

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING
EDUCATION PROGRAMS, AND LONG-TERM CARE PARTNERSHIP
CERTIFICATION COURSES**

**28 TAC §§19.1001, 19.1002, 19.1005 - 19.1007, 19.1009, 19.1011, 19.1012,
19.1014, 19.1022, and 19.1023**

1. INTRODUCTION. The Commissioner of Insurance adopts amendments to §§19.1001, 19.1002, 19.1005 - 19.1007, 19.1009, 19.1011, 19.1012, and 19.1014 and new §§19.1022 and 19.1023, concerning long-term care partnership certification and continuing education courses and licensee training requirements. The amendments and new sections are adopted without changes to the proposed text published in the March 21, 2008 issue of the *Texas Register* (33 TexReg 2512).

2. REASONED JUSTIFICATION. The adopted amendments and new sections are necessary to implement SB 22, enacted by the 80th Legislature, Regular Session, effective March 1, 2008, which amends the Human Resources Code Chapter 32 and the Insurance Code Chapter 1651 to establish a long-term care partnership program in Texas. The Department posted an informal working draft of the proposed amendments and new sections on the Department's internet website from September 17 to September 28, 2007, and invited public input. The Department received one comment on the informal working draft proposal, agreed with the commenter, and revised the proposed amendments and new sections accordingly. The Department formally proposed the amendments and new sections in the March 21, 2008 issue of the *Texas Register* (33 TexReg

2512). The Department received no comments and no requests for a hearing on the proposal.

SB 22 requires each individual who sells a long-term care benefit plan under the partnership for long-term care program to complete training and demonstrate evidence of an understanding of these plans and how they relate to other public and private coverage of long-term care. SB 22 requires the Texas Health and Human Services Commission (HHSC) to provide information and technical assistance to the Department regarding its role in ensuring that each individual who sells a long-term care benefit plan under the partnership for long-term care program receives the required training and demonstrates evidence of an understanding of these plans. Additionally, SB 22 specifically requires such training to satisfy the training requirements imposed under the provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171). Section 6021 of the DRA amends §1917(b) of the Social Security Act (42 U.S.C. §1396(p)(b)) to provide for the expansion of a qualified state long-term care insurance partnership program. In order to qualify as a state long-term care insurance partnership program, a state must submit a state plan amendment to the U.S. Department of Health and Human Services for approval that, at a minimum, meets the required elements set out in §6021(a)(1)(A)(iii) of the DRA. Specifically, §6021(a)(1)(A)(iii)(V) requires the state Medicaid agency to provide information and technical assistance to the state insurance department on its role of assuring that any individual who sells a long-term care insurance

policy under the partnership receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care. The DRA does not prescribe any further training requirements, nor does it elaborate on the content of, or the procedures for, meeting the prescribed training requirements. Similarly, while SB 22 incorporates the training requirements of the DRA into its own provisions, it also does not elaborate on the elements necessary to satisfy the prescribed training requirements.

Section 6021(a)(1)(A)(iii)(III) of the DRA requires a qualified state long-term care partnership policy to meet several of the requirements of the Long-Term Care Insurance Model Act (Model Act) and the Long-Term Care Insurance Model Regulation (Model Regulation) promulgated by the National Association of Insurance Commissioners (NAIC). While the NAIC Model Act and the NAIC Model Regulation both prescribe requirements related to long-term care insurance policies, only the NAIC Model Act contains specific licensee training requirements related to the sale, solicitation, and negotiation of long-term care insurance. Neither the DRA nor SB 22 specifically requires the Department to consider the NAIC Model Act in adopting long-term care partnership training requirements. Nevertheless, the Department has determined that it is important that the Department consider the provisions of the NAIC Model Act in formulating its long-term care partnership training requirements for several reasons. First, modeling the Department's long-term care partnership training requirements on the long-term care training requirements of the NAIC Model Act will help ensure

consistent regulation of the long-term care partnership market in Texas. Each provision of the NAIC Model Act, including the requirements specifically related to long-term care insurance policies and long-term care insurance training, is intended to function together to form a cohesive set of regulations for the long-term care market. SB 22 requires the Department to adopt minimum standards for a long-term care benefit plan that may qualify as an approved plan under the partnership for long-term care program. The standards must be consistent with provisions governing the expansion of a state long-term care partnership program established under the DRA. One of the requirements under the DRA is that a long-term care partnership policy meet several of the long-term care insurance policy requirements of the NAIC Model Act and the NAIC Model Regulation. Because a long-term care partnership policy must meet several of the long-term care insurance policy requirements of the NAIC Model Act, it is especially important that the long-term care partnership training regulations adopted by the Department operate compatibly with those requirements. Modeling the Department's long-term care partnership training requirements on the training requirements of the NAIC Model Act will ensure such compatibility and consistency. This is because, like the Department's long-term care partnership insurance policy requirements, the Department's long-term care partnership training regulations will also be based on the framework of the NAIC Model Act. Because all the provisions of the NAIC Model Act were purposefully developed to function together, regulations modeled after those provisions should also function together. Second, both long-term care insurance and long-

term care partnership insurance function in a similar capacity. Because of the similarities between the two insurance products, a licensee should develop an understanding of long-term care insurance before mastering the more complex aspects of long-term care partnership insurance, such as asset disregard and Medicaid eligibility requirements. The training requirements of the NAIC Model Act are designed to focus on the core concepts and requirements of long-term care insurance. Including those provisions in the Department's long-term care partnership training requirements should first assist licensees in acquiring an understanding of the basic concepts and requirements of long-term care insurance. Licensees should then be able to supplement this foundation with an understanding of the more complex requirements of long-term care partnership insurance. Third, the provisions of the NAIC Model Act facilitate flexibility and innovation in the development of long-term care insurance coverage. Thus, the provisions of the NAIC Model Act provide for consideration of state long-term care insurance partnership programs where such programs have been approved and are operational. For example, the NAIC Model Act requires long-term care insurance training to include topics related to long-term care insurance, long-term care services, and if applicable, qualified state long-term care insurance partnership programs. Including the relevant training requirements of the NAIC Model Act that specifically relate to long-term care partnership policies in the Department's long-term care partnership training requirements will also assist licensees in developing a basic understanding of long-term care partnership insurance. Lastly, the provisions of the NAIC Model Act provide uniform,

standardized training requirements that facilitate reciprocity among states implementing long-term care partnership programs. The Department's long-term care partnership training requirements incorporate the majority of the provisions of the NAIC Model Act. These adopted requirements are intended to promote reciprocal treatment of long-term care partnership training requirements among the ten other states (Florida, Idaho, Minnesota, Nebraska, North and South Dakota, Maine, Missouri, Oregon, and Rhode Island) that are currently implementing long-term care partnership programs that will also incorporate the majority of the provisions of the NAIC Model Act and among other states that may implement similar programs in the future.

The training framework of the NAIC Model Act is comprised of a one-time training course that an individual must complete in order to sell, solicit, or negotiate long-term care insurance, and where applicable, long-term care partnership insurance. The individual must also be licensed as an insurance producer for accident and health or sickness or other lines of authority, as applicable. The NAIC Model Act also provides that an individual already licensed and selling, soliciting, or negotiating long-term care insurance on the effective date of the enacting legislation may not continue to sell, solicit, or negotiate long-term care insurance unless the individual has completed a one-time training course within one year from the effective date of the applicable enacting legislation. In addition to the one-time training course, the NAIC Model Act requires an individual who sells, solicits, or negotiates long-term care insurance, and where applicable, long-term care partnership insurance, to complete ongoing

training every 24 months thereafter. The one-time training course must be no less than eight hours in length, and the ongoing training must be no less than four hours every 24 months. The NAIC Model Act also allows both the one-time training course and the ongoing training to be approved for continuing education credit. The NAIC Model Act also requires specific topics related to long-term care insurance, long-term care services, and, where applicable, qualified long-term care insurance partnership programs, to be included in the one-time training course and the ongoing training. The NAIC Model Act prohibits any training from including insurer or company product specific information or materials. Additionally, the NAIC Model Act requires insurers to obtain verification that an individual has received the appropriate training, to maintain records of such verification, and to make such verification available to the Commissioner upon request. Lastly, the NAIC Model Act provides for reciprocity among states with regard to the training requirements.

As required by the DRA and SB 22, the Department met with the state's Medicaid agency, the Texas Health and Human Services Commission (HHSC), in August, 2007 and again in September, 2007 to discuss the Department's role in ensuring that each individual who sells a long-term care benefit plan under the partnership for long-term care program receives training and demonstrates evidence of an understanding of these plans. The Department and HHSC staff generally discussed the training provisions of the NAIC Model Act; the Department's existing process for certifying long-term care insurance continuing education courses and providers, whether long-term care partnership certification

and continuing education courses and providers could be successfully integrated into the Department's existing processes; insurer, licensee, and provider reporting requirements; and reciprocity among the states with respect to long-term care partnership training requirements. Additionally, the Department and HHSC staff identified elements unique to long-term care partnership insurance that should be included in the Department's training requirements. As a result of HHSC's recommendations and technical assistance, the Department has incorporated two additional elements, Medicaid eligibility criteria and asset disregard, into the subject matter that must be included in a Department certified long-term care partnership certification course. The adopted sections also provide a web site address maintained by the Texas Department of Aging and Disability Services (DADS), where providers and licensees may obtain additional information and resource material regarding the long-term care partnership program, including a section of the website entitled "Resource for Agent Training: Texas Medicaid Eligibility and Long-Term Care Partnership" prepared by HHSC that provides guidance on related Medicaid eligibility issues. The information and resource material provided on this website will be maintained and updated by DADS, as necessary.

The majority of the requirements of the NAIC Model Act pertaining to long-term care insurance have been incorporated into the adopted sections with only a few necessary modifications. First, the Model Act addresses training requirements related to the sale, solicitation, or negotiation of long-term care insurance, and where applicable, long-term care partnership insurance.

However, the adopted sections apply only to long-term care partnership insurance training requirements. This change is necessary to implement the requirements of SB 22 and the DRA, which specifically relate to long-term care partnership insurance. Second, the adopted sections do not address the use of insurer or company specific products, including marketing or sales information and materials, during training courses because §19.1008 of this title (relating to Certified Course Advertising, Modification, and Assignment), which is not amended under this adoption order, currently contains the Department's prohibitions regarding the use of company logos, references to specific company products, and the presentation of advertising materials during course instruction and examination periods. Therefore, it is not necessary to adopt the provision of the NAIC Model Act addressing the same subject matter for long-term care partnership insurance. Rather, the adopted sections apply the provisions of §19.1008 to long-term care partnership insurance and training requirements, as necessary. Third, the adopted sections slightly deviate from the provisions of the NAIC Model Act with regard to records maintenance and verification requirements. Instead of requiring insurers to maintain verification that a licensee has successfully completed a long-term care partnership certification or continuing education course, the adopted sections require a licensee and a course provider to maintain records verifying that a licensee completed a Department approved long-term care partnership certification or continuing education course. This requirement serves two purposes. First, to the extent possible, the adopted sections incorporate the requirements for long-term care

partnership certification and continuing education courses and related long-term care partnership licensee requirements into the existing framework for provider registration, instructor, and speaker criteria; course criteria; course certification; submission applications, course expirations, and resubmissions; types of courses; requirements for successful completion of continuing education courses; and forms and fees. Because existing Department regulations require licensees and providers to maintain course completion records, it is not necessary for the Department to adopt the provisions of the NAIC Model Act addressing those regulatory areas. Additionally, the Department is separately proposing amendments (July 18, 2008 edition of the *Texas Register*) that specify additional agent training verification and insurer certification requirements for long-term care partnership plans. These amendments amend Chapter 3, Subchapter Y of this title (relating to Standards for Long-term Care Insurance Coverage Under Individual and Group Policies). As a result, it is unnecessary for the Department to adopt the provisions of the NAIC Model Act addressing verification and maintenance requirements in these adopted amendments and new sections because those requirements will be addressed separately in the amendments to Chapter 3, Subchapter Y of this title. Fourth, the NAIC Model Act provides that an individual already licensed and selling, soliciting, or negotiating long-term care insurance on the effective date of the enacting legislation may not continue to sell, solicit, or negotiate long-term care insurance unless the individual has completed a one-time training course within one year from the effective date of the enacting legislation. The adopted sections differ

from this NAIC Model Act provision in two ways. First, the adopted sections permit individuals already licensed and performing the acts of an agent with regard to a long-term care insurance policy on the effective date of adopted §19.1022 (relating to Long-Term Care Partnership Certification Course) to perform the acts of an agent with regard to a long-term care partnership insurance policy on the effective date of adopted §19.1022, provided that the individual completes a long-term care partnership certification course meeting the requirements of the subchapter no later than January 1, 2009. This modification is necessary for consistency with the other provisions of the adopted sections that relate to long-term care partnership insurance. Second, the adopted sections shorten by approximately 60 days the NAIC allotted time period in which an appropriately licensed individual may sell, solicit, or negotiate long-term care insurance prior to completing a one-time long-term care insurance training course. This modification is necessary to implement the long-term care partnership insurance certification requirements of SB 22. SB 22 requires each long-term care benefit plan issuer that offers a plan under the partnership for long-term care program to certify to the Commissioner that each individual who sells a plan on behalf of the issuer completes training and demonstrates evidence of an understanding of these plans and how these plans relate to other public and private coverage of long-term care. This provision of SB 22 will be implemented in the Department's separately proposed rules (July 18, 2008 edition of the *Texas Register*) relating to standards for long-term care insurance coverage under individual and group policies. Those rules propose that the SB

22 certifications be submitted periodically to the Commissioner beginning in January 2009. If the Department adopted the provision of the NAIC Model Act without modification of the allotted time period, individuals already licensed and selling, soliciting, or negotiating long-term care insurance on March 1, 2008, could not sell, solicit, or negotiate long-term care partnership insurance unless the individual completed a one-time training course within one year from March 1, 2008, which could be approximately 60 days after the first certifications would be due to the Commissioner under the separately proposed Department rules. In those cases, the certifications submitted to the Commissioner would not meet the requirements of SB 22 or Department regulation. This is because not all individuals selling, soliciting, or negotiating long-term care partnership insurance on behalf of long-term care benefit plan issuers would have completed the required training by the time the first certifications were due. By providing the January 1, 2009 deadline in the adopted sections in lieu of the allotted deadline in the NAIC Model Act, long-term care benefit plan issuers will be able to certify to the Commissioner, in January 2009, that all individuals performing the acts of an agent with regard to a long-term care partnership insurance policy on their behalf have completed the required training. Lastly, while the adopted sections address the three agent activities enumerated in the NAIC Model Act, the substantive requirements of adopted new §§19.1022 and 19.1023 are based on the Insurance Code §4001.051 (relating to acts constituting acting as an agent), which specifies agent activities that are in addition to those enumerated in the NAIC Model Act. This modification is necessary to accurately incorporate

activities under Texas law that an individual may take with regard to a long-term care partnership insurance policy that may qualify as the act of an agent and, therefore, subject the individual to Department regulation. Aside from these necessary modifications of the NAIC Model Act provisions, the remaining requirements of the NAIC Model Act are incorporated into the adopted sections without substantial change.

In general, and to the extent possible, the adopted amendments to §§19.1005, 19.1006, 19.1007, 19.1009, 19.1011, and 19.1012 are necessary to incorporate the requirements related to long-term care partnership certification and continuing education courses and related long-term care partnership licensee training into existing Department regulations relating to provider registration, instructor, and speaker criteria; course criteria; course certification; submission applications, course expirations, and resubmissions; types of courses; requirements for successful completion of continuing education courses; and forms and fees. For example, the adopted amendment to §19.1005(a) authorizes a provider applicant to seek initial registration or renewal registration from the Department to be a long-term care partnership certification course provider in the same manner that a provider applicant must seek initial registration or renewal registration from the Department to be a continuing education provider or an adjuster prelicensing education provider. Further, the adopted amendment to §19.1005(b) provides necessary consistency with the adopted amendment to §19.1005(a) by authorizing providers to certify and offer long-term care partnership certification courses in the same manner as, and in

addition to, continuing education courses and adjuster prelicensing education courses. Lastly, the adopted amendment to §19.1005(f) provides necessary consistency with the adopted amendment to §19.1005(a) by prohibiting providers from using speakers in conjunction with long-term care partnership certification courses, unless the speaker qualifies as an instructor. Providers using speakers in conjunction with adjuster prelicensing courses and other continuing education courses that are not one-time event continuing education courses are subject to the same prohibition. The adopted amendment to §19.1006 that adds subsection (c) is necessary to apply the existing requirements of Subchapter K equally to courses certified for continuing education and long-term care partnership certification and long-term care partnership continuing education purposes, unless specifically stated otherwise. Subchapter K regulates agent and adjuster continuing education and adjuster prelicensing education programs. Adopted §19.1006(c) makes clear that, unless specifically stated otherwise, each provision of Subchapter K applies equally to courses certified for continuing education and long-term care partnership certification and long-term care partnership continuing education purposes. The “unless specifically stated otherwise” provision of adopted §19.1006(c) is necessary to provide the regulatory framework for long-term care partnership certification and long-term care partnership continuing education course requirements by incorporating such requirements into the existing regulatory framework of Subchapter K. Subchapter K currently provides such requirements for other Department licensees, including provider registration requirements, instructor, and speaker

criteria requirements; course criteria requirements; course certification; submission applications, course expirations, and resubmissions requirements; types of courses; requirements for successful completion of continuing education courses; and forms and fees. The “unless specifically stated otherwise” provision is adopted in lieu of amending all of the applicable sections of Subchapter K to include specific references to long-term care partnership certification and continuing education course requirements. Therefore, under the adopted sections, unless specifically stated otherwise, the provisions of Subchapter K that apply to courses certified for continuing education purposes, including the adopted amendments as well as the provisions of Subchapter K that are not amended under this adoption order, also apply to courses certified for long-term care partnership certification and long-term care partnership continuing education purposes. Further, the adopted amendment to §19.1007(a) requires providers to submit long-term care partnership certification course applications to the Department in the same manner as providers are required to submit course certification applications for Department licensee continuing education courses and adjuster prelicensing training and education courses. This is necessary to provide consistency among course certification applications submitted by providers. Adopted §19.1009(c) is also consistent with and similar to the requirements related to Department licensee continuing education and adjuster prelicensing courses under §19.1009 with regard to complete course of study requirements and options for classroom, classroom equivalent, and self-study instruction. Adopted §19.1009(c) requires a provider to offer a long-term care

partnership certification course as a complete course of study that meets the requirements of adopted §19.1022. Adopted §19.1022 prescribes the requirements for a long-term care partnership certification course, including course length and course content. Adopted §§19.1009(c) and §19.1022 collectively require a provider to offer a long-term care partnership certification course only as a one-time, eight-hour unit. While a long-term care partnership certification course may be longer than eight hours in length, it may only be offered as a one-time course. Thus, under these adopted provisions, a provider could not offer or combine several, separate long-term care partnership certification courses in order to satisfy the one-time, eight-hour certification course requirement. The requirement that a long-term care partnership certification course must be provided to licensees in one sitting and as a one-time course is necessary to ensure consistency among provider materials and course content and to provide the best opportunity for meaningful feedback and interaction between licensees and course instructors. Piecemeal completion of a long-term care partnership certification course could potentially result in confusing or inconsistent course instruction, confusing or inconsistent teaching materials, and ineffective or inefficient participation by licensees. Additionally, adopted §19.1009(c) authorizes a provider to offer long-term care partnership certification courses as classroom, classroom equivalent, or self-study instruction. This option allows a licensee optimum scheduling flexibility because a licensee may choose the most convenient time and method for completing the course based on his or her personal schedule and preferences. The adopted

amendment to §19.1011(a) requires providers to use actual attendance rosters to certify completion of a certified classroom long-term care partnership certification course. Additionally, the adopted amendment to §19.1011(a) authorizes providers to establish assessment measurements or additional completion requirements for successful completion of a classroom long-term care partnership certification course, provided that the requirements are fully disclosed in the registration materials before a licensee purchases the course. These requirements are consistent with the existing requirements related to completion certification for Department licensee classroom or one-time-event continuing education courses. The adopted amendment to §19.1011(b) requires providers to use periodic interactive inquiries to determine completion of a certified classroom equivalent long-term care partnership certification course. The adopted provisions also require licensees to complete all inquiry sections with a minimum score of at least 70 percent for each section. These requirements are consistent with the existing requirements related to completion certification for classroom equivalent continuing education courses. Lastly, the adopted amendment to §19.1011(c) requires providers to use a written, online, or computer-based final examination as the means of completion for all certified self-study long-term care partnership certification courses. Adopted §19.1011(c) also includes requirements relating to the content of course records for long-term care partnership certification self study examinations. These requirements are consistent with the existing requirements related to the content of course records for continuing education self-study examinations. Further, the adopted

amendments to §19.1012 prescribe the same fees for administering the long-term care partnership certification program that are required for continuing education course certification. As provided under existing §19.1012(b), these fees are nonrefundable and apply unless the Department contracts with a third party to provide continuing education services. Finally, the adopted amendment to §19.1014(a) requires providers to maintain long-term care partnership certification records in the same manner and for the same length of time as continuing education and adjuster prelicensing education records. If long-term care partnership certification records are audited or reviewed and the validity or completeness of the records are questioned, the adopted amendment to §19.1014(e) grants providers 30 days from the date of notice to correct any discrepancies or to submit new documentation. The adopted amendment to §19.1014(e) also grants the same amount of time to providers with regard to adjuster prelicensing records. These adopted amendments are necessary to provide consistency with the existing provider compliance records provisions related to Department licensee continuing education records. Applying the existing regulations for continuing education courses and adjuster prelicensing education and instruction to long-term care partnership certification and continuing education courses and related long-term care partnership licensee training requirements where possible promotes stability and consistency in Department regulation, reduces additional costs and unnecessary use of resources, and encourages uniform treatment among continuing education and long-term care partnership certification course and licensee training requirements

Adopted new §§19.1022 and 19.1023 are necessary to address new requirements that are unique to long-term care partnership certification and continuing education courses and related long-term care partnership licensee training requirements that are required under SB 22 and the DRA. Adopted new §19.1022 prescribes the requirements for long-term care partnership certification courses and related long-term care partnership licensee training requirements. First, adopted §19.1022(a) prohibits an individual from performing any action constituting the act of an agent under the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy unless the licensee holds a current Life, Accident, and Health license issued by the Department and has completed a Department certified long-term care partnership certification course meeting the requirements of the subchapter. Adopted §19.1022(b) provides that an individual that holds a current Life, Accident, and Health license issued by the Department and is performing any action constituting the act of an agent pursuant to the Insurance Code §4001.051 with regard to a long-term care insurance policy at the time of the effective date of adopted §19.1022 may perform any action constituting the act of an agent pursuant to the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy on the effective date of adopted §19.1022, provided that the individual completes a long-term care partnership certification course meeting the requirements of the subchapter no later than January 1, 2009. Adopted §19.1022(c) establishes the standards for a Department certified long-term care partnership certification course. Adopted §19.1022(d) permits a licensee to count a long-term care

partnership certification course toward completion of the continuing education requirements prescribed in §19.1003 of Subchapter K (relating to Licensee Requirements). Additionally, §19.1022(d) requires a licensee choosing to use a long-term care partnership certification course to satisfy a portion of the continuing education requirements prescribed in §19.1003 to comply with §19.1013 of Subchapter K (relating to Licensee Record Maintenance). Adopted §19.1022(e) requires a licensee to maintain proof of completion of a long-term care partnership certification course for a period of four years from the date of completion of the course. Additionally, §19.1022(e) requires a licensee to provide proof of completion of a long-term care partnership certification course to the Department upon request. Adopted §19.1022(f) sets forth the requirements for a provider issued completion certificate for a long-term care partnership certification course. Adopted §19.1022(g) describes the course subjects that a long-term care partnership certification course outline must address. Adopted §19.1022(h) makes clear that providers must meet all of the requirements of Subchapter K before offering a long-term care partnership certification course to licensees. Adopted §§19.1022(i) and §19.1022(j) are necessary to address reciprocity among the states with regard to long-term care partnership training requirements. Adopted §19.1022(i) specifies the conditions under which a non-resident licensee is not required to complete a long-term care partnership certification course required by the subchapter. Adopted §19.1022(j) specifies the conditions under which a non-resident licensee whose home state does not qualify as a long-term care insurance partnership state may comply with the

requirements of adopted §19.1022. Adopted §19.1022(j) requires a non-resident licensee in such a situation to either complete a Department certified long-term care partnership certification course in this state that meets the requirements of the subchapter or designate a home state that qualifies as a long-term care partnership insurance state and meet the requirements of adopted §19.1022(i). Adopted §19.1022(k) is necessary to clarify that licensees that may be exempt from continuing education requirements provided under §19.1004 of Subchapter K (relating to Licensee Exemption from and Extension of Time for Continuing Education) are not exempt from the long-term care partnership certification course and related licensee training requirements of adopted §19.1022. This is necessary because neither SB 22 nor the DRA exempts any individuals from the long-term care partnership training requirements. The Department's adopted sections have the same framework as the NAIC Model Act, which requires individuals to complete a one-time, eight-hour long-term care partnership certification course. The NAIC Model Act also does not exempt any individuals from this requirement. Because neither the DRA, SB 22, nor the NAIC Model Act provide any individuals any exemptions from the long-term care partnership training requirements, individuals intending to perform any action constituting the act of an agent pursuant to the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy must complete the long-term care partnership certification course required under adopted §19.1022, regardless of their exemption status under §19.1004. Lastly, adopted §19.1022(l) provides a website address maintained by the Texas Department of Aging and Disability

Services (DADS), where providers and licensees may obtain additional information and resource material regarding the long-term care partnership program. Adopted §19.1023 is necessary to specify ongoing long-term care partnership licensee training requirements, which must be in the form of continuing education. Adopted §19.1023(a) specifies how often a licensee must complete the required long-term care partnership continuing education requirements and how many hours of long-term care partnership continuing education a licensee must complete. Adopted §19.1023(b) requires the continuing education hours required under adopted §19.1023(a) to comply with the course criteria in §19.1006 of Subchapter K (relating to Course Criteria) and to enhance the knowledge, understanding, and professional competence of the student with regard to subjects described in adopted §19.1022. Adopted §19.1023(c) makes clear that providers must meet all of the requirements of Subchapter K before offering a long-term care partnership continuing education course to licensees. Adopted §19.1023(d) specifies the conditions under which a non-resident licensee is not required to complete long-term care partnership continuing education as required by the subchapter. Adopted §19.1023(e) provides the conditions under which a non-resident licensee may comply with the requirements of the subchapter if his or her home state does not qualify as a long-term care insurance partnership state. Lastly, adopted §19.1023(f) is necessary to clarify that licensees that may be exempt from continuing education requirements provided under §19.1004 are not exempt from the ongoing training requirements of adopted §19.1023, which the Department is requiring in the form

of continuing education. As explained previously, neither SB 22 nor the DRA exempts any individuals from the long-term care partnership training requirements, including the ongoing training requirements. The Department's adopted sections follow the framework of the NAIC Model Act that requires licensees to complete no less than four hours of long-term care partnership ongoing training. The NAIC Model Act also does not exempt any individuals from the long-term care partnership ongoing training requirements. Because neither the DRA, SB 22, nor the NAIC Model Act provide any individuals any exemptions from the long-term care partnership training requirements, individuals intending to perform any action constituting the act of an agent pursuant to the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy must complete long-term care partnership continuing education under adopted §19.1023, regardless of their exemption status under §19.1004.

Finally, the adopted amendments to §§19.1001(d) and 19.002(b) are necessary to delete obsolete provisions relating to provider compliance dates and to amend the existing definitions of certain terms used in the subchapter. First, the adopted amendment to §19.1001(d), relating to provider compliance date, deletes the subsection in its entirety because the subsection is obsolete and no longer functions as it was originally intended. Section 19.1001(d) was originally adopted to be effective January 6, 2003, and Subchapter K was later amended to be effective January 19, 2006. Therefore, the calculation of the date of compliance as provided in §19.1001(d) is no longer applicable. Second, the adopted amendments to §19.1002(b) add a new definition of *long-term care*

partnership insurance policy. SB 22 requires each individual who sells a long-term care benefit plan under the partnership for long-term care program to complete training and demonstrate evidence of an understanding of these plans and how the plans relate to other public and private coverage of long-term care. SB 22 requires each individual who sells a long-term care benefit plan under the partnership for long-term care program to complete training and demonstrate evidence of an understanding of these plans and how the plans relate to other public and private coverage of long-term care. The new definition in adopted §19.1002(b)(17) is necessary because adopted §§19.1022 and 19.1023, which implement SB 22 by prescribing requirements for long-term care partnership certification and continuing education courses and related long-term care partnership licensee training, include references to long-term care partnership insurance policies. Other terms in §19.1002(b) are amended to provide for long-term care partnership certification and continuing education courses and related long-term care partnership licensee training.

3. HOW THE SECTIONS WILL FUNCTION. The following is a section-by-section overview of the adopted sections.

Subchapter Title. The adopted subchapter title more accurately reflects the subchapter's additional content, which includes requirements related to long-term care partnership certification and continuing education courses and related long-term care partnership licensee training requirements.

§19.001. General Provisions. The adopted amendment to §19.1001(a) identifies an additional purpose of the subchapter, which is to specify procedures and requirements for certification and approval of long-term care partnership certification courses and licensee long-term care partnership training requirements, as authorized under the Insurance Code Chapter 1651, Subchapter C, and the Human Resources Code Chapter 32, Subchapter C.

The adopted amendment to §19.1001(d), relating to provider compliance date, deletes the subsection in its entirety because the subsection is obsolete and no longer functions as it was originally intended.

§19.1002. Definitions. The adopted amendments to §19.1002(b) add a new definition of *long-term care partnership insurance policy*. The adopted amendments to §19.1002(b) also amend the definition of *provider* to require registration with the Department in order to offer long-term care partnership certification courses. The adopted amendments to §19.1002(b) also amend the definition of *provider registration* to authorize utilization of the Department's process for providers seeking permission to offer long-term care partnership certification courses to licensees.

§19.1005. Provider Registration, Instructor, and Speaker Criteria. The adopted amendment to §19.1005(a) authorizes a provider applicant to seek initial registration or renewal registration from the Department to be a long-term care partnership certification course provider in the same manner that a provider applicant must seek initial registration or renewal registration from the Department to be a continuing education provider or an adjuster prelicensing

education provider. The adopted amendment to §19.1005(b) provides necessary consistency with the adopted amendment to §19.1005(a) by authorizing providers to certify and offer long-term care partnership certification courses in the same manner as, and in addition to, continuing education courses and adjuster prelicensing education courses. Lastly, the adopted amendment to §19.1005(f) provides necessary consistency with the adopted amendment to §19.1005(a) by prohibiting providers from using speakers in conjunction with long-term care partnership certification courses, unless the speaker qualifies as an instructor.

§19.1006. Course Criteria. Adopted §19.1006(c) prescribes the general course criteria for a Department certified long-term care partnership certification course. Specifically, adopted §19.1006(c) requires that the course content of a Department certified long-term care partnership certification course enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in adopted §19.1022 (relating to Long-Term Care Partnership Certification Course). Adopted §19.1006(c) also makes clear that, unless specifically stated otherwise, each provision of Subchapter K applies equally to courses certified for continuing education and long-term care partnership certification and long-term care partnership continuing education purposes.

§19.1007. Course Certification Submission Applications, Course Expirations, and Resubmissions. The adopted amendment to §19.1007(a) requires providers to submit long-term care partnership certification course applications to the Department in the same manner as providers are required to

submit course certification applications for Department licensee continuing education courses and adjuster prelicensing training and education courses. Specifically, the adopted amendment to §19.1007(a)(7) requires a provider to include a statement identifying that a course is for long-term care partnership certification, along with the TDI license number and the name of the student completing the course, in the sample certificate of completion that is submitted to the Department as part of a course certification application. The adopted amendment to §19.1007(a)(8) also requires a provider to include a statement in the submitted course certification application that the course is intended for long-term care partnership certification and whether the course is primarily intended to be open to all licensees or has a restricted enrollment.

§19.1009. Types of Courses. Adopted §19.1009(c) requires a provider to offer a long-term care partnership certification course as a complete course of study that meets the requirements of adopted §19.1022. Adopted §19.1022 prescribes the requirements for a long-term care partnership certification course, including course length and course content. Adopted §§19.1009(c) and §19.1022 require a provider to offer a long-term care partnership certification course only as a one-time, eight-hour unit. Additionally, adopted §19.1009(c) authorizes a provider to offer long-term care partnership certification courses as classroom, classroom equivalent, or self-study instruction.

§19.1011. Requirements for Successful Completion of Continuing Education Courses. The adopted amendment to §19.1011(a) requires providers to use actual attendance rosters to certify completion of a certified

classroom long-term care partnership certification course. Additionally, the adopted amendment to §19.1011(a) authorizes providers to establish assessment measurements or additional completion requirements for successful completion of a classroom long-term care partnership certification course, provided that the requirements are fully disclosed in the registration materials before a licensee purchases the course. The adopted amendment to §19.1011(b) requires providers to use periodic interactive inquiries to determine completion of a certified classroom equivalent long-term care partnership certification course. The adopted provisions also require licensees to complete all inquiry sections with a minimum score of at least 70 percent for each section. The adopted amendment to §19.1011(c) requires providers to use a written, online, or computer-based final examination as the means of completion for all certified self-study long-term care partnership certification courses.

§19.1012. Forms and Fees. The adopted amendments to §19.1012 prescribe the same fees for administering the long-term care partnership certification program that are required for continuing education course certification. As provided under existing §19.1012(b), these fees are nonrefundable and apply unless the Department contracts with a third party to provide continuing education services. The adopted fee amounts are: provider original registration \$50 and provider renewal \$50; continuing education course certification initial submission \$10 for each hour of course credit requested on the application; resubmission, \$10 for each hour of course credit requested on the application; and course assignment, \$50 per assignment.

§19.1014. Provider Compliance Records. The adopted amendment to §19.1014(a) requires providers to maintain long-term care partnership certification records in the same manner and for the same length of time as continuing education and adjuster prelicensing education records. If long-term care partnership certification records are audited or reviewed and the validity or completeness of the records are questioned, the adopted amendment to §19.1014(e) grants providers 30 days from the date of notice to correct any discrepancies or to submit new documentation. The adopted amendment to §19.1014(e) also grants the same amount of time to providers with regard to adjuster prelicensing records.

§19.1022. Long-Term Care Partnership Certification Course. Adopted new §19.1022 prescribes the requirements for long-term care partnership certification courses and related long-term care partnership licensee training requirements. First, adopted §19.1022(a) prohibits an individual from performing any action constituting the act of an agent under the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy unless the licensee holds a current Life, Accident, and Health license issued by the Department and has completed a Department certified long-term care partnership certification course meeting the requirements of the subchapter. Adopted §19.1022(b) provides that an individual that holds a current Life, Accident, and Health license issued by the Department and is performing any action constituting the act of an agent pursuant to the Insurance Code §4001.051 with regard to a long-term care insurance policy at the time of the effective date of adopted §19.1022 may

perform any action constituting the act of an agent pursuant to the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy on the effective date of adopted §19.1022, provided that the individual completes a long-term care partnership certification course meeting the requirements of the subchapter no later than January 1, 2009. Adopted §19.1022(c) establishes the standards for a Department certified long-term care partnership certification course. Under this subsection, a Department certified long-term care partnership certification course must be at least eight hours in length, must cover the subjects specifically described in adopted §19.1022(g), and must be submitted to the Department for approval in compliance with the requirements of §19.1007 of Subchapter K (relating to Course Certification Submission Applications, Course Expirations, and Resubmissions). Adopted §19.1022(d) permits a licensee to count a long-term care partnership certification course toward completion of the continuing education requirements prescribed in §19.1003 of Subchapter K (relating to Licensee Requirements). Additionally, §19.1022(d) requires a licensee choosing to use a long-term care partnership certification course to satisfy a portion of the continuing education requirements prescribed in §19.1003 to comply with §19.1013 of Subchapter K (relating to Licensee Record Maintenance). Adopted §19.1022(e) requires a licensee to maintain proof of completion of a long-term care partnership certification course for a period of four years from the date of completion of the course. Additionally, §19.1022(e) requires a licensee to provide proof of completion of a long-term care partnership certification course to the Department upon request. Adopted §19.1022(f) sets

forth the requirements for a provider issued completion certificate for a long-term care partnership certification course. Specifically, §19.1022(f) requires a provider issued completion certificate for a long-term care partnership certification course to meet the requirements of §19.1011 of Subchapter K (relating to Requirements for Successful Completion of Continuing Education Courses). Adopted §19.1022(g) describes the course subjects that a long-term care partnership certification course outline must address, including (i) long-term care insurance; (ii) long-term care services and providers; (iii) qualified state long-term care insurance partnership programs, which must include state and federal requirements; the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; available long-term care services and providers and changes or improvements in long-term care services or providers; (iv) alternatives to the purchase of private long-term care insurance; (v) the effect of inflation on benefits and the importance of inflation protection; (vi) consumer suitability standards and guidelines; (vii) Medicaid eligibility criteria and requirements, including financial eligibility criteria and requirements; and (viii) asset disregard under qualified state long-term care partnership programs, including the interaction between asset disregard and Medicaid rules. Adopted §19.1022(h) makes clear that providers must meet all of the requirements of Subchapter K before offering a long-term care partnership certification course to licensees. Adopted §§19.1022(i) and §19.1022(j) address reciprocity among the states with regard to long-term care partnership training requirements. Adopted

§19.1022(i) specifies the conditions under which a non-resident licensee is not required to complete a long-term care partnership certification course required by the subchapter. Specifically, under the provisions of §19.1022(i), a non-resident licensee is not required to complete a long-term care partnership certification course required by the subchapter if the non-resident licensee holds a comparative, current license issued by his or her home state; the non-resident licensee's home state qualifies as a long-term care insurance partnership state; and upon Department request, both the insurer who appointed the non-resident licensee and the non-resident licensee are able to provide proof of the non-resident's completion of a long-term care partnership certification course in the non-resident licensee's home state with requirements substantially similar to those of adopted §19.1022. Adopted §19.1022(j) specifies the conditions under which a non-resident licensee whose home state does not qualify as a long-term care insurance partnership state may comply with the requirements of adopted §19.1022. Adopted §19.1022(j) requires a non-resident licensee in such a situation to either complete a Department certified long-term care partnership certification course in this state that meets the requirements of the subchapter or designate a home state that qualifies as a long-term care partnership insurance state and meet the requirements of adopted §19.1022(i). Adopted §19.1022(k) makes clear that licensees that may be exempt from continuing education requirements provided under §19.1004 of Subchapter K (relating to Licensee Exemption from and Extension of Time for Continuing Education) are not exempt from the long-term care partnership certification course and related licensee

training requirements of adopted §19.1022. Lastly, adopted §19.1022(l) provides a website address maintained by the Texas Department of Aging and Disability Services (DADS), where providers and licensees may obtain additional information and resource material regarding the long-term care partnership program.

§19.1023. Long-Term Care Partnership Continuing Education.

Adopted §19.1023 prescribes the requirements for ongoing long-term care partnership licensee training requirements, which must be in the form of continuing education. Adopted §19.1023(a) specifies how often a licensee must complete the required long-term care partnership continuing education requirements and how many hours of long-term care partnership continuing education a licensee must complete. Specifically, under §19.1023(a), in each reporting period following the reporting period in which a licensee completed a long-term care partnership certification course, a licensee must complete at least four hours of Department certified continuing education, during each reporting period, as part of the licensee's continuing education requirements prescribed in §19.1003. Adopted §19.1023(b) requires the continuing education hours required under adopted §19.1023(a) to comply with the course criteria in §19.1006 of Subchapter K (relating to Course Criteria) and to enhance the knowledge, understanding, and professional competence of the student with regard to subjects described in adopted §19.1022. Adopted §19.1023(c) makes clear that providers must meet all of the requirements of Subchapter K before offering a long-term care partnership continuing education course to licensees.

Adopted §19.1023(d) specifies the conditions under which a non-resident licensee is not required to complete long-term care partnership continuing education as required by the subchapter. Under the provisions of §19.1023(d), a non-resident licensee is not required to complete four hours of long-term care partnership continuing education if the non-resident licensee is in compliance with the long-term care partnership continuing education requirements of his or her home state and if his or her home state qualifies as a long-term care partnership insurance state. Adopted §19.1023(e) provides the conditions under which a non-resident licensee may comply with the requirements of the subchapter if his or her home state does not qualify as a long-term care insurance partnership state. Specifically, §19.1023(e) requires a non-resident licensee in such a situation to either complete four hours of Department certified long-term care partnership continuing education in this state that meets the requirements of the subchapter or designate a home state that qualifies as a long-term care partnership insurance state and meet the requirements of adopted §19.1023(d). Lastly, adopted §19.1023(f) makes clear that licensees that may be exempt from continuing education requirements provided under §19.1004 are not exempt from the ongoing training requirements of adopted §19.1023, which the Department is requiring in the form of continuing education.

4. SUMMARY OF COMMENTS AND AGENCY RESPONSE. The Department did not receive any comments on the proposed amendments and new sections.

5. STATUTORY AUTHORITY. The amendments and new sections are adopted under the Insurance Code §§1651.104, 1651.105, 1651.107, and 36.001 and the Human Resources Code §32.105. The Insurance Code §1651.104 provides that the Commissioner, in consultation with the Texas Health and Human Services Commission (HHSC), shall adopt minimum standards for a long-term care benefit plan that may qualify as an approved plan under the partnership for long-term care program. The standards must be consistent with provisions governing the expansion of a state long-term care partnership program established under the federal Deficit Reduction Act of 2005 (DRA) (Pub. L. No. 109-171). Section 6021(a)(1)(A)(iii)(V) of the DRA requires the state Medicaid agency under section 1902(a)(5) to provide information and technical assistance to the state insurance department on the insurance department's role of assuring that any individual who sells a long-term care insurance policy under the partnership receives training and demonstrates evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care. The Insurance Code §1651.105 requires that each individual who sells a long-term care benefit plan under the partnership for long-term care program complete training and demonstrate evidence of an understanding of these plans and how the plans relate to other public and private coverage of long-term care. Section 1651.107 provides that the Commissioner may adopt rules as necessary to implement the subchapter. The Human Resources Code §32.105 requires the HHSC to provide information and technical assistance to the Texas Department of Insurance regarding that Department's role in ensuring that each individual

who sells a long-term care benefit plan under the partnership for long-term care program receives training and demonstrates evidence of an understanding of these plans as required by the Insurance Code §1651.105. The training must satisfy the training requirements imposed under the provisions governing the expansion of a state long-term care partnership program established under the federal DRA. The Insurance Code §36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

6. TEXT.

§19.1001. General Provisions.

(a) Purpose. The purpose of this subchapter is to specify:

(1) procedures and requirements for certification of continuing education courses and licensee continuing education requirements as authorized under the Insurance Code;

(2) procedures and requirements for certification and approval of adjuster prelicensing education courses and adjuster examinations as authorized under the Insurance Code §§4101.054 and 4101.056; and

(3) procedures and requirements for certification and approval of long-term care partnership certification courses and licensee long-term care partnership training requirements as authorized under the Insurance Code

Chapter 1651, Subchapter C, and the Human Resources Code Chapter 32, Subchapter C.

(b) Severability. Where any terms or provisions of this subchapter are determined by a court of competent jurisdiction to be inconsistent with any statutes of this state or to be unconstitutional, the remaining terms and provisions of this subchapter shall remain in effect.

(c) Licensee continuing education compliance date. Licensees renewing a license prior to January 1, 2003 shall comply with the continuing education requirements set forth in §19.1003 of this title (relating to Licensee Requirements) that were in effect as of August 31, 2001.

§19.1002. Definitions.

(a) Words and terms defined in Insurance Code §4001.003 shall have the same meaning when used in this subchapter.

(b) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Adjuster--An individual licensed under Insurance Code Chapter 4101.

(2) Application level--Demonstration of the ability to use learned materials in a new situation, usually involving the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information.

(3) Assignee--Any provider which is authorized as set forth in §19.1008(f) of this title (relating to Certified Course Advertising, Modification, and Assignment).

(4) Authorized provider representative--The individual a provider designates as the contact individual responsible for all of the provider's communications and filings with the department.

(5) Business of insurance--Has the same meaning as set forth in Insurance Code, §101.051.

(6) Classroom course--A course complying with §19.1009(c) of this title (relating to Types of Courses).

(7) Classroom equivalent course--A course complying with §19.1009(d) of this title.

(8) Certificate of completion--A document complying with §19.1007(a)(7) of this title (relating to Course Certification Submission Applications, Course Expirations, and Resubmissions).

(9) Certified course--A classroom, classroom equivalent, or self-study course offered by a registered provider that the department or its designee has determined meets the requirements of this subchapter.

(10) Department--Texas Department of Insurance.

(11) Disinterested third party--An individual who is:

(A) not related to a student by blood, adoption, or marriage as a parent, child, grandparent, sibling, niece, nephew, aunt, uncle, or first cousin; or

(B) not an employee or subordinate of the student.

(12) Ethics course--A course that deals with usage and customs among members of the insurance profession, involving their moral and professional duties toward one another, toward clients, toward insureds, and toward insurers.

(13) Insurance course--A course primarily focused on teaching subjects related to the business of insurance.

(14) Interactive inquiries--An interactive electronic component that complies with §19.1009(d)(2) of this title.

(15) Knowledge level--Recall of specific facts, patterns, methods, rules, dates, or other information that must be committed to memory.

(16) Licensee--An individual licensed under one or more of the following Insurance Code provisions:

(A) Chapter 4051, Subchapters B, C, D, E, and I (general property and casualty agent, limited lines agent, insurance service representative, county mutual agent, and personal lines property and casualty agent);

(B) Chapter 4052 (life and health insurance counselor);

(C) Chapter 4053 (managing general agent);

(D) Chapter 4054, Subchapters B, C, E, and G (general lines - life, accident, and health agent, limited lines agent, life insurance not exceeding \$15,000 agent, and life agent);

(E) Chapter 4101 (adjuster);

(F) Chapter 4102 (public insurance adjuster).

(17) Long-term care partnership insurance policy--For purposes of §19.1022 and §19.1023 of this subchapter only, (relating to Long-Term Care Partnership Certification Course and Long-Term Care Partnership Continuing Education), a policy established under the Human Resources Code, Chapter 32, Subchapter C, and the Insurance Code, Chapter 1651, Subchapter C.

(18) National designation certification--A professional designation which is:

(A) nationally recognized in the insurance industry; and

(B) issued by an entity that maintains a not-for-profit status and has been in existence for at least five years.

(19) One-time-event--A type of classroom course complying with §19.1009(f) of this title.

(20) Provider--An individual or organization including a corporation, partnership, depository institution, insurance company, or entity chartered by the Farm Credit Administration as defined in the Insurance Code §4001.108, registered with the department to offer continuing education courses for licensees, prelicensing instruction for adjusters, or long-term care partnership certification courses for licensees.

(21) Provider registration--The process of a provider seeking permission to offer continuing education courses for licensees, prelicensing education for adjusters, or long-term care partnership certification courses for licensees.

(22) Qualifying course--Insurance courses for which a licensee may receive continuing education credit and are:

(A) offered for credit by accredited colleges, universities, or law schools;

(B) part of a national designation certification program;

(C) approved for classroom, classroom equivalent, or participatory credit by the continuing education approval authority of a state bar association or state board of public accountancy; or

(D) certified or approved for continuing education credit under the guidelines of the Federal Crop Insurance Corporation.

(23) Reporting period--The period from the issue date or last renewal date of the license to the expiration date of the license, generally a two-year period.

(24) Self study--A course complying with §19.1009(e) of this title.

(25) Speaker--An individual who shall be speaking from special knowledge regarding the business of insurance obtained through experience and position in professional or social organizations, industry, or government.

(26) Student--A licensee or adjuster applicant enrolled in and attending a certified course for credit.

(27) TDI license number--An identification number the department assigns to the licensee and found on the license certificate.

(28) Visually monitored environment--An environment permitting visual identification of students and visual confirmation of attendance, including observation by camera.

§19.1005. Provider Registration, Instructor, and Speaker Criteria.

(a) A provider applicant seeking initial registration or renewal registration from the department as a continuing education provider, adjuster prelicensing education provider, or long-term care partnership certification course provider shall submit to the department or its designee, an application on forms provided by the department and all applicable fees as set forth in §19.1012 of this title (relating to Forms and Fees). The department may require the following items in order to approve or disapprove a provider's registration request:

(1) The name, physical address, and mailing address of the provider applicant;

(2) The name of the provider applicant's designated authorized provider representative;

(3) A description of the provider's student record system including a description of the methods for documenting attendance;

(4) The method used by the provider for evaluating instructors;

(5) If the provider applicant is a corporation, partnership, limited liability company, or other legal entity not otherwise licensed or regulated by the department, the provider applicant must furnish:

(A) the name of its state of incorporation, domicile, or residence; and

(B) if required to pay franchise taxes, a certificate of good standing from the Texas Comptroller of Public Accounts;

(6) All names used by the provider applicant to provide insurance related education courses in this state;

(7) A statement as to whether or not the provider applicant has had any certification or approval for a professional continuing education course, prelicensing education course, or a long-term care partnership certification course revoked, suspended, or placed on probation, whether by agreement or as ordered in an administrative or judicial proceeding, by a court, financial or insurance regulator, or other agency of this state, another state, or the United States;

(8) A statement certifying that the provider shall comply with all provider and course requirements set forth in this subchapter; and

(9) Other information as specified by the department.

(b) Providers shall have a single registration and may, but are not required to, certify and offer continuing education courses, adjuster prelicensing education courses, and long-term care partnership certification courses.

(c) Providers shall certify that course instructors are experienced and qualified in the subject to be taught, and certify that the instructors meet at least one of the following instructor criteria:

(1) has been in the practice of teaching insurance courses for at least the last three years and has the knowledge and experience in the subject the instructor will teach;

(2) has been properly licensed as a licensee subject to continuing education under the Insurance Code or similar statutes of another state or jurisdiction for at least five years;

(3) is the holder of a national designation certification recognized by the department which relates directly to the subject the instructor shall teach;
or

(4) has been engaged in a recognized profession that is pertinent to the subject areas to be taught, including, but not limited to: licensed or certified medical professionals, Certified Public Accountants, and members of a state bar.

(d) Providers shall maintain as a part of the providers' records a written statement from each instructor certifying that the instructor is qualified as an instructor, the basis of qualification, and that the instructor shall comply with all course requirements as outlined in these sections.

(e) All provider registrations are valid for two years at which time the registration shall expire. Providers shall timely renew their registrations whether or not a notice of expiration is sent by the department. The provider may submit a registration renewal application up to 90 days in advance of the expiration date. Providers that are already registered upon the effective date of these sections shall provide the required registration information at the request of the department.

(f) Providers may use speakers only in conjunction with one-time-event continuing education courses. Providers may not use speakers in conjunction with other continuing education courses, adjuster prelicensing courses, or long-term care partnership certification courses unless the speaker qualifies as an instructor.

(g) Providers shall maintain all information described or required under this section for a period of not less than four years.

§19.1006. Course Criteria.

(a) To be certified as a continuing education course, the course content shall be designed to enhance the knowledge, understanding, and/or professional competence of the student as to one or more of the following topics: insurance principles and coverages; applicable laws, and rules; recent and prospective changes in coverages; technical policy provisions and underwriting guidelines and standards; law and the duties and responsibilities of the licensee; consumer protection; or insurance ethics. The course content may also include instruction on management of the licensee's insurance agency. Ethics and consumer protection course credit shall apply equally to all license types and the content for ethics and consumer protection topics shall be designed to relate to the business of insurance and provide instruction consistent with one or more of the following topics:

- (1) Article 21.21, Insurance Code;

(2) The Unauthorized Insurers False Advertising Process Act
(Article 21.21-1, Insurance Code);

(3) The Unfair Claim Settlement Practices Act (Article 21.21-2,
Insurance Code);

(4) The Deceptive Trade Practices-Consumer Protection Act
(Subchapter E, Chapter 17, Business and Commerce Code);

(5) Analogous laws as specified by the department, including:

(A) Repair of Motor Vehicles: Disclosure of Consumer
Information (Article 5.07-1, Insurance Code);

(B) Prompt Payment of Claims (Article 21.55, Insurance
Code);

(C) Notice of Settlement of Liability Claims (Article 21.56,
Insurance Code);

(D) Action for Amount of Deductible (Article 21.79G,
Insurance Code);

(E) §5.501 of this title (relating to Notice Requirements to
Claimants Regarding Motor Vehicle Repairs); and

(F) Insurance Fraud (Penal Code Chapter 35);

(6) Corporate ethics;

(7) Ethical challenges of licensees;

(8) Ethical behavior of an insurance company;

(9) Ethical behavior of an agent or adjuster;

(10) Duties of the licensee to company, client, and customer;

- (11) Duties of insurer/HMO to agents/clients;
- (12) Fiduciary responsibility;
- (13) Unfair marketing practices;
- (14) Difference between ethics and laws;
- (15) Confidentiality, privacy, and ethics;
- (16) Ethical analysis of the licensee's job;
- (17) Philosophical approaches to ethics; or
- (18) Business ethics.

(b) To be certified as an adjuster prelicensing education course or program, the course content must enhance the student's knowledge, understanding, and/or professional competence regarding the subjects set forth in §§19.1017 and 19.1018 of this title (relating to Adjuster Prelicensing Education Course Content and Examination Requirements and Adjuster Prelicensing Examination Topics). Unless specifically stated otherwise, this subchapter shall apply equally to courses certified for continuing education and adjuster prelicensing purposes.

(c) To be certified as a long-term care partnership certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1022 of this subchapter (relating to Long-Term Care Partnership Certification Course). Unless specifically stated otherwise, this subchapter shall apply equally to courses certified for continuing education and long-term care partnership certification and long-term care partnership continuing education purposes.

(d) The following course content shall not be considered applicable to a licensee's continuing education requirements:

(1) Meetings held in conjunction with the regular business of the licensee or courses or training relating to the marketing and business practices of a specific company;

(2) Course content teaching general accounting, speed reading, other general business skills, computer use, or computer software application use;

(3) Course content teaching motivation, goal-setting, time management, communication, sales, or marketing skills;

(4) Course content providing for prelicensing training qualifying examination preparation;

(5) Course content that does not meet the requirement of subsection (a) of this section; and

(6) Course content that is substantially:

(A) a glossary, dictionary, or index of insurance terms without independent distinction as to the application of these terms to the business of insurance through case studies or analysis based on actual or hypothetical factual situations that apply to the business of insurance; or

(B) a recitation of statutes, rules, legal principles, or theories without independent distinction as to the application of these issues to the business of insurance through case studies or analysis based on actual or hypothetical factual situations that apply to the business of insurance.

(e) A single continuing education course may include both ethics and consumer protection credit topics with other topics meeting the requirements of subsection (a) of this section.

§19.1007. Course Certification Submission Applications, Course Expirations, and Resubmissions.

(a) The provider shall submit the course certification application to the department or its designee and include the following information:

(1) A certification by the provider that the course meets the minimum requirements as defined in this subchapter;

(2) A statement identifying the knowledge, skills, or abilities the licensee is expected to obtain through completion of the course;

(3) A detailed course content outline showing the approximate times for major topics;

(4) For one-time-event continuing education courses, the provider's certification that all speakers, if any, are qualified under this subchapter;

(5) The method of evaluation by which the provider measures how effectively the course meets its objectives and provides for student input;

(6) The total number of course hours requested for approval, including:

(A) the method the applicant is using to determine the number of course hours;

(B) the number of hours included in the total number of course hours requested for approval that are:

(i) sales and marketing topics; and

(ii) ethics and consumer protection topics; and

(C) for applicants determining classroom equivalent or self study course hours by using the average of approval times in other states, a list of all course approval times and states in which the course is approved.

(7) A sample of the certificate of completion which shall be used when licensees or adjuster applicants successfully complete the certified course for approval by the department or its designee. The certificate of completion must contain, at a minimum, the following information:

(A) a statement that the course is for continuing education credit, adjuster prelicensing training, or long-term care partnership certification;

(B) provider name and number;

(C) assignee's name and number (if applicable);

(D) course name, and if applicable, TDI course number(s);

(E) total number of credit hours and the number of included ethics and consumer protection topics;

(F) date of course completion;

(G) for continuing education courses, TDI license number and name of student completing the course;

(H) for adjuster prelicensing training, the name of the student completing the course; and

(l) for long-term care partnership certification, TDI license number and the name of the student completing the course;

(8) A statement that the course is intended for:

(A) continuing education classroom, classroom equivalent, or self study credit and whether the course is primarily intended to be open to all licensees or shall have a restricted enrollment;

(B) adjuster prelicensing education and whether the course is primarily intended to be open to all adjuster applicants or shall have a restricted enrollment; or

(C) long-term care partnership certification and whether the course is primarily intended to be open to all licensees or will have a restricted enrollment;

(9) A copy of the provider's refund policy; and

(10) Any other information requested by the department.

(b) Failure to submit a completed application and all of the requested items shall result in rejection of the application.

(c) The provider's information supporting the certification application shall be:

(1) maintained by the provider for four years;

(2) subject to review and audit by the department or its designee;

and

(3) provided to the department or its designee upon request.

(d) All course certifications are valid for two years at which time the course certification shall expire. The provider shall review and update each course every two years to remain in compliance with this subchapter prior to resubmission for certification. If more than 25% of the course is changed, or if any change shall affect the course content breakdown as previously certified by the department, the department shall consider the course revised and the provider must submit the course to the department for certification as a new course.

(e) If a course is not certified by the department, the provider may request re-evaluation, supplying specifics on how each portion of the course meets the minimum requirements for certification.

§19.1009. Types of Courses.

(a) Continuing education courses may be qualifying courses and certified classroom, classroom equivalent, and self study courses offered by registered providers.

(b) Providers shall offer adjuster prelicensing courses only as a complete course of study for the particular adjuster's license type designation that meets the requirements of §19.1003(c) of this title (relating to Licensee Requirements) and §19.1017 of this title (relating to Adjuster Prelicensing Education Course Content and Examination Requirements). The course of study may consist of classroom, classroom equivalent, and self study instruction. Providers may offer a variety of courses for each adjuster's license designation.

(c) Providers must offer long-term care partnership certification courses only as a complete course of study that meets the requirements of §19.1022 of this subchapter (relating to Long-Term Care Partnership Certification Course). The course of study for long-term care partnership certification courses may consist of classroom, classroom equivalent, and self study instruction.

(d) Classroom courses may include lectures, seminars, audio, video, computer-based instruction, and teleconferences that meet the following requirements:

(1) A disinterested third party attendant, an instructor, or a disinterested third party using visual observation technology must visually monitor attendance either inside or at all exits to the course presentation area at all times during the course presentation.

(2) At least three students and an instructor must be involved in each presentation of the course; however, in circumstances involving remote presentations, all students and the instructor do not need to be in the same location. In the case of presenting recorded or text materials, the instructor making the live course presentation does not have to be the same instructor included on the recorded presentation or who prepared the text materials.

(3) Question and answer and discussion periods must be provided by:

(A) an instructor making a live presentation of the course to licensees in the same room or via real-time live audio or audio-visual connection

which shall allow for immediate student inquiries and responses with the presenting instructor; or

(B) an instructor who is present for the entire remote, recorded, or computer-based course presentation to students in the same room which shall allow for immediate inquiries and responses of students to the instructor.

(4) The course pace is set by the instructor and does not allow for independent completion of the course by students.

(e) Classroom equivalent courses may be internet, CD-ROM, DVD, or other computer-based presentations that:

(1) May not have more than one student at any one presentation of the course.

(2) Must have an interactive electronic component that:

(A) provides for at least four interactive multiple choice inquiry periods during each hour of the course, one of which shall be at the end of the course. Inquiry periods shall occur at regular and relatively evenly-spaced intervals between each period. Inquiry periods shall cover material presented in that section of the course;

(B) requires answering 70% of the inquiries for each period correctly to demonstrate mastery of the current section, including the final section, before the student is allowed by the program to proceed to the next section or complete the course;

(C) identifies all incorrect responses and informs the student of the correct response with an explanation of the correct answer;

(D) generates a different set of inquiries for the section, which may be repeated as necessary on a random or rotating basis if the student does not achieve the 70% correct response rate necessary to advance to the next section;

(E) is capable of generating at least two separate sets of inquiries for each inquiry period;

(F) provides for a method to directly transmit the final course completion results to the provider or a printed course completion receipt to be sent to the provider for issuance of a completion certificate; and

(G) has a means to reasonably authenticate the student's identity on a periodic hourly basis, including upon entering, during, and exiting the course.

(3) A comprehensive final examination is not required for classroom equivalent courses.

(f) Self study courses may include textbook, audio, video, computer-based instruction, or any combination of these in an independent study setting designed in such a manner as to insure that the course cannot be completed by the typical enrollee in less time than the period for which the course is certified to the department.

(g) One-time-event courses shall:

(1) meet the requirements of a classroom course, except that the course may be offered only in a lecture or seminar format at particular events such as conventions and organizational meetings; and

(2) be designed to be offered as a single live presentation, except that providers may offer the course as a live presentation an additional three times per year within this state.

(h) One-time-event courses may be presented by speakers or instructors.

(i) Qualifying courses shall be categorized as classroom, classroom equivalent, or self study based upon the teaching format in which the course is offered.

§19.1011. Requirements for Successful Completion of Continuing Education Courses.

(a) Providers shall use, at a minimum, actual attendance rosters to certify completion of a certified classroom or one-time-event continuing education course or a certified classroom long-term care partnership certification course. The department requires each student to attend at least 90% of the course. Providers shall establish a means to ensure that each student attended at least 90% of the course. Attendance records must include, at a minimum, sign-in and sign-out sheets, and the legible names, addresses, and TDI license number of each student in attendance. Providers may establish assessment measurements or any other completion requirements, in addition to attendance, for successful completion of a classroom continuing education or classroom long-term care

partnership certification course, but those requirements must be fully disclosed in the registration materials before the student purchases the course. Providers shall determine successful completion of these additional requirements.

(b) Providers shall use the periodic interactive inquiries to determine completion of certified classroom equivalent continuing education or long-term care partnership certification courses. A student must complete all inquiry sections with a minimum score of at least 70% for each section.

(c) Providers shall use a written, online, or computer-based final examination as the means of completion for all certified self study continuing education or long-term care partnership certification courses. The department does not require providers to monitor continuing education or long-term care partnership certification self study examinations. Course records for each examination attempt must include, at a minimum, the date the exam was taken, the final examination score, the examination version used, the legible name, address, and the TDI license number of each student.

(d) Self study examinations and classroom equivalent interactive inquiries shall meet the criteria set forth in paragraphs (1) - (12) of this subsection:

(1) The final examination or interactive inquiries must reasonably evaluate the student's understanding of the course content. At least 70% of the examination questions or interactive inquiries must be based at the application level. The remainder of the questions may be based at the knowledge level;

(2) The specific final examination questions and interactive inquiries may not be made available to the student until the test is administered.

Providers shall effect security measures to maintain the integrity of the examination;

(3) Providers shall maintain a record of each student's final examination in the student's record for four years;

(4) An authorized staff member or computer program shall grade self study final examinations. The interactive inquiry computer program shall grade interactive inquiries;

(5) Providers shall allow students to retake an examination at least one time if a score of 70% or higher is not achieved;

(6) Providers shall revise and update self study final examinations and interactive inquiries consistent with the course update/revision;

(7) Providers requiring a monitored final examination shall establish the rules under which the examination shall be given;

(8) The examination or interactive inquiry periods must consist of questions that do not give or indicate an answer or correct response and are of the following types:

(A) for self study courses:

(i) short essay questions requiring a response of five or more words;

(ii) fill in the blank questions requiring a response from memory and not from an indicated list of potential alternatives; or

(iii) multiple choice questions stemming from an inquiry with at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option;

(B) for interactive inquiry periods, multiple choice questions stemming from an inquiry with at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option;

(9) Each interactive inquiry period must consist of at least five questions;

(10) Each self study final examination shall consist of at least 10 questions for each hour of credit up to a maximum requirement of 50 questions per course. Providers may, at their discretion, have a greater number of final examination questions;

(11) During examinations and interactive inquiry periods, licensees may use course materials or personal notes, but may not use another person's notes, answers, or otherwise receive assistance in answering the questions from another person; and

(12) Licensees shall mail or deliver the completed self study examination directly to the provider.

(e) Providers shall issue certificates of completion to students who successfully complete a certified course. The provider must issue the certificate in a manner which shall ensure that the student receiving the certificate is the student who took the course, issue the certificate within 30 days of completing the course, and complete the certificate to reflect the date the student took the

course/examination. Providers shall not allow a student, or any person or organization other than the provider giving the course, to prepare, print, or complete a certificate of completion.

(f) Notwithstanding subsections (a) - (e) of this section, licensees must claim continuing education under §19.1020 of this chapter (relating to State and National Association Credit) by sending to the department, or its designee, upon request, an affirmation acceptable to the department containing:

(1) the licensee's name, address, telephone number, and licensee's department license number;

(2) the name of the national designation or state or national insurance association providing educational materials or sponsoring educational presentations;

(3) the cumulative number of hours of credit claimed for reviewing the educational materials;

(4) the cumulative number of hours of credit claimed for attending the educational presentations;

(5) a statement that the licensee currently holds the national designation or is a member in good standing of the state or national insurance association; and

(6) A statement that the licensee completed at least the number of hours in these activities the licensee is claiming for continuing education credit.

(g) In addition to the affirmation provided under subsection (f) of this section, the department may request a licensee claiming hours under §19.1020

of this chapter to submit a sworn written affirmation to the department confirming under oath the information in subsection (f) of this section. Failure to submit a sworn affirmation will result in denial of the claimed hours and may result in disciplinary action under §19.1015 of this subchapter (relating to Failure to Comply) or the Insurance Code.

§19.1012. Forms and Fees.

(a) Application forms for provider registration, course registration, sample certificates of completion, and the list of courses can be obtained from the Texas Department of Insurance, Education Coordinator, Licensing Division, 333 Guadalupe, MC-107-1A, P.O. Box 149104, Austin, Texas 78714-9104, the department's designee, or when available, the department's Web site at www.tdi.state.tx.us.

(b) The department establishes the following nonrefundable fees, which are necessary to administer the continuing education and long-term care partnership certification programs and shall apply unless the department contracts with a third party to provide continuing education or long-term care partnership certification services:

(1) Provider registration:

(A) Original Registration - \$50; and

(B) Renewal - \$50.

(2) Continuing education and long-term care partnership certification course certification:

(A) Initial submission - \$10 for each hour of course credit requested on the application; and

(B) Resubmission - \$10 for each hour of course credit requested on the application.

(3) Course assignment - \$50 per assignment.

§19.1014. Provider Compliance Records.

(a) Providers shall maintain all continuing education records, adjuster prelicensing education records, long-term care partnership certification records, attendance records, and course materials, including final examinations for at least four years, and the department or its designee may review these materials at any time.

(b) Providers shall notify the department or its designee when a course is discontinued or no longer active, and when there is a change to the provider's information of record.

(c) At the request of the department or its designee, providers shall furnish course completion information in an acceptable electronic format.

(d) The department or its designee may conduct audits of any certified course or provider without prior notice to the provider. Department staff or its representative or designee may attend courses without identifying themselves as employees or representatives of the department.

(e) If continuing education records, adjuster prelicensing records, or long-term care partnership certification records are audited or reviewed and the

validity or completeness of the records are questioned, the provider shall have 30 days from the date of notice to correct discrepancies or submit new documentation.

(f) Registration of providers is conditioned upon the provider's compliance with this subchapter.

§19.1022. Long-Term Care Partnership Certification Course.

(a) Except as provided in subsection (b) of this section, an individual may not perform any action constituting the act of an agent under the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy unless the individual:

(1) holds a current Life, Accident, and Health license issued by the department; and

(2) has completed a long-term care partnership certification course meeting the requirements of this subchapter.

(b) An individual who holds a current Life, Accident, and Health license issued by the department and is performing an action constituting the act of an agent under the Insurance Code §4001.051 with regard to a long-term care insurance policy at the time of the effective date of this section may perform an action constituting the act of an agent under the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy at the time of the effective date of this section, provided the individual completes a long-term care

partnership certification course meeting the requirements of this subchapter no later than January 1, 2009.

(c) This section establishes the standards for a long-term care partnership certification course. The course shall:

(1) be submitted to the department for approval in compliance with §19.1007 of this subchapter (relating to Course Certification Submission Applications, Course Expirations, and Resubmissions);

(2) be at least eight hours in length; and

(3) cover the subjects described in subsection (g) of this section.

(d) Licensees may count a long-term care partnership certification course toward completion of the continuing education requirements prescribed in §19.1003 of this subchapter (relating to Licensee Requirements). If a licensee chooses to use a long-term care partnership certification course to satisfy a portion of the continuing education requirements prescribed in §19.1003, the licensee shall comply with §19.1013 of this subchapter (relating to Licensee Record Maintenance).

(e) A licensee shall maintain proof of completion of a long-term care partnership certification course for a period of four years from the date of completion of the course. Upon request, the licensee shall provide proof of completion of the long-term care partnership certification course to the department.

(f) A provider issued completion certificate for a long-term care partnership certification course must comply with the requirements of §19.1011

of this subchapter (relating to Requirements for Successful Completion of Continuing Education Courses).

(g) Course subjects for a long-term care partnership certification course outline must include topics that address:

- (1) long-term care insurance;
- (2) long-term care services and providers;
- (3) qualified state long-term care insurance partnership programs,

which must include:

(A) state and federal requirements;

(B) the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid;

(C) available long-term care services and providers; and

(D) changes or improvements in long-term care services or providers;

(4) alternatives to the purchase of private long-term care insurance;

(5) the effect of inflation on benefits and the importance of inflation protection;

(6) consumer suitability standards and guidelines;

(7) Medicaid eligibility criteria and requirements, including financial eligibility criteria and requirements; and

(8) asset disregard under qualified state long-term care insurance partnership programs, including the interaction between asset disregard and Medicaid rules.

(h) Providers must meet all of the requirements of this subchapter before offering a long-term care partnership certification course to licensees.

(i) A non-resident licensee is not required to complete a long-term care partnership certification course required by this subchapter if:

(1) the non-resident licensee holds a comparable, current license issued in his or her home state;

(2) the home state of the non-resident licensee qualifies as a long-term care partnership state;

(3) upon department request, an insurer who has appointed the non-resident licensee is able to provide proof of the non-resident licensee's completion of a long-term care partnership certification course in the non-resident licensee's home state with requirements substantially similar to those in this subchapter; and

(4) upon department request, the non-resident licensee is able to provide proof of his or her completion of a long-term care partnership certification course in his or her home state with requirements substantially similar to those in this section.

(j) A non-resident licensee whose home state does not qualify as a long-term care partnership state may comply with the requirements of this subchapter by:

(1) completing a department certified long-term care partnership certification course in this state that meets the requirements of this subchapter; or

(2) designating a home state that qualifies as a long-term care partnership state and meeting the requirements of subsection (i) of this section.

(k) Licensees that may qualify for the exemptions provided under §19.1004 of this subchapter (relating to Licensee Exemption from and Extension of Time for Continuing Education) are not exempt from the provisions of this section.

(l) Information and resource material relating to the course subjects required in subsection (g) of this section, including a section entitled, "Resource Document for Agent Training: Texas Medicaid Eligibility and the Long-Term Care Partnership", may be found at the following website sponsored by the Texas Long-Term Care Partnership, located at www.ownyourfuturetexas.com.

§19.1023. Long-Term Care Partnership Continuing Education.

(a) In addition to completing the long-term care partnership certification course required by §19.1022 of this subchapter (relating to Long-Term Care Partnership Program Certification Course), in each reporting period following the reporting period in which a licensee completed a certification course, a licensee intending to perform any action constituting the act of an agent under the Insurance Code §4001.051 with regard to a long-term care partnership insurance policy must also complete at least four hours of department certified continuing

education during each reporting period as part of the licensee's continuing education requirements prescribed in §19.1003 of this subchapter (relating to Licensee Requirements).

(b) The department certified continuing education required under subsection (a) of this section must:

(1) comply with the requirements of §19.1006 of this subchapter (relating to Course Criteria); and

(2) enhance the knowledge, understanding, and professional competence of the student with regard to subjects described in §19.1022 of this subchapter.

(c) Providers must meet all the requirements of this subchapter before offering a long-term care partnership continuing education course to licensees.

(d) A non-resident licensee is not required to complete four hours of long-term care partnership continuing education required by this subchapter if:

(1) the non-resident licensee is in compliance with the long-term care partnership continuing education requirements of his or her home state; and

(2) the home state of the non-resident licensee qualifies as a long-term care partnership state.

(e) A non-resident licensee whose home state does not qualify as a long-term care partnership state may comply with the requirements of this subchapter by:

(1) completing four hours of department certified long-term care continuing education in this state that meets the requirements of this subchapter;
or

(2) designating a home state that qualifies as a long-term care partnership state and meeting the requirements of subsection (d) of this section.

(f) Licensees that may qualify for the exemptions provided under §19.1004 of this subchapter (relating to Licensee Exemption from and Extension of Time for Continuing Education) are not exempt from the provisions of this section.

CERTIFICATION. This agency hereby certifies that the adopted amendments and new sections have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on _____, 2008.

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that amendments to §§19.1001, 19.1002, 19.1005 - 19.1007, 19.1009, 19.1011, 19.1012, and 19.1014 and new §§19.1022 and 19.1023 specified herein, concerning long-term care partnership certification and continuing education courses and licensee training requirements, are adopted.

AND IT IS SO ORDERED.

MIKE GEESLIN
COMMISSIONER OF INSURANCE

ATTEST:

Gene C. Jarmon
General Counsel and Chief Clerk

COMMISSIONER'S ORDER NO. _____