an investigation by the Department and complaints to the Department it was determined that in many cases no education was occurring and the honor system was not working. Accordingly during the 1985 Legislative Session Minnesota Statute § 60A.17 subdivision 1 (a) was amended to provide for classroom studies and specific hours and topics to be covered.

As a result of that change it was necessary to adopt rules to set the requirements for this type of education.

A little over a year ago Continuing Education Rules had been promulgated and adopted. Those rules were hotly contested during the hearings on the rules and there was considerable input as a result of the hearing process that became part of the final rules. Because many aspects of insurance education that are dealt with in the rules are generic in nature and there is little distinction if the education is prelicense education or continuing education, it was deemed appropriate to not have two separate standards for how the educational process was going to be handled. Accordingly rather than promulgating an entire new set of rules for prelicense education the continuing education rules were reviewed and it was determined that it would be better for all concerned to amend them to include prelicensing education. This would mean that those persons dealing with both prelicense and continuing education would not have to determine which of two different standards they would have to meet. There would simply be one standard to meet and one procedure to follow.

Accordingly the bulk of the amendments found in these rules are for the purpose of changing the continuing education rules to a broader insurance education scope which would include both prelicensing and continuing education. If in certain instances there is a necessity for distinction between the two the rules are amended to explain what the distinctions

are and what the standards to be met for each type of education. As the foregoing is the justification for many of the changes in the rules it will not be separated at length in regard to each change but should be inferred from this discussion.

The Statement of Need and Reasonableness for the original Continuing Education Rules is attached and incorporated by reference to explain the need and reasonableness of the original rules, which is now applicable to prelicense education.

Part 2725.0100 Definitions.

Subpart 1 (a) Applicant.

The definition of applicant was included because the term is used extensively in the rules. Although such a definition may not be absolutely necessary it has proved useful in other education rules and other rules of the Department. Accordingly it was included.

Subpart 2. Coordinator.

The change in regard to coordinator merely makes clear that the definition now applies to all insurance education and not merely continuing insurance education.

Subpart 4. Instructor.

The change in regard to instructor merely makes clear that the definition now applies to all insurance education not merely continuing insurance education.

Subpart 8. Sponsor.

Because a sponsor for prelicense education is in effect a vocational school the previous definition for continuing education, which merely meant a sponsor was the person offering the education, had to be amended to provide that the Department of Education's requirements for private vocational schools had to be met. A new standard was not created for insurance because there is already an extensive and tested set of requirements of the Department of Education.

Part 2725.0100 General Requirements.

Subpart 1. Courses approved.

Subpart 1 was amended to make it clear that since these are now rules for all insurance this subpart continues to apply only to continuing education.

Subpart 1 (a). Curriculum for prelicense education.

Subpart 1 (a) was added to provide the curriculum for prelicense education. Because of the abuses in the past that lead to the statutory change the specifics of the information to be provided to the enrollees of prelicense education are set by this subpart. The requirements set forth carry out the statutory intent to make sure that the license applicants at least have the basic fundamentals of insurance presented to them

as well as any particular Minnesota insurance law and rules. This is basically a fundamentals course outline which if complied with assures that the license applicant will have a basic understanding of insurance in the particular lines that they are asking to be licensed for.

Subpart 2. Nonapproved courses.

Subpart 2 has been amended to make it clear that this continues to apply only to continuing education and is not also applicable to prelicense.

Subpart 3. Automatic approval.

Subpart 3 was amended to show that although the rules generally apply to all insurance education this subpart continues to apply only to continuing education.

Subpart 4. Credit hours.

The amendements make it clear that the previous language contained in this subpart continues to apply only to continuing education. Additional language is included in this subpart to clarify the difference between the credit received for continuing education and that from prelicense education. Because prelicense education is a prerequisite for licensing the entire course must be attended to satisfy that prerequisite. On the other hand continuing education is not a prerequisite but is merely a requirement that you accumulate the specified number of credits within the requisite period of time. Accordingly variances in how those hours are accumulated is allowed. For example proportional credit for partial attendance is allowed as to continuing education.

Also in this part some clarifications as to language in regard to the fact that the number of hours that can be approved for credit are only those spent on educational activities. The sentence as it now stands is clearer than the previous one which specified certain items that couldn't be approved. The positive statement is much clearer than the previous negative. This is not a substantive change.

The number of credit hours that an instructor for a continuing education course can receive for their own continuing education requirements has been increased from one and one-half to three hours to reflect the preparation time it takes for preparing the materials and other requirements of the course. At one and one-half credits it meant that the instructor was only getting a half an hour credit for preparation time since they were taking an hour to actually deliver the instruction.

The correction in the final paragraph in this subpart merely makes it clear that this paragraph continues to apply only to continuing education and is not expanded to include prelicense education.

Subpart 5. Examinations.

This subpart was amended to be applicable to all insurance education courses not merely continuing education. Course examinations are not required by statute or any other rule and was not required in regard to continuing education before. As to prelicense education a course examination is not required since the ultimate test of the students success in the course is the licensing test.

Subpart 6. Textbooks.

This was a general instruction as to the requirements of textbooks previously limited to continuing education which has now been expanded to all insurance education courses. There is no justification for treating prelicense education any different than continuing education courses and as indicated before a single standard is the easiest for all to follow.

Subpart 8. Approval for continuing education courses not submitted for approval.

This subpart is amended only for the purpose of showing that it still applies only to continuing education courses and was not expanded to also include prelicense education.

Subpart 9. Advertising.

Because this requirement as to the statement to be found in advertising must also now apply to prelicense education an amendment was made so that there are two possible statements to be made in regard to a course; either that it has been approved for prelicense credit or for continuing education credit as the case may be.

Subpart 11. Continuing education courses must be open.

Subpart 11 was a hotly contested part of the original continuing education rules and accordingly clarification is made here that open enrollment in continuing education courses still continues to apply.

Access to prelicense courses is specified as being capable of being restricted because in many cases the prelicense courses are being offered by the employer of the applicant. The employer wishes only to offer the courses to their employees and does not want to be in the general business of offering prelicense education to everyone. This is a traditional way of offering prelicense education and with the safeguards that the rules provide will work adequately to assure compliance with the intent of the statutory changes.

Subpart 14. National examinations.

Subpart 14 was amended to make it clear that it continues to apply only to continuing education requirements.

Subpart 15. Correspondence courses.

This section was also amended to make it clear that it continues to apply only to continuing education.

Part 2725.0120 Falsification of Reports.

This part was amended to make it applicable to both continuing education and insurance education. Since falsification of a report is equally onerous whether it deals with continuing education or prelicense education there was no need for distinction between continuing education and prelicense education. As an applicant under the prelicense education would not have a license to be revoked or suspended the phrase referring to denial of the applicant's license was added to allow the Commissioner to preclude that person from licensing if they falsify the report.

Part 2725.0130 Commissioners Right to Audit.

The only change in this section is merely grammatical to make a cumbersome sentence clear.

Part 2725.0140. General Powers of Commissioner.

This part was amended to be equally applicable to insurance prelicense and continuing education courses. It is a general statement of the Commissioners powers and there is no justification for differing standards for prelicense and continuing education.

Part 2725.0150 Mandatory Notice to Students.

Originally continuing education course offerings were required to notify the students as to the number of credits that the course was approved for by the Department. This was felt to be necessary so that the students were under no misapprehension as to the credits that they were earning for attending the course. The same is equally true for prelicense education and the only change in this is grammatical to make it clear that there is a similar requirement for prelicense education.

Part 2725.0160 Course Coordinator.

Since the function of course coordinators is similar in both prelicensing and continuing education the requirements for course coordinator were merely amended to make it clear that they apply to both equally.

Part 2725.0170 Instructors.

In certain instances there is a distinction between instructors in continuing education and those in prelicense education. Accordingly the prior requirements for instructors in continuing education were amended to add the words continuing education to make it clear that they continue to apply only to continuing education. Also in subpart 1 item (b) a typographical error was corrected and the word cause was removed and the word course was substituted.

Subpart 1a. General requirement; prelicensing education.

Subpart 1a was added as to the general requirements for instructors for prelicense education. They are as similar as possible to Subpart 1 except that because of the nature of the requirements that a prelicense education course must be completed in its entirety instead of the possibility of there being fewer credits earned than originally expected as is the case in continuing education the student runs the risk of earning no credit if the requirements are not met. In all other respects the requirements are virtually identical to the continuing education requirements and the justifications for the continuing education requirements.

Subpart 3. Responsibilities.

Once again the only change is to make it clear that the requirements are equally applicable to continuing education and prelicense education.

Part 2725.0180 Management Responsibility of Sponsors.

The change in this particular situation is to make the management responsibility of the sponsors equally applicable to insurance continuing education and insurance prelicensing education.

Part 2725.0210 Reporting Requirements.

The changes here make the previous licensee reporting requirements now applicable to all insurance education. A part (b) was added to deal with the problem of people being subject to meeting the full continuing education requirements but being licensed for a very short time prior to their compliance date. In some instances it theoretically was possible for a licensee to be licensed for less than a month and still have to complete a full year's continuing education requirements. That was improper and a very extreme burden upon such a person. This makes clear that the requirement for continuing education does not begin until the first full year after licensing.

Part 2725.0230 Continuing Education Extensions.

This part was amended only to show that the requirements still continue to be applicable only to continuing education.

Part 2725.0240 Continuing Education Exemptions.

This part was amended only to once again make it clear that this only applies to continuing education.

Small Business Consideration

The impact of the changes in the rules is mainly applicable to individual licensees of the Department not to anyone who would be anything other than a small business by

definition of Minnesota Statutes Section 14.115. However some of the people offering courses might possibly be other than small businesses but that possibility was not contemplated in the promulgation of these rules. Accordingly since it was contemplated that small businesses would be who was affected by the rules these rules were drafted with the expectation that they would apply to small business. Therefore small businesses were always considered at every step of the process. Accordingly no differing standards for small businesses are appropriate or contemplated since the rules are intended to apply to people and entities that are inherently small business.

To comply with Minnesota Statutes Section 14.115 the Department did consider all the criteria set forth in subdivision 2 of that statute.

Item (a) of subdivision 2 requires the consideration of less stringent compliance or reporting requirements for small businesses. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (b) requires the consideration of the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (c) requires the consideration of the consolidation or simplification of compliance or reporting requirements for small business. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (d) requires consideration of the establishment of performance standards for small businesses to replace design or operational standards required in the rule. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

Item (e) requires the consideration of the exemption of small businesses from any and all requirements of the rule. As noted above, these rules are presumed to apply to persons or entities that are small businesses. This item is therefore not applicable to these rules.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Governing Continuing Education for Insurance Licensees

STATEMENT OF NEED AND REASONABLENESS OF PROPOSED RULES

STATEMENT OF AUTHORITY

Minnesota Statutes § 60A.1701, subd. 6(c), requires that the Commissioner of Commerce adopt rules to carry out the purposes of Minnesota Statutes § 60A.1701. These rules are proposed pursuant to that mandate. The purpose of the rules is to provide direction to those offering courses and to licensees in the area of continuing education, and to provide a basis upon which the Commissioner can approve those offering courses, courses and instructors for continuing education for insurance licensees.

Minnesota Statutes § 60A.1701, subds. 4 and 5 provide that the Commissioner may appoint a task force consisting of industry and consumer members. This task force was charged by the legislature to make recommendations to the Commissioner on "rules which may be promulgated by the Commissioner." The thirteen members met repeatedly and considered input from all sectors. These proposed rules are the result of recommendations by the task force.

FACTS ESTABLISHING NEED AND REASONABLENESS

As more specifically stated below, the proposed rules are necessary to set guidelines which will result in quality and meaningful educational programs being available for insurance licensees.

Policy, rate, and enforcement regulation in Minnesota has produced a long series of needs for legislative and regulatory responses. As the law, rules, and market conditions have changed, agents have been responsible for legally meeting their responsibilities. Consumer complaint frequency, dynamic change in the insurance markets, and legislative response have contributed to the agent's professional need for regular education to keep abreast of changes in the marketplace and in laws and regulation. Up-to-date knowledge will result in better service to the consumers and decrease the chances of inappropriate products being sold to them.

Part 2725.0100 Definitions.

Part 2725.0100 defines terms as they relate to insurance continuing education, and helps clarify their usage in the body of the rules.

Subpart 2. Coordinator. This subpart indicates that the coordinator is the person responsible for monitoring continuing education courses as opposed to a teacher, instructor and other persons who might potentially be responsible in the process.

Subpart 3. Correspondence Course. This subpart requires that for purposes of these rules to be deemed a correspondence course the provider of said courses must have been in existence for at least five years or that the courses have been approved by the National Home Study Council. This is a narrower definition than the general idea of what a correspondence course is. It is necessary to prevent credit being given for courses which do not provide meaningful course content. Experience and/or approval by the nationally recognized National Home Study Council is indicative of the fact that the offeror provides meaningful course content, as well as certification of completion.

Subpart 4. Instructor. This subpart is an expansive definition meant to include everyone that lectures in a continuing education offering thereby requiring all such persons to comply with the rules and removing any question as to when someone appearing before students in such courses is a lecturer or not.

Subpart 5. Licensee. This subpart in effect adopts the definition of Minn. Stat. § 60A.1701, subd. 2, as to those parties that are subject to insurance continuing education. The department licenses others to sell insurance who are not subject to licensing examinations so it is important to limit the definition from the generally understood concept of licensee to only those that are subject to licensing examinations.

Subpart 6. National Examinations. It was the belief of the task force preparing the rules that certain national examinations are subject to sufficient criteria and review and/or have been in existence for a sufficient period of time so as to not require re-

evaluation and qualification under these rules. It was felt that this would be an unnecessary and wasteful requirement which would serve no practical benefit to anyone. Accordingly, certain national examinations or courses taken in regard to them which clearly met the requirements of the rules the law and were deemed to be appropriate for exemption by a consensus of the industry are listed here in the definition of national examinations. It should be noted that this is a closed list and that new courses or examinations can only be added by amending the rules. That would only be done in the instance in which new courses or examinations would be able to obtain the kind of support and acceptance that the enumerated ones already have.

Subpart 7. Person. Person is defined as including a natural person, firm, institution, partnership, corporation or association thereby adopting the definition of person that is incorporated in the definition of insurance agent at Minn. Stat. § 60A.02, Subd. 7, with the addition of firm, institution, or association to that definition to more fully clarify all the types of entities that might come within the scope of these rules.

Subpart 8. Sponsor. Sponsor is defined as any "person" (as defined by Subpart 7) offering or providing insurance education of any type. This is also extremely expansive definition so as to remove any doubt that anyone offering any type of insurance education comes within the scope of the rules.

Part 2725.0110 General Requirements.

Subpart 1. Courses Approved for Credit. Minn. Stat. § 60A.1701 sets forth the criteria restricting course approval to only those courses that impart substantive and procedural knowledge relating to the insurance field. This subpart is a restatement of the principles set forth in that statute. That criteria is reiterated for the purpose of clarifying the courses to be approved as opposed to those set forth in subpart 2 which will not be approved for credit.

Subpart 2. Nonapproved Courses. Subpart 2 sets forth the courses specifically not approved and enumerates those that are absolutely not acceptable.

Subpart 2, item A. As set forth by Minn. Stat. § 60A.1701, subd. 7, subpart (b)(1), the commissioner may not approve a course that prepares students for licensing examination. Accordingly, A, a course which is approved for prelicense training, would fall within that criteria.

Subpart 2, item B. These courses are specifically encompassed in the statutory prohibition of Minn. Stat. § 60A.1701, subd. 7(b)(1).

Subpart 2, item C. These courses are specifically prohibited by Minn. Stat. § 60A.1701, subd. 7(b)(2).

Subpart 2, item D. These courses are specifically prohibited by § 60A.1701, subd. 7(b)(3).

Subpart 2, item E. These courses are specifically prohibited by § 60A.1701, subd. 7(b)(4).

Subpart 2, item F. These courses are of the same general type as those prohibited by Minn. Stat. 60A.1701, subd. 7(b)(2), (3), and (4) in that they don't relate to educating the insurance agent in regard to the insurance business but rather pertaining to business in general.

Subpart 2, item G. As it is not the intent of the insurance education rules to assist in the promotion of any insurance companies' individual products, and so as not to allow the insurance education program to become a subterfuge for a marketing program by insurance companies, courses which relate to specific products of a company are denied accreditation. Courses should be of benefit to any agent whether or not they happen to be licensed with a particular company or not. Courses relating to specific company products do not aid the consumer by educating the agent in general insurance principles. An agent educated as to a product does not understand how his/her client's needs may be satisfied by other products or variations of his/her product and may attempt to sell the specific product rather than a more suitable program. While an agent certainly must understand the product he or she is selling and it is in their interest to do so it doesn't further the public protection intent of continuing education for that agent as to the insurance business.

Subpart 3. Automatic Approval. This subpart clarifies that the directive contained in Minn. Stat. § 60A.1701, subd. 7, that the commissioner shall approve any other educational course approved by Minnesota Continuing Legal Education relating to the insurance field is an automatic approval for continuing legal education and in

addition provides for automatic approval for insurance related courses approved by the department of commerce for real estate education or insurance related courses approved by other regulatory offices within the State of Minnesota. The purpose of this subpart is to not subject the same courses to multiple approval requirements and the accompanying additional expense and time expenditure. Courses that have been approved and are germane to the subject of insurance need not be reapproved by the department of commerce for insurance purposes. Additionally, the commissioner may also grant automatic approval for courses approved by the insurance regulatory agency of a sister state provided, of course, that the courses do not conflict with these rules.

This is similar to what is already found in the continuing education requirements for lawyers and other practitioners and allows the licensees to have a broader range of courses available to them. This is especially critical for those licensees that may have a rather narrow or unique field. Because of the limited number of people that deal in that particular area it may not be financially prudent for someone to offer a course only in Minnesota for that type of licensee. Accordingly, he or she may have to seek courses on a national level which would be of benefit to them. Otherwise, that licensee may have to adopt the sham of taking courses that are of no benefit to them for the purpose of complying with the continuing education rules.

Subpart 4. Credit Hours. This subpart clarifies that a course must be attended in its entirety in order for credit to be received. This portion is designed to prevent an agent from attending only an

hour or so of a longer course, if he or she needs only that amount of time to fulfill their requirement. By attending only a portion of a course a person does not learn the material a course is intended to impart. Instructors build on material throughout a course and a person does not obtain benefit by attending only a portion of the course.

In the case of courses which are approved by another entity, for example, legal education, only a portion of a full day's program (8 hours) may be of value to an insurance licensee. Yet the entire course would have to be attended to extract that portion that is of benefit to the licensee. In addition, courses may be approved that have tax and other ramifications pertaining to other areas not pertinent to insurance continuing education even if they are titled or intended for insurance licensees. There is no direct correlation required between the number of hours attended and the number of hours of credit given. Credit hours given relate to benefit to the licensee in regard to insurance continuing education and do not represent an acknowledgement of time attended alone. In that respect, hours in attendance which are spent on other activities, such as meals and the like, do not accrue to the benefit of the licensee. The latter part of this section reiterates the statutory requirement that an approved instructor earns 1-1/2 hours in continuing education credit for each hour of instruction. This acknowledges that preparation time is necessary for lecturing at such courses.

Courses may be approved for a smaller number of hours than the length of the course. This allows the approval of a course even if some of the course may not comply with the rules. In these situations an agent must attend the entire course because content which is approvable may be interspersed throughout the entire course.

To preclude someone from either teaching or attending the same course year after year and thus not being exposed to any new information a prohibition has been placed in the rules that credit cannot be received for attending a same course for three years after attending or teaching the course. Since credits can be carried over for 3 years, this will prevent an agent from repeating the same material in a cycle. This is intended to encourage exposure to different material.

Subpart 5. Examinations. This subpart clarifies that course examinations are not required for continuing education courses but also that they are not prohibited.

Subpart 6. Textbooks. This subpart clarifies that textbooks are not mandatory for continuing education courses but that if textbooks are not used certain criteria are set forth to assure that the students obtain the maximum benefit from the course. As a minimum requirement certain information including the course title, times and dates of the course offering, names and addresses or telephone numbers of the course coordinator and instructor, and an outline of the subject matter to be covered is required. The textbook or syllabus must be available for each individual student's use during the course. This precludes sharing of materials and other inconven-

iences that might reduce the educational value of the course. Also, any material dispersed must be useable, accurate and current as to the material being taught.

Subpart 7. Approval of Course Offerings. This section requires that the sponsors must submit their materials at least 30 days prior to the date on which the course is being taught. This allows the commissioner sufficient time to review the course, the sponsors and the instructors and advise the sponsors as to any particular problems the commissioner may have in sufficient time so that they might be corrected before the course is offered. This, of course, is the minimum amount of time that the course should be submitted to the commissioner prior to the offering date. The sponsor is not required to wait until only 30 days before the offer date of the course. Additional material pertaining to the approval of the instructor must also accompany that application. The commissioner is charged by this rule to prescribe the form for the applications to ensure uniformity in the application materials and for ease of processing.

Subpart 8. Approval of Courses not Submitted for Approval. In certain instances, licensees may attend courses sponsored by parties that have not sought the approval of the commissioner. If a licensee believes that they are entitled to credit for said courses, this subpart provides the mechanism by which they, on their own, may submit the request for such approval. Once again, the commissioner will prescribe the forms for requesting such approval for expediency reasons.

Subpart 9. Advertising. This subpart provides the guidelines for the advertising of approved courses and is intended to provide a disclosure to potential students regarding approval and the credit to be given. Prospective students should know whether the course is approved and for how many hours. Brochures and other materials are often printed far in advance of the date of the course and prior to when the courses may be submitted to the commissioner for approval. This subpart provides a mechanism by which a sponsor may advertise prior to approval being received if they use the term "approval pending" in their advertisement and if in fact the course has been submitted to the commissioner for approval. The term "approval pending" puts the agent on notice that he or she should check the status of the course prior to attending it. This subpart also requires that advertising must contain a statement that this course has been approved by the commissioner of commerce for insurance continuing education credit in any pamphlet, advertisement or circular as well as setting forth the hours for which the course has been approved for credit. This information allows the licensee who may wish to attend the course to be fully cognizant of the number of credit hours for which the course has been approved and more importantly that in fact the course has been approved for credit. The licensee thus does not attend a course or pay for a course for which they are going to receive less credit than they believes they will get or will receive no credit at all. There is also a general requirement in this rule that advertising must be truthful clear and not deceptive or misleading. Licensees are spending a substantial amount of their funds on such courses and must attend the same to

ensure their continued licensure. Accordingly, they must be able to rely on the veracity of the advertisements upon which they base their course attendance.

Subpart 10. Approval of Subsequent Offering. This particular subpart is an additional attempt to cut down on unnecessary and duplicative course approval. If in the past the commissioner has approved a course, subsequent offerings of identical courses can be made without going through the entire approval process again provided that the notice of subsequent offering is filed with the commissioner 30 days prior to the date of the course. The notice requirement is appropriate in that it allows the commissioner to be aware of the times and dates of courses being offered. He is therefore able to respond to agents' questions or, if appropriate, to audit a course to determine whether or not the course is as represented and as to subsequent courses, that the course is in fact identical to the original course approved.

Subpart 11. Courses Must Be Open. This subpart prevents special considerations and conflicts of interest. It also means that courses offered by any entity, such as one particular insurance company, are therefore available to all agents, including those not licensed to that particular insurance company. This increases the availability of courses to licensees.

Subpart 12. Fees. This subpart follows the general premise of these rules that all information be clear and understandable to the licensees. In addition, fees are required to be reasonable in regard to the courses offered. Discounts are allowed, but once again they must be reasonable. The basis of the discounts are not set forth in

the rule to allow for a wide variety of basis for such discounts. Because the refund process leads to many complaints in regard to how promptly the fees for cancellation of a course are returned this rule specifies that under all circumstances fees must be returned no later than 30 days after cancellation. In the case of postponement, the choice of attending the rescheduled course or having the tuition refunded must be provided. Once again, that refund must be made within 30 days of the postponement. Both the course cancellation mechanism and the postponement mechanism protect the rights of the licensees and preclude sponsors and others offering courses from holding onto the fees and the students for an undue length of time. This subpart also requires that a sponsor must have a refund policy regarding the student's cancellation or failure to complete a course and that that policy be clear to potential students. The intent being to cut down any possible misunderstandings and problems by fully disclosing in advance what the student's rights and expectations are.

Subpart 13. Adequate Facility Be Used. This subpart states what should probably not have to be stated but is stated so as to remove any possible doubt -- namely that the classroom or other place where the course is offered must be adequate so that it is conducive to learning. Once again, it is the intent of the rules to assure that education in fact takes place in regard to these courses and that the sponsor does not sacrifice that principle by attempting to reduce its cost.

Subpart 14. National Examinations. The national examinations set forth in the definitions are determined to have sufficient worth to insurance licensees so as to not require their application for approval by the commissioner. Accordingly, no credit hours would be specifically assigned to these courses through the approval process. Accordingly, based upon the knowledge of these courses it has been determined that 20 hours would be appropriate for their completion. It is recognized that there may be more hours involved in these courses than 20 hours but that for the purposes set forth in regard to insurance continuing education 20 hours would be appropriate credit towards those goals. Additionally, so as not to allow duplication, credit cannot be received for both attending courses leading to the national examination and passing the national examination itself. This acknowledges that preparing for the examination and actually taking it and passing it involves reviewing and learning the same materials. It does not result in any new information being obtained by the licensee.

Subpart 15. Company Sponsored Programs. This subpart recognizes that many companies offer substantive educational courses. In order that agents receive a more broad exposure to insurance principles, they should not be allowed to receive all of their credits from such a narrow perspective. Since a company's primary interest is the maximum production from their agents, this subpart is designed to help prevent agents from being compelled to attend their companies courses, but rather to allow them some freedom in choosing educational opportunities they feel are of benefit to them.

The Department feels that as a matter of prudence it is unwise to create a situation where companies, that have a vested interest in the continued licensure of their agents, to be able to certify that they have satisfied their educational requirements. Too great a potential conflict of interest would be created between the companies role as educator, responsible to the public of ensuring the competency of their agents, and some companies purely financial self-interest in maintaining the largest possible sales force. Allowing the companies to certify as to half the educational requirements would reduce the danger of the conflict while still allowing the companies to be part of the educational process.

Subpart 16. Correspondence Courses. This subpart allows credit to be received through the completion of correspondence courses. Because monitoring the actual completion of these courses is difficult, standards for approval of correspondence courses were set forth in 2725.0100, subpart 3. In many instances, correspondence courses are necessary to provide information that may not be available in courses offered within the state of Minnesota. Because of the possibilities of abuse in correspondence courses and the difficulty in monitoring their use no more than 1/2 of an agent's requirements may be satisfied in this manner. In addition, anyone offering correspondence courses must, as in the case of others offering insurance continuing education courses, clearly set forth the hours for which the course has been approved by the commissioner.

Part 2725.0120 Falsification of Reports

This part provides that falsification of continuing education report to the commissioner is of such magnitude and reflects upon the honesty and worthiness of the agent so that the act of falsifying such a report shall be deemed to be a violation of the insurance licensing laws and will subject the agent to suspension or revocation of his or her license. The reporting system is basically an honor system which relies upon the truthfulness and honesty of the licensees as an alternative to a more rigid, cumbersome and expensive system. Additionally, the character of anyone who falsifies such a report would be so questionable the their performance of their duties as a licensee to their clients and others would be suspect.

Part 2725.0130 Commissioner's Right to Audit

This part allows the Commissioner to audit courses. It is necessary so that the Commissioner may determine compliance with these rules. On occasion the Commissioner may wish to determine compliance without notice so a more accurate picture may be seen. The possibility of an audit, unannounced or otherwise, is a regulatory device which places any sponsor or other person offering a course or an instructor at risk in not complying with the statutes, rules and the disclosures made in the course application.

Part 2725.0140 General Powers of Commissioner

In order to provide quality and meaningful educational offerings and to prevent abuses, it is necessary to allow the commissioner to take disciplinary action against those who have demonstrated failure to comply with these requirements. This subpart provides the various means by which the commissioner may proceed against such persons and the actions he may take up to and including the permanent barring of sponsors who have shown a pattern of noncompliance in the past.

Part 2725.0150 Mandatory Notice to Students

As an additional means for assuring that each student knows the number of credit hours for which a course he is attending has been approved, a notice is required to be made at the beginning of each course stating the number of hours for which the course has been approved. It also clarifies that the students have the right to make comments about the course offerings to the commissioner of commerce and gives the address of the commissioner.

Part 2725.0160 Course Coordinator

Subpart 1. General Requirement. This subpart mandates that each course have one coordinator who is responsible for assuring compliance with the laws relating to continuing education. This person is the one accountable in all respects regarding the course

and its compliance with the applicable statutes and rules. This subpart allows for assistants to be hired but does not remove the ultimate responsibility from the coordinator.

Subpart 2. Qualifications. The qualifications of the course coordinators are enumerated as follows:

A. Minimum of five years as an active licensed insurance agent. This assures that the coordinator has a working knowledge of the practical aspects of what the licensees are facing and accordingly can better relate the course materials to their concerns than someone who has no knowledge of what the licensees are.

B. At least three years full time experience in the administration of an education program. This assures that a coordinator has a practical education background and is not merely someone who decided he or she could offer a course. The coordinator will thus have some skills which will allow him to make sure that the education is actually imparted to the students in a useful manner.

C. A degree in education plus at least two years insurance experience is an alternative to meeting the requirements of A and B. A combination of the two would meet the needs expressed in regard to A and B above.

Subpart 3. Forms. The commissioner's ability to prescribe the forms for coordinator approval is necessary to ensure that the applications contain the necessary information to determine the individuals qualifications, and that the applications are standardized to ensure timely approval.

Subpart 4. Responsibilities. Since the coordinator is responsible for the conducting of the course offering, this subpart is necessary to set standards by which the courses must be conducted. This subpart reiterates the requirement that it is the coordinator's responsibility to assure compliance with all laws and rules pertaining to insurance continuing education. To ensure that the commissioner has accurate information relating to course approval request coordinator is required to notify the commissioner of any changes in information previously submitted. Several sections of this subpart pertain to the coordinator's responsibility in regard to students and the courses. It establishes a requirement for monitoring by the coordinator that will assure that the information provided these students is current and accurate and therefore of benefit and use to them. It requires the coordinator to supervise the courses and instructors and evaluate both to assure that students are actually getting what they expect to be getting and what has been represented that they will be getting from the courses. To assure this the commissioner is allowed to request written evaluation of the courses and instructors either by the students or the coordinators themselves.

The coordinator is also the person to whom written complaints may be made regarding the course offerings and instructors. He/she is charged with the duty of forwarding the same to the department of commerce no matter what his feelings are in regard to their merit. The general intent of these responsibilities is to make the coordinator a guarantor of the quality of the courses and the instructors and to clarify that it is his responsibility is to do this rather

than to assure the profitability of the course or some other commercial end. In that regard the coordinator is charged with maintaining all the appropriate records in regard to these rules and his/her responsibilities. The mechanism for transfer of records is specified as well as making it clear that student records are available to the students. The commissioner is specifically prohibited from acting as custodian of the records to assure that he is an impartial party in regard to the activities of the coordinator and not involved in any manner with the coordinator. The responsibilities of the coordinator in addition to those already set forth require that he/she be available to the instructors and students throughout the time of the course offerings and that information be provided as to his/her name and telephone number. This guarantees accessability to any interested persons so that the coordinator may discharge his or her responbilities. It is further provided that the commissioner, as he may deem it appropriate, may require the attendance of coordinators at workshops or instructional programs. This will allow for the continuing education of the coordinators in regard to their responsibilities.

As a final requirement the coordinators are charged with providing students with the course completion certificates. These certificates must be provided within 30 days completion of the course, provided of course the coordinator may require prepayment of the tuition before getting this certificate. This provides the mechanism by which verification of the student's attendance and completion of the course is assured but does not preclude the sponsor from obtaining payment for the course.

Part 2725.0170 Instructors.

Subpart 1. General Requirement. This subpart clearly provides that loss of course approval results in the the use of instructors who have not been approved. In order to assure the quality of course content, it is necessary to require qualified instructors for all courses.

Subpart 2. Qualifications. This subpart sets forth the specific qualifications for instructors. Because of the wide range of potential course content and the need for an adequate number of qualified instructors, it is necessary to provide for different categories of qualifications. These criteria provide for education and/or experience as being suitable basic criteria, and are necessary to ensure competent instruction. Three years of recent experience in the subject area being taught are deemed to be a minimum for making sure that the information being imparted to the students is timely and applicable to them. In addition, a degree in the subject area being taught assures the value of the instruction being imparted. As an alternative to qualifications A and B, it is believed that two years of experience in the subject and 60 hours of course work are an adequate equivalency to ensure the ability of the instructor to impart worthwhile information to the students.

Subpart 3. Responsibilities. This subpart describes the responsibilities of the instructors and provides clear guidelines to them as to those responsibilities. For the most part these requirements are basic common sense requirements which will ensure competent

instruction and a good educational experience for the students. As is the case for the coordinators, instructors must comply with all laws and rules pertaining to insurance continuing education. This is a minimal and obvious requirement for anyone giving instruction. Students must be provided with current and accurate information. Once again, this is an obvious requirement intended to ensure that the course instruction is meaningful and not a sham or of little or no value to the student. To assure that an educational experience is actually occurring the instructor must maintain an atmosphere conducive to learning. Education and the imparting of knowledge is the intent of these rules and the instructors are charged with assuring that that occurs. Instructors must also provide assistance to the students and respond to questions relating to the course material. Merely expounding the material and not providing adequate explanation and interpretation detracts from the learning experience and may negate the entire process. Accordingly, to assure that the imparting of information in a useable and comprehensible form occurs the instructors must do more than merely repeat the material to the class in general. As a final requirement, the commissioner may require instructors to attend workshops or instructional programs as he deems appropriate. This allows the commissioner to assure that the instructors are knowledgeable as to their responsibilities and their obligations, as well as their areas of expertise.

Part 2725.0180 Management Responsibility of Sponsors

This part clearly sets forth the accountability of the sponsors of continuing education courses. Coordinators and instructors are generally employees of the sponsors and are subject to their direction. It is thus necessary to also make sponsors responsible for compliance with the statutes and rules governing continuing education.

Part 2725.0190 Prohibited Practices.

This part specifies conduct which is unacceptable on the part of the sponsors, coordinators and instructors.

For the commissioner to assure that quality continuing education courses are provided, it is necessary that the commissioner have accurate and truthful information available to him. Accordingly, it is a prohibited practice to misrepresent any materials submitted to the commissioner.

Because continuing education is meant to provide instruction to licensees in regard to insurance related principles and practices, not to be a recruiting or sales tool for any particular insurance agency or company the promotion of any particular insurance agency or company or their products is a prohibited practice. The principle of insurance continuing education is to educate licensees and therefore enable them to provide better services to the consumer. It is an additional burden upon the licensees which the state has determined is appropriate to meet this end. However, it is an appropriate

burden only to the extent that this particular end is carried out. Allowing sponsors, coordinators and instructors to require students to participate in other services or programs as a condition to attending a required course must be prohibited since it serves no purpose except the aggrandizement of the sponsor, coordinator and instructor.

Part 2725.0200 Notification Requirements for Coordinators and Instructors.

Because it would be unduly expensive and for the most part counterproductive to conduct an extensive independent examination as to the qualifications and background of each instructor or coordinator the approval process for instructors and coordinators is based upon disclosure to the commissioner rather than independent investigation. As circumstances that may relate to the qualifications of these parties may occur after the initial application of approval of the instructor and/or coordinator, certain ongoing requirements to notify the commissioner are required. They include the notification to the commissioner of any felony, gross misdemeanor or license disciplinary action against the instructor or coordinator. This allows the commissioner to have timely information as to the qualifications of these parties. Any of these particularly enumerated offenses may also be grounds for denying or revoking the approval of the instructor or coordinator. This allows the commissioner, where he deems it appropriate to assure the quality of the educational experience to the students, to disqualify such persons. Coordinators

and instructors are charged with advising the commissioner as to any change in the material contained in the application for approval. This is an ongoing requirement which allows the commissioner again to reevaluate his approval of these persons if their circumstances change and requires that the burden of so informing the commissioner be upon those parties.

Part 2725.0210 Licensee Reporting Requirement

This part requires that licensees report their continuing education to the Commissioner in a manner prescribed by the Commissioner. This is necessary to establish the licensee's responsibility to report his/her credits. It is necessary that the Commissioner have some flexibility in the manner in which these are reported, because of changing laws and staff and recordkeeping capabilities.

Part 2725.0220 Waivers

This part allows the Commissioner to waive actual classroom course work in the event a licensee is unable for appropriate reasons to attend courses classroom, but who want to assure that they meet the educational requirements during the period of their incapacity. Types of incapacities specified indicate the intent to apply this waiver only to severely debilitating conditions, not merely ones which inconvenience the licensee. Additionally, agents who may have ceased active involvement in the insurance business and would, for example, reside in a nursing home or similar place may have to

maintain their licenses for the purpose of obtaining their renewal commissions for business accumulated in past years. In many instances this income is the agent's "retirement and pension plan" and it would be an undue hardship for an agent with an incapacity to lose this source of income merely because of the disability. In situations similar to this and others that would merit the commissioner's waiver, alternatives to classroom work may be prescribed by the commissioner. Verification of the condition precluding attendance is provided for. This entire section allows for a viable means of carrying out the intent of the statutes and rules while still allowing for unusual circumstances pertaining to incapacity.

Part 2725.0230 Extensions.

This part allows the Commissioner to grant an extension, for up to 90 days, to those who are temporarily unable to attend classroom study. Loss of income is not a valid reason since anyone that attends a course loses income for the period of time that they are attending the course. Loss of income would entirely negate the attendance requirement. April 1st is set as the deadline for requesting a waiver so as to allow sufficient time for the licensee to act if the waiver is denied. The licensee is required to show compliance with the education requirement at the time of renewal (May 15-31) and therefore would know by May 1 of the denial of the request for waiver.

Part 2725.0240 Exemptions.

It was requested by various industry groups and others affected by these rules that an acknowledgement be made and credit given for the educational value of years of experience in the insurance industry. Also it was felt that older agents who might be winding down their practices should not have to meet the same requirements as more active agents. Accordingly, the rule of 85 was designed to meet these situations.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes § 14.115 requires that the impact of proposed rules on small businesses be considered in the development of those rules. Specifically, the statute, at subdivision 2, requires that less stringent compliance standards and reporting requirements for small businesses be considered. The statute also requires that methods designed to reduce the impact of the rules on small businesses be incorporated into the rules if they are feasible and consistent with the statutory objectives associated with the rules.

Despite the lack of comments, the Department considered whether the provisions of the rule might be modified to accomodate the interests of small businesses.

RECEIVED
MAY 2 4 1995
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Commerce

PHONE : 296-5689

DATE : May 21, 1986

TO : Judith Wehrwein

FROM : Richard G. Gomsrud

SUBJECT : Insurance Prelicense Education

Enclosed please find a copy of the Certificate of Compliance with the Rulemaking Process for the above captioned rules.

RECEIVED
MAY 22 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Insurance Prelicense Education	CERTIFICATE OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, John C. Bjork, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

John C. Bjork
Special Assistant Attorney General

Dated: May 20, 1986.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Rules Relating to Insurance Prelicense Education

AFFIDAVIT RE NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Richard G. Gomsrud, being first duly sworn, deposes and says:

That he is Department Counsel for the Department of Commerce.

That part of his duties is the promulgation and adoption of departmental rules, including those captioned above.

That to date, no person has requested notice of submission of the rules in the above entitled matter to the Attorney General.

Richard G. Gomsrud
Department Counsel, Department of Commerce

Subscribed and sworn to before me this
16th day of May 1986.

Nancy I. Link

NANCY I. LINK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
MY COMMISSION EXPIRES DECEMBER 3, 1990

SF-00006-04

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Commerce

PHONE : 296-5689

DATE : 5/16/86

TO : Judith Wehrwein
Admin AG

FROM : Richard G. Gomsrud
Department Counsel

SUBJECT : Prelimine Ed. Rule

Enclosed are copies of the following materials regarding the above captioned rules (only those items with a circled number are enclosed):

~~1.~~ Notice of Intent to Solicit Outside Opinion (2000.0400 subpart 1 B)

2. Written material received as a result of Notice to Solicit Outside Opinion (2000.0400 subpart 1 B)

(3.) Mailing List Certificate (2000.0400 subpart 1 E)

(4.) Statement of Need & Reasonableness (2000.0400 subpart 1 G)

(5.) Order for Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 1 C)

(6.) Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 2)

(7.) Affidavit of Mailing Notice of Intent to Adopt Rule Without Public Hearing (2000.0400 subpart 3)

(8.) Copy of Notice of Intent to Adopt Rule Without Public Hearing and rules as published in the State Register (2000.0400 subpart 4)

(9.) Written Comments on Rule (2000.0400 subpart 1 I)

(10.) Findings of Fact (if applicable) (2000.0400 subpart 1 F) See 14

11. Affidavit of Mailing Notice of Submission to Attorney General (2000.0400 subpart 1 K); or

12. Affidavit that no request for Notice of Submission to Attorney General were received

13. Original and three copies of Rule as adopted (2000.0400 subpart 5)

14. Two copies of the Order Adopting Rule (2000.0400 subpart 6)

15. Certificate of Compliance With Rulemaking Procedure (2000.0400 subpart 1 J).