

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING  
EDUCATION PROGRAMS, AND CERTIFICATION COURSES**  
**28 TAC §§19.1001 - 19.1007, 19.1009, 19.1011 - 19.1017,  
19.1019, and 19.1024 - 19.1030**

**1. INTRODUCTION.** The Commissioner of Insurance adopts amendments to §§19.1001 - 19.1007, 19.1009, 19.1011 - 19.1017, 19.1019, and new 19.1024 - 19.1030, concerning Medicare-related product certification, small employer health benefit plan specialty certification, annuity certification, continuing education courses, and licensee training requirements. Sections 19.1001, 19.1002, 19.1004, 19.1015, 19.1016, 19.1019, 19.1024, and 19.1026 are adopted with changes to the proposed text published in the November 20, 2009, issue of the *Texas Register* (34 TexReg 8166). Sections 19.1003, 19.1005 - 19.1007, 19.1009, 19.1011 - 19.1014, 19.1017, 19.1025, and 19.1027 - 19.1030 are adopted without changes.

**2. REASONED JUSTIFICATION.** These amended and new sections are primarily necessary to implement the following legislation enacted by the 81st Legislature, Regular Session: (i) Senate Bill (SB) 79, which amends the Insurance Code Chapter 4054 to establish a voluntary specialty certification program for agents who market small employer health benefit plans in Texas; (ii) House Bill (HB) 739, which amends the Insurance Code Chapter 4004 to establish initial and continuing education requirements for agents who market Medicare advantage plans, Medicare prescription drug plans, or other health plans operated under the Medicare program, such as Medicare cost plans or Medicare demonstration plans in Texas; and (iii) House Bill

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(HB) 1294, which amends the Insurance Code Chapters 1115 and 4004 to establish initial and continuing education requirements for agents who sell, solicit, or negotiate an annuity contract or represent an insurer in relation to an annuity product.

Following publication of the proposed amendments and new sections in the *Texas Register* on November 20, 2009, the Department received written comments from interested parties. The Department has not made any changes to the proposed text as a result of comments. However, the Department has made necessary changes to the proposed text to clarify the purpose of the subchapter, to more accurately reflect statutory authority, and to correct internal cites, statutory cites, and punctuation. The changes, however, do not introduce new subject matter or affect persons in addition to those subject to the proposal as published.

**SB 79. Voluntary specialty certification program for agents who market small employer health benefit plans; renewal requirements.** One of the purposes of SB 79 is to create an optional specialty certification for insurance agents who market small employer health benefit plans. (TEXAS STATE SENATE STATE AFFAIRS COMMITTEE, BILL ANALYSIS (ENROLLED), SB 79, 81ST Leg., R.S. (Sept. 2, 2009)). Agents who obtain such a certification must hold a general life, accident, and health insurance license under the Insurance Code Chapter 4054 (Life, Accident, and Health Agents) and must complete statutorily specified training. According to the bill analysis, it is important that agents who are selling small employer coverage understand the unique requirements of the small employer market so that they do not provide “bad advice, or even illegal advice or information, to employers who are purchasing such coverage.” Section

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4054.351 requires the Department to establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with Chapter 1501 (Health Insurance Portability and Availability Act). The Insurance Code §4054.359 authorizes the Commissioner, in accordance with the Insurance Code §36.001 (General Rulemaking Authority), to adopt rules as necessary to administer the Insurance Code Chapter 4054, Subchapter H (Specialty Certification for Agents Serving Certain Employer Groups). Section 36.001 authorizes the Commissioner to adopt any rules necessary and appropriate to implement the powers and duties of the department under this code and other laws of this state.

Amendments to §§19.1001(a)(5), 19.1002, 19.1006(e), 19.1007, 19.1009(e), and new §19.1026 and §19.1027 are necessary to: (i) establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with the Insurance Code Chapter 1501; and (ii) prescribe the specific standards for the new small employer health benefit plan specialty certification course in accordance with the Insurance Code §4054.353 and §4054.354. Section 4054.353(a) requires that before an individual can be certified under Chapter 4054, Subchapter H, the individual must first complete training in the law, including Department rules, applicable to small employer health benefit plans offered under Chapter 1501. Section 4054.353(b) requires an individual seeking such specialty certification to complete a course applicable to small employer health benefit plans under Chapter 1501, as prescribed and approved by the Commissioner. Section 4054.353(b) further provides that, with certain statutorily specified exceptions, an individual is not eligible for the

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specialty certification unless, on completion of the course, it is certified to the Commissioner, as required by the Department, that the individual has completed the course and passed an examination testing the individual's knowledge and qualification. Section 4054.353(c) establishes an exception to the §4054.353(b) requirement to complete the course and pass the examination for any individual who demonstrates to the Department, in the manner prescribed by the Department, that the individual holds a designation as a: (i) Registered Health Underwriter (RHU); (ii) Certified Employee Benefit Specialist (CEBS); or (iii) Registered Employee Benefits Consultant (REBC). Section 4054.354 requires an individual to complete five hours of continuing education applicable to small employer health benefit plans during the two-year certification period in order to renew a specialty certification under Chapter 4054, Subchapter H. Section 4054.355 provides that each hour of education completed in accordance with the statutory and rule requirements to obtain or renew a specialty license may be used to satisfy an hour of a continuing education requirement otherwise applicable to the agent. Additionally, §4054.357 of the Insurance Code, enacted by SB 79, provides that an individual who holds a specialty certification may advertise, in the manner specified by Department rule, that the individual is specially trained to serve small employers. New §19.1026(a) implements §4054.357. New §19.1001(a)(5) is necessary to clarify that the expanded purpose of the subchapter now includes the following requirements authorized under the Insurance Code Chapter 4054, Subchapter H: (i) specification of procedures and requirements for certification and approval of small employer health benefit plan specialty certification courses; and (ii) specialty training requirements for

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licensees who market small employer health benefit plans. New §19.1026(a)(1) and (d)(1) are adopted with nonsubstantive changes to the proposed text necessary to correct capitalization and punctuation errors.

**HB 739. Initial and continuing education requirements for agents who market Medicare advantage plans, Medicare prescription drug plans, or other health plans operated under the Medicare program.** The purpose of HB 739 is to “elevate the threshold of competency and familiarity with Medicare that agents must possess, which will in turn protect consumers from misinformed or uninformed opinions or inappropriate or unethical behavior by agents.” (TEXAS STATE SENATE STATE AFFAIRS COMMITTEE, BILL ANALYSIS (ENGROSSED), HB 739, 81ST Leg., R.S. (May 8, 2009). According to the bill analysis, this will be achieved, as provided in HB 739, through requiring a standard minimum of Medicare-specific education for an agent to complete, and thereafter maintain, in order to sell, solicit, or negotiate a contract for Medicare products in this state. HB 739 amends the Insurance Code Chapter 4004 (Continuing Education) by adding a new Subchapter D to address additional education requirements for the sale of Medicare-related products. The Insurance Code §4004.152 prohibits an agent from selling, soliciting, negotiating, or receiving an application or contract for the Medicare-related product or from representing an insurer in relation to the Medicare-related product in this state unless the agent has completed eight hours of professional training related to the Medicare-related product and specifies that such training may be used to satisfy the continuing education requirements established under the Insurance Code Chapter 4004, Subchapter B (Agent Continuing Education Requirements).

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Thereafter, §4004.153 requires an insurance agent who solicits, negotiates, procures, or collects a premium on a Medicare-related product or who represents or purports to represent an insurer, a health maintenance organization, or a preferred provider organization in relation to such a product to meet certain continuing education requirements regarding those products. Specifically, §4004.153(b) requires that each such agent must complete four hours of continuing education that specifically relates to Medicare-related products during the agent's two-year licensing period, and §4004.153(c) provides that only training in a program that has been certified by the Department may be used to satisfy the §4004.153(b) requirements. Section 4004.153(d) provides that the continuing education required under §4004.153(b) may be used to satisfy the continuing education requirements established under the Insurance Code Chapter 4004, Subchapter B. Pursuant to Section 3 of HB 739, new Subchapter D applies to education requirements for insurance agents for a license issued or renewed on or after April 1, 2010. The Insurance Code §4004.154(b) requires the Commissioner by rule to adopt criteria for the programs used to satisfy the requirements of §4004.152 and §4004.153 that are designed to ensure that an agent has knowledge, understanding, and professional competence concerning a Medicare-related product. Amendments to §§19.1001(a)(4), 19.1002, 19.1006(d), 19.1007, and 19.1009(d), and new §19.1024 and §19.1025 are necessary to implement the HB 739 requirements concerning professional training and continuing education pertaining to Medicare-related products. New §19.1001(a)(4) is necessary to clarify that the expanded purpose of the subchapter now includes specification of procedures and

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requirements for certification and approval of Medicare-related product certification courses and licensee Medicare-related product training requirements as authorized under the Insurance Code Chapter 4004, Subchapter D. New §19.1024(a) is adopted with a nonsubstantive change to the proposed text necessary to correct capitalization errors in the subsection.

**HB 1294. Initial and continuing education requirements for agents who sell, solicit, or negotiate an annuity contract or represent an insurer in relation to an annuity product.** One of the purposes of HB 1294 is to “elevate the threshold of competency and familiarity with annuities that agents must possess; this, in turn, will protect consumers from misinformed or uninformed opinions or inappropriate or unethical behavior from agents.” (TEXAS STATE SENATE STATE AFFAIRS COMMITTEE, BILL ANALYSIS (COMMITTEE REPORT), CSHB 1294, 81ST Leg., R.S. (May 12, 2009). HB 1294 requires resident agents licensed to sell annuities to complete four hours of annuity-related education initially and four hours annually as part of an agent's required continuing education courses. HB 1294 also prohibits an agent from using misleading or fraudulent senior-specific professional designations or certifications when selling life insurance or annuity products. HB 1294 amends the Insurance Code Chapter 1115 (Suitability of Certain Annuity Transactions), Subchapter B (Duties of Insurers and Agents) by adding new §1115.056 to require a resident agent who intends to sell, solicit, or negotiate a contract for an annuity in this state or to represent an insurer in relation to such an annuity to submit evidence satisfactory to the Department of completion of at least four hours of training relating to annuities before soliciting individual consumers for

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the purpose of selling annuities. HB 1294 also amends the Insurance Code Chapter 4004 by adding new Subchapter E relating to continuing education requirements for the sale of annuities. Specifically, §4004.202 applies to a resident agent who sells, solicits, or negotiates a contract for an annuity in this state or represents or purports to represent an insurer in relation to such an annuity. Section 4004.202(b) requires that each such agent complete four hours of continuing education annually that specifically relates to annuities. Section 4004.202(b) further requires that the annual period be based on the agent's license expiration date or another date specified by the Commissioner by rule, and that the education requirement be met within that annual period. Section 4004.202(c) provides that the continuing education requirements may be used to satisfy the continuing education requirements under the Insurance Code Chapter 4004, Subchapter B. Pursuant to Section 1.004 of HB 1294, the requirements of the Insurance Code Chapter 4004, Subchapter E apply to continuing education requirements for insurance agents for a license issued or renewed on or after April 1, 2010. The Insurance Code §4004.203 requires the Commissioner by rule to adopt criteria for continuing education programs used to satisfy the requirements of §4004.202. Section 4004.203(a) specifies that those criteria must include: (i) topics related specifically to annuities; (ii) state laws and rules related to annuities, including requirements adopted under the Insurance Code Chapter 1115; (iii) prohibited sales practices regarding annuities; (iv) recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an annuity; and (v) fraudulent and unfair trade practices regarding the sale of annuities. Amendments to

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§§19.1001(a)(6), 19.1002, 19.1006(f), 19.1007, and 19.1009(f), and new §19.1028 and §19.1029 are adopted to implement HB 1294 requirements, including §§1115.056 (Agent Education Requirements), 4004.202 (Required Continuing Education Regarding Annuities), and 4004.203 (Program Certification Requirements). New §19.1001(a)(6) is adopted with changes to the proposed text. Section 19.1001(a)(6) as proposed provides that one of the purposes of the subchapter is to specify procedures and requirements for certification and approval of annuity certification courses and licensee annuity training requirements as authorized under the Insurance Code §1115.056. Adopted §19.1001(a)(6) includes the additional authority of the Insurance Code Chapter 4004, Subchapter E as a basis for the stated purpose. This change in §19.1001(a)(6) is necessary for consistency with the remaining adopted amendments and new sections implementing HB 1294, including §19.1029, and to more accurately state the purpose of the subchapter as it relates to HB 1294.

**Other implementation.** In addition to implementing the above-described certification course requirements and licensee training requirements for the Medicare-related products, the small employer health benefit plan specialty certification, and the annuity certification, the Department has adopted amendments and new sections necessary to clarify the expanded purpose of the subchapter and to reflect additional changes in the law. The amendment to the subchapter title is necessary to more accurately reflect the additional content of the subchapter, which now includes multiple certification courses.

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Amendments to §19.1002(b) are necessary to add a new definition for the frequently used term “certification course” and renumber the remaining definitions as necessary for inclusion of the new definition. New §19.1002(b)(9) defines “certification course” to refer to a course designed to enhance the student’s knowledge, understanding, and professional competence regarding specified subjects for an insurance product. The definition also specifies that the term includes Long-Term Care Certification courses, Medicare-Related Product Certification courses, Small Employer Health Benefit Plan Specialty Certification courses, and Annuity Certification courses. This definition is necessary to distinguish between certification courses and continuing education courses in the text of the subchapter. The amendments to §19.1002(b)(17)(D) and §19.1003(a) conform the definition of the term “licensee” and the licensee requirements, respectively, to include licensees for life insurance not exceeding \$25,000, in lieu of “licensees for life insurance not exceeding \$15,000” in the existing rules. This is necessary because of the enactment of House Bill (HB) 2570, enacted by the 81st Legislature, Regular Session, effective September 1, 2009. HB 2570 in pertinent part amends the Insurance Code §§884.303, 884.304, 4054.051, 4054.201, 4054.206, and 4054.301 to increase the statutory maximum from \$15,000 to \$25,000 for the amount of life insurance liability that may be initially assumed by a stipulated premium company on one life. Section 13 of HB 2570 provides that the Act applies only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2010. A policy delivered, issued for delivery, or renewed before January 1, 2010, is governed by the law as it existed immediately before the effective date of this

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Act, and that law is continued in effect for that purpose. New §19.1002(b)(15), (20), and (25) are adopted with changes to the proposed text necessary to correct internal cites. Section 19.1002(b)(15), (20), and (25) as proposed referenced §§19.1009(d)(2), 19.1009(f), and 19.1009(e), respectively. Adopted §§19.1002(b)(15), (20), and (25) now correctly reference subsections (g)(2), (j), and (i) of §19.1009, respectively.

Amendments to §19.1006 are necessary to prescribe the general course criteria for Department-certified certification courses and to provide a regulatory framework for the new certification courses by making existing Subchapter K provisions applicable to the new certification courses, as appropriate. Specifically, each of the new §19.1006(d) – (f), respectively, adds the requirement that the course content of the new certification courses for the Medicare-related product certification, the small employer health benefit plan specialty certification, and the annuity certification enhance the student's knowledge, understanding, and professional competence regarding the subjects required for each of the courses. In addition, new §19.1006(d) – (f), respectively, also clarify that, unless specifically stated otherwise, each provision of Subchapter K applies equally to the new certification courses and continuing education courses for the Medicare-related product certification, the small employer health benefit plan specialty certification, and the annuity certification. Amendments to §19.1007 are necessary to incorporate the new certification courses for each of the three types to be regulated under the adopted amendments and new sections (Medicare-related product certification courses, small employer health benefit plan specialty certification courses, and annuity certification courses) into the submission requirements for applications

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submitted by course providers. Amendments to §19.1009 are necessary to incorporate each of the three new types of certification courses (Medicare-related product certification courses, small employer health benefit plan specialty certification courses, and annuity certification courses) into the regulatory framework for course type requirements and to specify the types of courses that may be used to satisfy a course of study for the new certification courses.

The amendments to §19.1011 are necessary to require providers of Department-regulated continuing education courses to use a written, online, or computer-based final examination to determine completion of all certified classroom certification courses that statutorily require an examination for successful completion of the certified classroom certification course. Amendments to §19.1011 are necessary to ensure that minimum standards exist for all Department-regulated certified classroom certification courses that require an examination for completion. The Insurance Code §4054.353(b)(2) provides that, except as provided by §4054.353(c) (relating to course and examination exemptions), an individual is not eligible for the small employer health benefit plan specialty certification unless that individual has passed an examination testing the individual's knowledge and qualifications. While there are currently minimum standards for the development and implementation of examinations for classroom equivalent and self-study courses, the current §19.1011(a) relies on the use of attendance rosters to certify completion of certified classroom courses. Amendments to §19.1011(a) specify that providers shall use a written, online, or computer-based final examination to determine completion of all certified classroom certification courses that statutorily

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require an examination for successful completion of the certified classroom certification course. This standard mirrors the standard currently used for the examination requirements for all certified self-study courses. The small employer health benefit plan specialty certification is the only Department-regulated certified classroom certification course that statutorily requires an examination as a requirement for course completion.

New §19.1030 is necessary to provide regulatory standards for reissuance of a certification for an individual whose license has been expired for one year or more or has been revoked or refused renewal by the Department. These standards mirror the standards for expired licenses provided in the Insurance Code §4003.007(c), which provides that a person whose license has been expired for one year or more may not renew the license but may obtain a new license by submitting to reexamination, as applicable for original issuance of the license, and complying with the other requirements and procedures for obtaining an original license. New §19.1030 is adopted pursuant to §4001.005 and §4054.359 of the Insurance Code. Section 4001.005, included in Chapter 4001 (Agent Licensing in General), authorizes the Commissioner to adopt rules necessary to implement the Insurance Code Title 13 (Regulation of Professionals), including: (i) Chapter 4004, new Subchapter D relating to additional continuing education requirements for the sale of Medicare-related products; (ii) Chapter 4004, new Subchapter E relating to continuing education requirements for the sale of annuity products; and (iii) Chapter 4054, new Subchapter H relating to specialty certification for agents serving certain employer groups. Section 4054.359 also authorizes the Commissioner, in accordance with §36.001 of the Insurance Code,

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to adopt rules as necessary to administer the Insurance Code Chapter 4054, Subchapter H. Finally, the Insurance Code §4004.001 specifies that the Department has exclusive jurisdiction of all matters relating to the continuing education of agents licensed under the Insurance Code, and §4004.101 requires the Department to certify continuing education programs for agents using criteria designed to ensure that the continuing education programs enhance the knowledge, understanding, and professional competence of the license holder. Section 4004.101 also provides that only a program that satisfies the criteria established by rule by the Commissioner may receive certification. The amendments to §§19.1001 - 19.1007, 19.1009, 19.1011 - 19.1017, and 19.1019, and new §§19.1024 - 19.1030 specified herein, concerning Medicare-related product certification, small employer health benefit plan specialty certification, annuity certification, continuing education courses, are additionally adopted pursuant to the Insurance Code §4004.001 and §4004.101.

In addition to the foregoing amendments and new sections, nonsubstantive changes throughout §§19.1001 - 19.1007, 19.1009, 19.1011 - 19.1017, and 19.1019 were necessary to correct form and grammar, make clarifications, correct citations, reflect reorganized content, and replace references to “long-term care partnership certification” with the more generic term “certification” to reflect that multiple certification courses are now available. New §§19.1004(g), 19.1015(a) and (b), 19.1016(a)(2), and 19.1019(d) are adopted with changes to the proposed text necessary to correct a statutory reference. Section 19.1004(g) as proposed incorrectly reflects an updated statutory reference for the Insurance Code Article 21.07-1 §5B as the Insurance Code

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§4054.152. Adopted §19.1004(g) corrects the update to reference the appropriate statutory provision, §4054.159. Sections 19.1015(a) and 19.1016(a)(2) as proposed incorrectly reflect updated statutory references for the Insurance Code Articles 21.01-2 §3A and 21.07 §17 as the Insurance Code §§4005.101 - 4005.110 and §§4101.201 - 4101.203, respectively. Adopted §19.1015(a) and §19.1016(a)(2) correct the update to reference the appropriate statutory provisions of the Insurance Code §§4005.101 - 4005.108 and 4101.201, respectively. Similarly, §19.1015(b) and §19.1019(d) as proposed incorrectly reflect updated statutory references for the Insurance Code Article 21.01-2 §3A as the Insurance Code §§4005.101 - 4005.110. Adopted §19.1015(b) and §19.1019(d) correct the update to reference the appropriate statutory provisions of the Insurance Code §§4005.101 - 4005.108. Finally, the amendments to §§19.1001 - 19.1007, 19.1009, 19.1011 - 19.1017, 19.1019, and new 19.1024 - 19.1030 are adopted pursuant to the Insurance Code §36.001, which authorizes the Commissioner to adopt any rules necessary and appropriate to implement the powers and duties of the Department under the Insurance Code and other laws of this state.

### **3. HOW THE SECTIONS WILL FUNCTION.**

**Section-by-section summary.** The following is a section-by-section summary of the adopted amendments and new sections. As previously indicated, most of the amendments relate to the procedures and requirements for the certification and approval of: (i) Medicare-related product certification courses and licensee Medicare-related product continuing education requirements; (ii) small employer health benefit

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plan specialty certification courses and licensee small employer health benefit plan specialty continuing education requirements; and (iii) annuity certification courses and licensee annuity continuing education requirements.

The amended subchapter title reflects the additional content of the subchapter, which includes requirements for multiple certification courses. Amendments to §19.1001(a) specify three additional purposes of the subchapter.

Amendments to §19.1002(b) add a new definition for the frequently used term “certification course” and renumber the remaining definitions as necessary for inclusion of the new definition. Amendments to §19.1002(b)(17)(D) and §19.1003(a) conform the definition of the term “licensee” and the licensee requirements in those respective sections to include licensees for life insurance not exceeding \$25,000, in lieu of “licensees for life insurance not exceeding \$15,000” in the existing rules.

New §19.1006(d) – (f), respectively, add the requirement that the course content of the new certification courses for the Medicare-related product certification, the small employer health benefit plan specialty certification, and the annuity certification enhance the student’s knowledge, understanding, and professional competence regarding the subjects required for each of the courses. In addition, new §19.1006(d) – (f), respectively, also clarify that, unless specifically stated otherwise, each provision of Subchapter K applies equally to the new certification courses and continuing education courses for the Medicare-related product certification, the small employer health benefit plan specialty certification, and the annuity certification.

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The amendment to §19.1007(a)(7)(A) adds Medicare-related product certification, small employer health benefit plan specialty certification, and annuity certification to the list of course types that may be shown on the sample certificate of completion that must be submitted with the application for course certification to indicate the type of requirement that the course is intended to satisfy. Similarly, the amendment to §19.1007(a)(7)(I) adds Medicare-related product certification, small employer health benefit plan specialty certification, and annuity certification to the list of certification types that may be shown on the sample certificate of completion that must be submitted with the application. The amendments also move the reference to “long-term care partnership certification” to be included with the list of the other three types of new certifications being added.

New §19.1009(d) – (f), respectively, each specify that providers must offer each new certification course for Medicare-related product certification courses, small employer health benefit plan specialty certification courses, and annuity certification courses only as a complete course of study and that the course of study may consist of classroom, classroom equivalent, and self-study instruction for each of the three new types of certification course.

Amendments to §19.1011(a) specify that providers shall use a written, online, or computer-based final examination to determine completion of all certified classroom certification courses that statutorily require an examination for successful completion of the certified classroom certification course. Section 19.1011(a) determines the minimum standards to be used for certified classroom courses that statutorily require an

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examination as a requirement for course completion and does not otherwise impose additional requirements for other regulated certified classroom courses that do not require an examination for course completion.

New §19.1024 prescribes the specific standards for the new Medicare-related product certification course required by the Insurance Code §4004.152. Section 19.1024(a) prohibits an individual from performing any action constituting the act of an agent under Insurance Code §4001.051 with regard to a Medicare-related product unless the individual satisfies the requirements of §19.102 (relating to Agent Authority to Market Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Prescription Drug Plans) and has completed a Medicare-related product certification course. Section 19.1024(b) specifies that a Medicare-related product certification course must be submitted to the Department for approval, be at least eight hours in length, and cover each of the subjects described in §19.1024(f). Section 19.1024(c) allows a licensee to count a Medicare-related product certification course toward completion of the continuing education requirements prescribed in §19.1003 (relating to Licensee Requirements). Section 19.1024(d) requires a licensee to maintain proof of completion of a Medicare-related product certification course for a period of four years from the date of completion of the course and to provide proof of completion to the Department upon request. Section 19.1024(e) provides that a provider issued completion certificate for a Medicare-related product certification course must comply with the requirements of §19.1011 (relating to Requirements for Successful Completion of Continuing Education Courses). Section 19.1024(f) specifies that the course subjects

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for a Medicare-related product certification course must include topics that are related specifically to Medicare-related products, state and federal laws and rules related to Medicare-related products, prohibited sales practices regarding Medicare-related products, suitability of sales of Medicare-related products, and fraudulent and unfair trade practices regarding the sale of Medicare-related products. Section 19.1024(g) clarifies that exemptions provided under §19.1004(b) or (c) (relating to Licensee Exemption from and Extension of Time for Continuing Education) do not apply to the requirements of §19.1024.

New §19.1025 prescribes the specific standards for the new Medicare-related product continuing education requirements required by the Insurance Code §4004.153. Section 19.1025(a) requires a licensee to complete at least four hours of Department-certified Medicare-related product continuing education during each reporting period following the reporting period in which the licensee completed the Medicare-related product certification course. Section 19.1025(b) specifies that Department-certified Medicare-related product continuing education must comply with the requirements of §19.1006 (relating to Course Criteria) and must enhance the knowledge, understanding, and professional competence of the student with regard to one or more of the subjects described in §19.1024(f). Section 19.1025(c) clarifies that exemptions provided under §19.1004(b) or (c) (relating to Licensee Exemption from and Extension of Time for Continuing Education) do not apply to the requirements of §19.1025.

New §19.1026 prescribes the specific standards for the new small employer health benefit plan specialty certification course in accordance with the Insurance Code

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§4054.351 and §4054.353. Section 19.1026(a) provides that an individual may advertise that the individual is specially trained to serve small employers in the health benefit plan market if the individual: (i) holds a current life, accident, and health license issued by the Department; (ii) agrees to market small employer health benefit plans to small employers without regard to the number of employees to be covered under the plan; (iii) maintains on file with the Department a current business address, phone number, and general description of the individual's service area; (iv) has completed a small employer health benefit plan specialty certification course meeting the requirements of Subchapter K or qualifies for an exception from completion of the small employer health benefit plan specialty certification course; and (v) has passed an examination testing the individual's knowledge and qualifications in compliance with the requirements of §19.1011 of Subchapter K (relating to Requirements for Successful Completion of Continuing Education Courses) or qualifies for an exception from completion of the small employer health benefit plan specialty certification course. Section 19.1026(b) specifies that a small employer health benefit plan specialty certification course must be submitted to the Department for approval, be at least eight hours in length, cover each of the subjects described in §19.1026(e), and comply with the requirements of §19.1011 (relating to Requirements for Successful Completion of Continuing Education Courses). Section 19.1026(c) allows a licensee to count a small employer health benefit plan specialty certification course toward completion of the continuing education requirements prescribed in §19.1003. Section 19.1026(d) requires a licensee to maintain proof of completion of a small employer health benefit plan

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specialty certification course for a period of four years from the date of completion of the course and to provide proof of completion or proof of exception from completion to the Department upon request. Section 19.1026(e) specifies that the course subjects for a small employer health benefit plan specialty certification course must include topics related to: (i) small employer health benefit plans; (ii) state and federal law and rules related to employer health benefit plans; (iii) anti-rebating and prohibited sales practices regarding employer benefit plans; (iv) federal programs and other alternatives related to small employer health benefit plans; and (v) fraudulent and unfair trade practices regarding small employer health benefit plans.

New §19.1027 prescribes the specific standards for the new small employer health benefit plan specialty continuing education requirements in accordance with the Insurance Code §4054.354. Section 19.1027(a) provides that, in order to maintain the small employer health benefit plan specialty certification, a licensee must complete at least five hours of Department-certified continuing education during each reporting period following the reporting period in which the licensee completed the small employer health benefit plan specialty certification course. Section 19.1027(b) specifies that Department-certified small employer health benefit plan specialty continuing education must comply with the requirements of §19.1006 (relating to Course Criteria) and must enhance the knowledge, understanding, and professional competence of the student with regard to one or more of the subjects described in §19.1026(e).

New §19.1028 prescribes the specific standards for the new annuity certification course in accordance with the Insurance Code §1115.056. Section 19.1028(a) prohibits

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an individual who obtains a current resident agent license issued by the Department on or after April 1, 2010, or renews a resident agent license on or after April 1, 2010, from selling, soliciting, or negotiating a contract for an annuity or representing an insurer in relation to an annuity in this state until the individual has completed an annuity certification course. Section 19.1028(b) clarifies that exemptions provided under §19.1004(b) or (c) (relating to Licensee Exemption from and Extension of Time for Continuing Education) do not apply to the requirements of §19.1028. Section 19.1028(c) specifies that an annuity certification course must be submitted to the Department for approval, be at least four hours in length, and cover each of the subjects described in §19.1028(g). Section 19.1028(d) allows a licensee to count an annuity certification course toward completion of the continuing education requirements prescribed in §19.1003, subject to license record maintenance requirements as required in §19.1013. Section 19.1028(e) requires a licensee to maintain proof of completion of an annuity certification course for a period of four years from the date of completion of the course and to provide proof of completion to the Department upon request. Section 19.1028(f) specifies that a provider-issued completion certificate for an annuity certification course must comply with the requirements of §19.1011 of the subchapter (relating to Requirements for Successful Completion of Continuing Education Courses). Section 19.1028(g) specifies that course subjects of an annuity certification course must include: (i) the requirements of the Insurance Code Chapters 1114 and 1115, and the requirements of 28 Texas Administrative Code Chapter 3, Subchapter NN (relating to Consumer Notices for Life Insurance Policy and Annuity Contract Replacements); (ii)

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the prohibitions specified in the Insurance Code §§541.051 – 541.061; (iii) recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an annuity; and (iv) practices relating to annuities that are prohibited by the Penal Code Chapter 35. Section 19.1028(h) specifies that course subjects for an annuity certification course may include additional topics addressing statutes enacted and rules adopted subsequent to the effective date of adopted §19.1028(h), provided that the statutes or rules relate specifically to annuities.

New §19.1029 prescribes the specific standards for the new annuity continuing education requirements in accordance with the Insurance Code §4004.202 and §4004.203. Section 19.1029(a) specifies that a licensee who sells, solicits, or negotiates an annuity contract, represents an insurer in relation to an annuity in this state, or intends to sell, solicit, or negotiate an annuity contract in this state must complete at least four hours of Department-certified annuity continuing education in compliance with §19.1029. Section 19.1029(b) specifies that if a licensee completes the required annuity certification course before the expiration of the 12th month of the licensee's licensing period, the continuing education course must be completed by the end of the expiration of that licensing period. Section 19.1029(b) further specifies that if a licensee completes the required annuity certification course after the 12th month of the licensee's licensing period, the continuing education must be completed by the expiration of the 12th month in the licensing period following the licensing period in which the licensee completed the annuity certification course. Section 19.1029(c) specifies that after a licensee has completed the required annuity certification course, a

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licensee subject to the requirements of the adopted section must complete at least four hours of Department-certified annuity continuing education every twelve months, calculated from the date of the license renewal. Section 19.1029(d) specifies that the Department-certified continuing education required under §19.1029(a) must comply with the requirements of §19.1006 of the subchapter (relating to Course Criteria) and enhance the knowledge, understanding, and professional competence of the student with regard to one or more of the subjects described in §§19.1028(g)(1) – (4) of the subchapter (relating to Annuity Certification Courses).

New §19.1030 provides regulatory standards for issuance of a certification for an individual whose license has been expired for one year or more or has been revoked or refused renewal by the Department. Section 19.1030 specifies that a licensee whose license has been expired for one year or more or has been revoked or refused renewal by the Department shall, upon the issuance of a new original license, comply with the certification requirements of Subchapter K and may not use any certification course or continuing education course completed under the licensee's inactive license to satisfy the requirements.

In addition to the foregoing amendments and new sections, the Department is adopting nonsubstantive amendments throughout §§19.1001 – 19.1007, 19.1009, 19.1011 – 19.1017, and 19.1019 to correct form and grammar, make clarifications, correct citations, reflect reorganization, and replace references to “long-term care partnership certification” with the more generic term “certification” to reflect that multiple

certification courses are now available. Collectively, these nonsubstantive changes enhance the readability of the subchapter.

#### **4. SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

##### **General comments.**

**Comment:** Two commenters express appreciation for work done to draft rules relating to Medicare-related product certification, small employer health plan certification, annuity certification, and continuing education courses, with one commenter noting that agent educational requirements are important to protect the consumer from fraudulent and misleading products and practices.

**Agency Response:** The Department appreciates the supportive comments.

**Comment:** One commenter suggests that the Department reconsider implementing SB 79, HB 739, and HB 1294, because, in the opinion of the commenter, the products being regulated are not complex compared to other products, and experienced professionals in the industry should not have to unnecessarily expend additional resources to remain in the industry. The commenter opines that the proposed implementation is generally unnecessary.

**Agency Response:** The Department disagrees with the commenter's request to reconsider implementation of SB 79, HB 739, and HB 1294. Amendments to §§19.1001(a)(5), 19.1002, 19.1006(e), 19.1007, and 19.1009(e), and new §19.1026 and §19.1027 are necessary to establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with Chapter

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1501 as required by the Insurance Code §4054.351 and Chapter 4054, Subchapter H. While the Department encourages participation in this new small employer health benefit plan specialty certification program, the program is nonetheless voluntary and does not impose requirements for individuals who do not elect to pursue the small employer health benefit plan specialty certification. Adoption of a regulatory framework in support of the voluntary small employer health benefit plan specialty certification requirements is necessary to permit insurance agents who elect to pursue such certification and to advertise such specialty training to do so in compliance with the Insurance Code Chapter 4054, Subchapter H. Amendments to §§19.1001(a)(4), 19.1002, 19.1006(d), 19.1007, and 19.1009(d), and new §19.1024 and §19.1025 are necessary to implement the initial and continuing education requirements related to Medicare-related products that are mandated pursuant to the Insurance Code §4004.152 and §4004.153 and Chapter 4004, Subchapter D. While Medicare-related product certification is not a prerequisite to licensure, the Insurance Code §§4004.152 and 4004.153 mandate certification and continuing education as a requirement for performance of the acts of an agent under the Insurance Code §4001.051 with regard to a Medicare-related product. Adoption of a regulatory framework in support of the Medicare-related product certification requirements is necessary to permit insurance agents whose licenses are issued or renewed on or after April 1, 2010, to perform the acts of an agent with respect to a Medicare-related product in compliance with the Insurance Code Chapter 4004, Subchapter D. Amendments to §§19.1001(a)(6), 19.1002, 19.1006(f), 19.1007, and 19.1009(f), and new §19.1028 and §19.1029 are

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necessary to implement initial and continuing education requirements and program certification requirements related to annuity products as required by the Insurance Code §§1115.056, 4004.202, and 4004.203, respectively and by Chapter 4004, Subchapter E in general. While annuity certification is not a prerequisite to licensure, the Insurance Code §1115.056 and §4004.202 mandate certification and continuing education related to annuity products as a requirement for the sale, solicitation, or negotiation of a contract for an annuity or representation of an insurer in relation to an annuity in this state. Adoption of a regulatory framework in support of the annuity certification requirements is necessary to permit insurance agents whose licenses are issued or renewed on or after April 1, 2010, to sell, solicit, or negotiate a contract for an annuity in this state or to represent an insurer in relation to such an annuity in compliance with the Insurance Code §1115.056 and Chapter 4004, Subchapter E.

### **Sections 19.1025(b)(2), 19.1027(b)(2), and 19.1029(d)(2)**

**Comment:** A commenter expresses concern that proposed §§19.1025(b)(2), 19.1027(b)(2), and 19.1029(d)(2) would permit a continuing education course to cover only one of the subjects described in proposed §§19.1024(f), 19.1026(e), and 19.1028(g)(1) - (4), respectively. Because the commenter opines that it is a necessary consumer safeguard for agents to complete course requirements on an annual basis specifically related to ethical sales practices, in addition to other requirements that enhance the agent's understanding of the product, the commenter feels it is important to include courses designed to provide knowledge of updated prohibited sales practices and unfair trade practices. The commenter suggests amendatory language to: (i)

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§19.1025(b)(2), such that the course subjects for the certification course include, at a minimum, prohibited sales practices regarding Medicare-related products; (ii) §19.1027(b)(2), such that the course subjects for the certification course include, at a minimum, fraudulent and unfair trade practices regarding small employer health benefit plans; and (iii) §19.1029(d)(2), such that the course subjects for the certification course include, at a minimum, prohibitions specified in the Insurance Code §§541.051 - 541.061.

**Agency Response:** While the Department agrees that continuing education with respect to ethics is important, the Department does not agree that the minimum course requirements concerning ethics suggested by the commenter are necessary. Sections 19.1025(b)(2), 19.1027(b)(2), and 19.1029(d)(2) permit variation within a prescribed range of topics in the subject matter of the certification courses which agents may complete to meet the certification and continuing education requirements for the respective Medicare-product, small employer health benefit plan, and annuity certifications. The Insurance Code §4004.054 requires each individual who holds a license issued by the Department to complete two hours of continuing education in ethics during each license renewal period. The Insurance Code §§4004.152(b), 4004.153(d), 4054.355, 1115.056(b), and 4004.202(c) permit course work completed with respect to the certification and continuing education requirements for the Medicare-product, small employer health benefit plan, and annuity certifications programs to be used to satisfy the continuing education requirements under the Chapter 4004, Subchapter B, of which §4004.054 comprises one requirement. As such, the

Department anticipates that course providers will frequently incorporate ethics components as described by the commenter into the certification courses for the respective certification programs in order to attract participants to a particular course. Minimum ethics components in addition to those required pursuant to the Insurance Code §4004.054 are not necessary.

**Section 19.1026(b)(2).**

**Comment:** A commenter opposes the inclusion at proposed §19.1026(b)(2) of an eight-hour course requirement for initial small employer health benefit plan certification for several reasons. The commenter states that SB 79 was silent with respect to the length of the initial certification course and addressed course length associated with the certification only by establishing a five-hour requirement for continuing education to maintain the certification. The commenter asserts that there was no testimony or conversation concerning the possibility of an eight-hour certification requirement, which the commenter further asserts to be inconsistent with the transparency goals of public policy. Finally, the commenter opines that educational requirements should be in proportion to the complexity of the product and how well the product is understood by the consumers and agents. The commenter asserts that small employer health insurance is less complicated than products such as Medicare Advantage plans and annuities because national debate has familiarized people with terms such as “guaranteed issue” and “pre-existing condition.” For all of these reasons, the commenter requests that the Department amend §19.1026(b)(2) such that only five hours are required for the initial certification course.

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**Agency Response:** The Department disagrees with the commenter's suggestion. An array of health benefit plan insurance products are available to small employers, many of which may have unique requirements and consequences as a result of federal and state law. Such products are potentially within the jurisdiction of multiple federal and state agencies, including not only the Department, but also the U.S. Department of Labor, the U.S. Internal Revenue Service, and the U.S. Department of Health and Human Services, that may exercise regulatory authority. The Insurance Code §4053.353(a) requires a person seeking initial small employer health benefit plan certification to complete training in the law, including Department rules, applicable to employer health benefit plans offered under Chapter 1501. The Insurance Code §4054.355 requires five hours of additional continuing education during an agent's two-year certification period to renew the specialty certification. Further, the Insurance Code §4054.353(c) establishes an exemption from the initial specialty course completion and examination requirement for individuals who hold a designation as a Registered Health Underwriter (RHU), a Certified Employee Benefit Specialist (CEBS), or a Registered Employee Benefits Consultant (REBC). While requirements may vary depending upon the provider and accrediting organization, to obtain an RHU designation, in addition to experiential requirements, an individual must generally take a minimum of three courses, and licensed insurance agents that hold an RHU designation must earn 30 hours of continuing education credit every two years. To obtain a CEBS designation, an individual must take a minimum of eight courses. Many of the CEBS courses have been evaluated and recommended for college credit at the upper level baccalaureate

degree level by the American Council on Education's College Credit Recommendation Service. These individual courses range in length from 21 hours to 42.75 hours and have recommended college credit recommendations of one to three semester hours each. To obtain an REBC designation, an individual must generally take a minimum of five courses, and licensed insurance agents that hold an REBC designation must earn 30 hours of continuing education credit every two years. It is true that SB 79 does not include a specific requirement concerning the number of hours of initial training for the small employer health benefit plan certification. However, the inclusion at the Insurance Code §4054.353(c) of designations indicative of a rigorous course of study as a basis of exemption from the statutory prerequisites of course completion and examination requirements does indicate that comprehensive educational requirements were intended. As such, eight hours of initial education as a prerequisite to the small employer health benefit plan specialty certification represents an appropriate course length requirement.

## **5. NAMES OF THOSE COMMENTING FOR AND AGAINST THE PROPOSAL.**

**For, with changes:** Office of Public Insurance Council, Texas Association of Health Underwriters.

**Against:** Meinen Agency, Inc.

**6. STATUTORY AUTHORITY.** The amendments and new sections are adopted under the Insurance Code §§4004.154(b), 4004.152, 4004.153, 1115.056, 4004.202,

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4004.203, 4054.359, 4054.351, 4054.352(a)(3), 4054.353, 4054.354, 4054.355, 4054.357, 884.303(b), 884.304, 4054.051(6)(a), 4054.201(a), 4054.206, 4054.301(a)(4) and (d), 4001.005, 4004.001, 4004.101, and 36.001. Section 4004.154(b) requires the Commissioner by rule to adopt criteria for the programs used to satisfy the requirements of §4004.152 and §4004.153 that: (i) are designed to ensure that an agent has knowledge, understanding, and professional competence concerning a Medicare-related product; and (ii) may incorporate by reference any requirements established by the Centers for Medicare and Medicaid Services or any other appropriate federal agency. Section 4004.152 prohibits an agent from the sale, solicitation, negotiation, or receipt of an application or contract for a Medicare-related product in this state or the representation of an insurer in relation to the Medicare-related product in this state until the agent has completed eight hours of professional training related to the Medicare-related product but provides that the required training may be used to satisfy continuing education requirements under Chapter 4004, Subchapter B. Section 4004.153(b), which applies to any agent who solicits, negotiates, procures, or collects a premium on a Medicare-related product, or represents or purports to represent an insurer, health maintenance organization, or preferred provider organization in relation to such a Medicare-related product, requires such agents to complete four hours of continuing education that specifically relates to Medicare-related products during the agent's two-year licensing period. Section 4004.153 further provides at subsections (c) and (d), respectively, that only training in a program that has been certified by the Department may be used to satisfy the requirements of §4004.153(b) and that the continuing

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education required under subsection (b) may be used to satisfy the continuing education requirements established under Chapter 4004, Subchapter B. Section 1115.056 requires a resident agent that intends to sell, solicit, or negotiate a contract for an annuity in this state or to represent an insurer in relation to such an annuity to submit evidence satisfactory to the Department of completion of at least four hours of training related to annuities before soliciting individual consumers for the purpose of selling annuities and provides that such training may be used to satisfy the continuing education requirements imposed under the Insurance Code and rules adopted under the Insurance Code for issuance of a license under the Insurance Code. Section 4004.202, similarly applicable to a resident agent who sells, solicits, or negotiates a contract for an annuity in this state, or represents or purports to represent an insurer in relation to such an annuity, requires such agents to complete four hours of continuing education annually that specifically relates to annuities. Section 4004.202 further provides that the annual period under the section must be based on the agent's license expiration date or another date specified by the Commissioner by rule, that the education requirement must be met within that annual period, and that such continuing education may be used to satisfy continuing education requirements under Chapter 4004, Subchapter B. Section 4004.203 requires the Commissioner by rule to adopt criteria for continuing education courses used to satisfy the requirements of §4004.202 and specifies that those criteria must include: (i) topics related specifically to annuities; (ii) state laws and rules related to annuities, including requirements adopted under Chapter 1115; (iii) prohibited sales practices regarding annuities; (iv) recognition of

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indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an annuity; and (v) fraudulent and unfair trade practices regarding the sale of annuities. Section 4004.203 further provides at subsection (b) that subject matter determined by the Commissioner to be primarily intended to promote the sale or marketing of annuities does not qualify as continuing education for purposes of the Insurance Code Chapter 4004, Subchapter E. Section 4004.203 also provides that the Insurance Code Chapter 4004, Subchapter C (Continuing Education Programs) applies to both the continuing education programs described by §4004.203(a) and training under §1115.056 and that any training program disapproved under subsection (b) shall be presumed invalid for certification under Subchapter C unless the program is approved in writing by the Commissioner. Section 4054.359 authorizes the Commissioner, in accordance with §36.001 of the Insurance Code, to adopt rules as necessary to administer the Insurance Code Chapter 4054, Subchapter H, which regulates specialty certification for agents serving certain employer groups. Section 4054.351 requires the Department to establish a voluntary specialty certification program for individuals who market small employer health benefit plans in accordance with Chapter 1501. Section 4054.352(a)(3) provides that submission of evidence of completion of training to the Department in a manner prescribed by the Commissioner is one of the requirements of eligibility to receive a specialty certification under the Insurance Code Chapter 4054, Subchapter H. Section 4054.353 provides that an individual must first complete training in the law, including Department rules, applicable to small employer health benefit plans offered under Chapter 1501 to be certified under

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the Insurance Code Chapter 4054, Subchapter H. Section 4054.353 further provides that: (i) the individual seeking such specialty certification must complete a course applicable to small employer health benefit plans under Chapter 1501, as prescribed and approved by the Commissioner; and (ii) an individual is not eligible for the specialty certification unless, on completion of the course, it is certified to the Commissioner as required by the Department that the individual has completed the course and passed an examination testing the individual's knowledge and qualification, subject to certain statutory exceptions. Section 4054.354 provides that the individual must complete five hours of continuing education applicable to small employer health benefit plans during the two-year certification period to renew the specialty certification, and §4054.355 permits each hour of education completed in accordance with Subchapter H to be used to satisfy an hour of a continuing education requirement otherwise applicable to the agent under Title 13. Section 4054.357 permits an individual who holds a specialty certification to advertise, in the manner specified by Department rule, that the individual is specially trained to serve small employers. Section 884.303(b) provides that a stipulated premium company may not insure one life under §884.303 for more than \$25,000, except as provided by §884.304 or Chapter 884, Subchapter I. Section 884.304 provides in pertinent part that: (i) a stipulated premium company may not assume liability on a life insurance risk on one life in an amount that exceeds \$25,000 except as provided by §884.304; and (ii) if a stipulated premium company assumes a life insurance risk under a life insurance policy, the initial death benefit of \$25,000 or less may increase to an amount greater than \$25,000 or subject to §884.304. Section

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4054.051(6)(a) provides that a person is required to hold a general life, accident, and health license if the person acts as an agent who writes for a stipulated premium company only life insurance in excess of \$25,000 on any one life. Section 4054.201(a) provides that the Department shall issue a license to an individual applicant to act as an agent who writes only life insurance policies in an amount that does not exceed \$25,000 on any one life on receipt of certification from a stipulated premium company, a statewide mutual assessment company, a local mutual aid association, or a local mutual burial association that the applicant has completed a course of study and instruction in compliance with Chapter 4054, Subchapter E and passed without aid a written examination administered by the insurer. Section 4054.206 provides that an insurance agent licensed under Chapter 4054, Subchapter E may not write any coverage or combination of coverages with an initial guaranteed death benefit that exceeds \$25,000 on any life. Section 4054.301(a)(4) requires a person to hold a life agent license if the person does not hold a general life, accident, and health license under Chapter 4054, Subchapter B and the person acts as an agent who writes for a stipulated premium company only life insurance in excess of \$25,000 on any one life, subject to certain statutory exceptions. Section 4054.301(d) provides that a person who holds a license to write life insurance not exceeding \$25,000 under Chapter 4054, Subchapter E and who engages in the business of insurance only within the scope of that license is not required to hold a life agent license, but that a person who holds a life agent license may write the insurance described by that subchapter. Section 4001.005 authorizes the Commissioner to adopt rules necessary to implement Title 13 of the Insurance Code,

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relating to the regulation of professionals, including Chapter 4001 (Agent Licensing In General); Chapter 4004, new Subchapters D and E relating to additional continuing education courses for the sale of Medicare-related products and continuing education requirements for the sale of annuity products, respectively; and Chapter 4054, new Subchapter H relating to specialty certification for agents serving certain employer groups. Section 4004.001 specifies that the Department has exclusive jurisdiction of all matters relating to the continuing education of agents licensed under the Insurance Code. Section 4004.101 requires the Department to certify continuing education programs for agents using criteria designed to ensure that the continuing education programs enhance the knowledge, understanding, and professional competence of the license holder and also provides that only a program that satisfies the criteria established by rule by the Commissioner may receive certification. Section 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.

## **7. 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;

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(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;

(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;

(4) procedures and requirements for certification and approval of Medicare-related product certification courses and licensee Medicare-related product training requirements as authorized under the Insurance Code Chapter 4004, Subchapter D;

(5) procedures and requirements for certification and approval of small employer health benefit plan specialty certification courses and licensee small employer health benefit plan specialty training requirements as authorized under the Insurance Code Chapter 4054, Subchapter H; and

(6) procedures and requirements for certification and approval of annuity certification courses and licensee annuity training requirements as authorized under the Insurance Code Chapter 4004, Subchapter E and §1115.056.

(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.

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(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 the Insurance Code §§4001.003, 4004.151, and 4004.201 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.

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(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) Certification course--A course designed to enhance the student's knowledge, understanding, and professional competence regarding specified subjects for an insurance product. The term includes courses that satisfy the requirements for the Long-Term Care Certification required by the Insurance Code Chapter 1651, Subchapter C and the Human Resources Code Chapter 32, Subchapter C; the Medicare-Related Product Certification required by the Insurance Code Chapter 4004, Subchapter D; the Small Employer Health Benefit Plan Specialty Certification required by the Insurance Code Chapter 4054, Subchapter H; and the Annuity Certification required by the Insurance Code §1115.056.

(10) 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.

(11) Department--Texas Department of Insurance.

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

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(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.

(13) 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.

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

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

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

(17) 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 \$25,000 agent, and life agent);

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(E) Chapter 4101 (adjuster);

(F) Chapter 4102 (public insurance adjuster).

(18) 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.

(19) 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.

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

(21) 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.

(22) 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.

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(23) 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.

(24) 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.

(25) Self-study--A course complying with §19.1009(i) of this title.

(26) 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.

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

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

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

### **§19.1003. Licensee Requirements.**

(a) Licensees shall complete 30 hours of continuing education within each reporting period, except that licensees holding only a license issued under the Insurance Code Chapter 4054, Subchapter C, §§4054.101 – 4054.103, and Chapter 4054, Subchapter E, §§4054.201 – 4054.208 (limited lines and life insurance not exceeding \$25,000) and Chapter 4051, Subchapter C, §§4051.101 – 4051.102, and Chapter 4051, Subchapter E, §§4051.201 – 4051.206 (limited lines and county mutual agent) shall complete 10 hours of continuing education during each reporting period. Licensees shall complete at least two hours of the continuing education requirement in certified ethics and/or consumer protection courses. Licensees may satisfy the remainder of the continuing education requirement by completing certified courses applicable to any license type.

(b) Licensees holding more than one license issued under the Insurance Code shall not be required to complete more than 30 hours of continuing education courses, two hours of which must be in certified ethics or consumer protection courses, within each reporting period.

(c) Adjuster applicants seeking an examination exemption under the Insurance Code §4101.056(a)(4) shall complete both a certified adjuster prelicensing education

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course of not less than 40 hours and pass the course examination testing the applicant's knowledge and qualifications as set forth in this subchapter. Adjuster applicants shall complete at least 30 hours of the course requirement through classroom or classroom equivalent course work.

(d) Licensees shall not count any education course credit they receive before the date the permanent license is issued by the department as complying with applicable continuing education requirements. Licensees must complete all continuing education hours during the reporting period. A licensee may not carry forward excess hours completed in one reporting period to a subsequent reporting period and a licensee may not complete hours in any subsequent period to correct a shortage of hours in a previous reporting period.

(e) Licensees holding a license subject to continuing education which is prorated by the department to coincide with the renewal of another license and those licensees that are resident licensees of other states or jurisdictions but become residents of Texas between renewals of the Texas license shall complete continuing education on a prorated schedule. The total credit hours required shall be determined at the rate of one hour for each whole month between the issue or last renewal date of the license or the date of Texas residency to the next actual renewal date of the license up to the maximum number of hours required for the licensee during the reporting period. A licensee shall not be required to complete continuing education for a reporting period on a prorated basis if the dates between which the prorated schedule would begin and end are less than six complete months. Licensees completing prorated schedules must

complete at least two of the required hours in certified ethics or consumer protection courses.

(f) Licensees must complete at least 50% of their required continuing education hours in certified classroom or classroom equivalent courses, regardless of any other license type held by the licensee.

## **§19.1004. Licensee Exemption from and Extension of Time for Continuing Education.**

(a) Any exemption or extension granted to a licensee under subsections (b) - (f) of this section shall apply to all license types held by the licensee. Nothing within this subchapter shall be construed as preventing the department from auditing a licensee to confirm the continued existence of circumstances supporting the exemption or extension.

(b) Agents holding a Texas license issued under the Insurance Code Chapter 4054, as Group I, legal reserve life insurance agents and general lines - life, accident and health insurance agents; Chapter 4053, as managing general agents; and/or Chapter 4051, as local recording agents, solicitors, general lines - property and casualty agents, and insurance service representatives, for at least 20 years or more as of December 31, 2002, are exempt from the requirements of this subchapter. Agents shall register and confirm that they qualify for this exemption by submitting a written request to the department indicating that they have met the longevity requirement. Agents must satisfy the continuing education requirements through the end of the 20th year of

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licensure. The number of credit hours for the final reporting period is calculated at the rate of one hour for each whole month between the last renewal date and the effective date of the exemption. Agents that have previously qualified for the longevity exemption authorized under the Insurance Code as in effect prior to September 1, 2001, shall remain qualified and do not have to reapply for this exemption.

(c) Licensees who on or after January 1, 2003, have been continuously licensed by the department for at least 20 years may apply for an exemption from the requirements of this subchapter. For purposes of this subsection "continuously licensed" means that the licensee has held a department-issued license for the entire period of time without any lapse in excess of 90 days in which the licensee was not licensed or failed to renew a license. Licensees shall apply for this exemption by submitting a written request to the department indicating that they have met the longevity requirement. Licensees must satisfy the continuing education requirements through the end of the 20th year of licensure. The number of credit hours for the final reporting period is calculated at the rate of one hour for each whole month between the last renewal date and the effective date of the exemption.

(d) Nonresident licensees who are in compliance with their resident state's continuing education requirements shall be exempt from this subchapter. Licensees shall qualify for this exemption based on the state of residence claimed in the licensee's initial application or by sending written notification to the department or its designee stating that the licensee is a resident of another state with a certificate of good standing, or by sending any other document acceptable to the department, showing that the

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licensee has a resident license in good standing in that state. A nonresident licensee that becomes a resident of Texas between renewals of the Texas license shall:

(1) be immediately subject to the continuing education requirements set forth in this subchapter;

(2) complete a prorated continuing education schedule as required in §19.1003(e) of this title (relating to Licensee Requirements); and

(3) not count hours completed prior to becoming a Texas resident towards completion of the prorated continuing education requirement.

(e) Licensees who meet the criteria of illness, medical disability, or circumstances beyond the control of the licensee may apply for an extension of time to complete their continuing education requirement or a waiver, in whole or in part, of the continuing education requirement. Business reasons do not constitute circumstances beyond the control of the licensee. The department shall establish the duration of the extension when it is granted. If the circumstances supporting the extension continue beyond the granted extension period, the licensee may reapply for an extension. The licensee must request the extension prior to the end of the reporting period for which it applies and must include at least the information set forth in paragraphs (1) - (6) of this subsection:

(1) Statement of the exact nature of the illness, medical disability or other extenuating circumstances beyond the control of the licensee that have prevented or will prevent the licensee from completing the required hours within the two year reporting period.

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(2) Evidence in the form of medical reports from attending physician(s) and insurance claims regarding the illness or medical disability of the licensee or evidence through insurance claims and/or other documentation as determined regarding circumstances beyond the control of the licensee.

(3) Assessment of the condition of the licensee whether it is temporary, permanent or unknown.

(4) Statement as to whether the licensee will or will not be able to perform activities including any acts of an agent or adjuster.

(5) Estimated date when the licensee will be able to perform any activities including any acts of an agent or adjuster in accordance with the medical reports or other documents pertaining to circumstances beyond the control of the licensee.

(6) Any other information that may be requested by the department.

(f) Licensees called to active military service in a combat theater, as provided for in the Insurance Code §36.109, may apply to the department for an exemption from or an extension of time for meeting the continuing education requirements or extending their license renewal. The licensee must request the exemption or extension prior to the end of the reporting period for which it applies and must include:

(1) a copy of the order to active duty status, service in a combat theater, or other positive documentation of military service that shall prevent the licensee from compliance;

(2) a clear request for either an extension or exemption, or both;

(3) the expected duration of the assignment;

(4) and any other information the licensee believes may assist the department or that the department requests on a case by case basis.

(g) Any individual who qualifies as specified in the Insurance Code §4054.159 is exempt from the continuing education requirements in this subchapter.

### **§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 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:

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(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 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 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:

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(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.

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(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 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) Chapter 541 of the Insurance Code, entitled Unfair Methods of Competition and Unfair or Deceptive Acts or Practices;

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(2) Chapter 547 of the Insurance Code, entitled False Advertising by Unauthorized Insurers;

(3) Chapter 542, Subchapter A, entitled Unfair Claim Settlement Practices;

(4) Chapter 17, Subchapter E, of the Business and Commerce Code, entitled Deceptive Trade Practices and Consumer Protection Act;

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

(A) Chapter 1952, Subchapter G, of the Insurance Code, entitled Repair of Motor Vehicles;

(B) Chapter 542, Subchapter B, of the Insurance Code, entitled Prompt Payment of Claims;

(C) Chapter 542, Subchapter D, of the Insurance Code, entitled Notice of Settlement of Claim Under Casualty Insurance Policy;

(D) Chapter 542, Subchapter E, of the Insurance Code, entitled Recovery of Deductible From Third Parties Under Certain Automobile Insurance Policies;

(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;

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- (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

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long-term care partnership certification and long-term care partnership continuing education purposes.

(d) To be certified as a Medicare-related product certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1024 of this subchapter (relating to Medicare-Related Product Certification Course). Unless specifically stated otherwise, this subchapter shall apply equally to courses certified for continuing education, Medicare-related product certification, and Medicare-related product continuing education purposes.

(e) To be certified as a small employer health benefit plan specialty certification course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1026 of this subchapter (relating to Small Employer Health Benefit Plan Specialty Certification Course). Unless specifically stated otherwise, this subchapter shall apply equally to courses certified for continuing education and small employer health benefit plan specialty certification.

(f) To be certified as an annuity certification or continuing education course, the course content must enhance the student's knowledge, understanding, and professional competence regarding the subjects specified in §19.1028(g)(1) - (4) of this subchapter (relating to Annuity Certification Course). Unless specifically stated otherwise, this section shall apply equally to courses certified for continuing education and annuity certification.

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(g) 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.

(h) 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;

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(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, long-term care partnership certification, Medicare-related product certification, small employer health benefit plan specialty certification, or annuity 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;

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(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

(I) for certification courses, TDI license number, the name of the student completing the course, and the type of certification (long-term care partnership certification, Medicare-related product certification, small employer health benefit plan specialty certification, or annuity certification);

(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) 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:

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- (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

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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) Providers must offer Medicare-related product certification courses only as a complete course of study that meets the requirements of §19.1024 of this subchapter (relating to Medicare-Related Product Certification Course). The course of study for Medicare-related product certification courses may consist of classroom, classroom equivalent, and self-study instruction.

(e) Providers must offer small employer health benefit plan specialty certification courses only as a complete course of study that meets the requirements of §19.1026 of this subchapter (relating to Small Employer Health Benefit Plan Specialty Certification Course). The course of study for small employer health benefit plan specialty certification courses may consist of classroom, classroom equivalent, and self-study instruction.

(f) Providers must offer annuity certification courses only as a complete course of study that meets the requirements of paragraphs §19.1028(g)(1) - (4) of this subchapter (relating to Annuity Certification Course). The course of study for annuity

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certification courses may consist of classroom, classroom equivalent, and self-study instruction.

(g) 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.

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

(h) 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;

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(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.

(i) 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.

(j) 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.

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

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

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## **§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 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 shall use a written, online, or computer-based final examination to determine completion of all certified classroom certification courses that statutorily require an examination for successful completion of the certified classroom certification course. Providers may establish additional assessment measurements or any other completion requirements for successful completion of a classroom continuing education or classroom 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 certification courses. A student must complete all inquiry sections with a minimum score of at least 70% for each section.

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(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 certification courses. The department does not require providers to monitor continuing education or 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;

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(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;

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(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:

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(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

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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](http://www.tdi.state.tx.us).

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

(1) Provider registration:

(A) Original Registration - \$50; and

(B) Renewal - \$50.

(2) Continuing education and 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.

## **§19.1013. Licensee Record Maintenance.**

(a) Licensees and adjuster applicants shall provide evidence of completion of courses to the department or its designee upon request. Each licensee shall maintain evidence of each course completed for a period of four years from the date of completion of the course for the purpose of investigation or audit. Licensees shall

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continue to maintain evidence of compliance during any period in which the licensee has been notified by the department or its designee that the records and/or the licensee's compliance is the subject of an investigation or audit.

(b) Types of course completion evidence of compliance may include:

(1) a certificate of completion from a provider;

(2) a college transcript;

(3) a passing grade report from a national designation program;

(4) a certificate or report of completed continuing education hours issued by a professional licensing authority or a provider of a course certified by a professional licensing authority; or

(5) a letter from the program sponsor's representative stating the number of hours the licensee taught.

(c) The department shall consider the filing of a properly completed renewal application with the department in the form prescribed by the department as a licensee's certification that all required continuing education hours for the reporting period have been completed, absent a timely written request or notice for extension or exemption as required under the Insurance Code §4004.052(a) and §19.1004(b) - (g) of this title (relating to Licensee Exemption from and Extension of Time for Continuing Education). The department's renewal of any license does not relieve a licensee from compliance with the continuing education requirements for any reporting period and failure to obtain required continuing education hours without obtaining a prior exemption or extension shall subject the licensee to administrative action.

(d) It is the licensee's responsibility to comply with this subchapter and maintain evidence that the licensee has completed the required continuing education hours. A licensee should immediately report to the department or its designee any discrepancy the licensee discovers between a course taken by a licensee and the credit hours certified to the licensee by the provider.

## **§19.1014. Provider Compliance Records.**

(a) Providers shall maintain all continuing education records, adjuster prelicensing education records, certification course 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 certification course records are audited or reviewed and the validity or completeness of the records

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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.

## **§19.1015. Failure to Comply.**

(a) The department or its designee may at any time investigate or audit a licensee's continuing education records and/or compliance with this subchapter. The commissioner may, after notice and opportunity for hearing, discipline a licensee under the Insurance Code, Chapter 82, Chapter 4005, Subchapter C, §§4005.101 – 4005.108, and Chapter 4101, Subchapter E, §4101.201, and this subchapter, if the commissioner determines that the license holder:

(1) is in violation of, or has failed to comply with, the Insurance Code or this subchapter;

(2) has provided, submitted, or filed any document which in whole or in part is false or deceptive for the purpose of providing evidence of complying with the continuing education statutes and this subchapter, or in responding to any inquiry from the department concerning compliance;

(3) has falsified records or participated in any activity which allows circumvention of the requirements of the Insurance Code or this subchapter;

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(4) has received or used unauthorized materials or assistance or provided to another student unauthorized materials or assistance before or during an examination or interactive inquiry period; or

(5) has failed to pay within 90 days an automatic fine assessed pursuant to the Insurance Code §4005.109 and §19.1016 of this title (relating to Automatic Fines) without properly requesting a hearing.

(b) The department or its designee may at any time investigate or audit a provider's continuing education records and/or compliance with this subchapter. The commissioner may, after notice and an opportunity for hearing, discipline a provider and/or the provider's authorized representative, officers, directors, managers or partners, under the Insurance Code Chapter 82 and Chapter 4005, Subchapter C, §§4005.101 – 4005.108, and this subchapter, if the commissioner determines that the provider and/or its authorized representative, officer, director, manager, or partner:

(1) is in violation of, or has failed to comply with the Insurance Code or this subchapter;

(2) has represented to the public that the provider is authorized to offer certified courses prior to the approval of the provider's registration;

(3) has advertised any course in a manner not in compliance with this subchapter;

(4) has used unqualified instructors or speakers to present certified courses;

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(5) has provided, submitted, or filed with the department any document which in whole or in part is false or deceptive relating to the provider's registration application, course assignment, course approval, instructor/speaker criteria, course content, or course credit, which allows circumvention of the requirements of the Insurance Code or this subchapter;

(6) has provided, submitted, or filed falsified records relating to a student's completion of continuing education, attendance, or final examination;

(7) has issued a certificate of completion for a course which does not comply with the registration requirements of this subchapter;

(8) has issued a certificate of completion or certificate of attendance when the student has not met the minimum completion requirements;

(9) has failed to pay within 90 days an automatic fine assessed pursuant to the Insurance Code §4005.109 and §19.1016 of this title without properly requesting a hearing;

(10) has failed to notify the department of changes to any course which are required to be reported;

(11) has failed to conduct the certified course, as specified in the course application;

(12) has failed to monitor course attendance where monitoring is required;

(13) has failed to insure an appropriately monitored examination where monitoring is required;

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(14) has provided or allowed the use of unauthorized materials or assistance during an examination;

(15) has failed to provide timely refunds to students when required;

(16) has failed to timely file any form or other required information; or

(17) has failed to maintain course records for the required time period.

(c) If the commissioner proposes action against a licensee or provider, the affected licensee or provider is entitled to a hearing in accordance with Insurance Code, Chapter 40.

## **§19.1016. Automatic Fines.**

(a) Pursuant to the Insurance Code §4005.109, the department establishes the following procedure for automatic fines:

(1) All automatic fines must be paid by check or money order made payable to the Texas Department of Insurance within 30 calendar days after the date of issuance of the automatic fine under this section unless the fined party disputes the assessment of the automatic fine and files a written request for contested case hearing under Chapter 2001 of the Government Code within the 30-day period.

(2) If the assessment of the fine is disputed, the department may, in its discretion, assert other matters and claims against the fined party at such hearing and also seek any disciplinary action available under the Insurance Code, Chapter 82, Chapter 4005, Subchapter C, §§4005.101 – 4005.108, and Chapter 4101, Subchapter

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E, §4101.201, and this subchapter, including additional fine amounts in excess of the automatic fine amount.

(b) The department adopts the following automatic fines:

(1) Failure by a licensee to obtain the required number of continuing education hours--\$50 per credit hour not completed;

(2) Failing to issue a properly completed certificate of completion within 30 days following completion of course--\$100 per certificate;

(3) Providing a course to students prior to course certification--\$200 per student, per instance;

(4) Providing a course to students after course certification has expired--\$200 per student, per instance;

(5) Providing an assigned course to students prior to approval of the assignment--\$200 per student, per instance; and

(6) Providing an assigned course to students after the assignment has expired--\$200 per student, per instance.

## **§19.1017. Adjuster Prelicensing Education Course Content and Examination Requirements.**

(a) Certified adjuster prelicensing education courses shall provide students with instruction sufficient to take and pass the course's final examination for the adjuster's license designation as specified in this section. The course must meet the minimum 40-hour prelicensing education requirement to qualify for certification.

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(b) All adjuster prelicensing examinations for compliance with the Insurance Code §4101.056(a)(4) may be written or computer-based and shall be designed to test applicants on the materials as specified in this section for the appropriate license designation and shall meet the criteria set forth in paragraphs (1) - (7) of this subsection:

(1) All lines adjuster. The student shall complete a 150-question examination in less than 180 minutes over the subjects and in the question percentages as set forth in §19.1018(a) of this title (relating to Adjuster Prelicensing Examination Topics).

(2) Property, casualty, and surety adjuster. The student shall complete a 150-question examination in less than 180 minutes over the subjects and in the question percentages as set forth in §19.1018(b) of this title.

(3) Workers' compensation adjuster. The student shall complete a 60-question examination in less than 90 minutes over the subjects and in the question percentages as set forth in §19.1018(c) of this title.

(4) At least 70% of the examination questions must be based on the application level or higher. The remainder of questions may be based at the knowledge level. Examination questions shall not be the same or substantially the same questions the student previously encountered in the course materials or review examinations and cannot be designed such that the correct answer is obvious by its content. The examination questions shall be multiple choice questions stemming from an inquiry with

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at least four appropriate potential responses and for which "all of the above" or "none of the above" is not an appropriate option.

(5) The specific examination questions may not be made available to the student until the test is administered. Security measures shall be in place to maintain the integrity of the examination and ensure that the enrolled student is the individual who took the examination.

(6) Providers must include and maintain the examination results in the student's record for four years. Providers and instructors shall not give any person answers to the examination questions at any time before, during, or after the course.

(7) An authorized staff member or a computer program shall grade the examinations.

(c) Students shall be allowed to retake a certified prelicensing examination course at least one time if a score of 70% or higher is not achieved without being required to retake the course. The retest shall consist of an alternate examination consisting of different questions from the original examination.

(d) Final examinations shall consist of at least three complete exams which are distributed alternatively to students and are revised or updated consistent with the course update/revision. The provider may distribute only one examination to any student at any one examination.

(e) A disinterested third party shall monitor the final examination in a visual environment. During the examination, students may not use course materials, personal notes, or any other written or electronic material or media that is not part of the

examination, nor engage in communication of any kind with any other person except to receive instructions from the examination monitor. Upon completion of the examination, the person monitoring the examination must mail or deliver the completed examination directly to the provider.

(f) Providers shall issue certificates of completion to students who successfully pass the examination by correctly answering at least 70% of the examination questions. 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 passing the examination, and complete the certificate to reflect the dates the student took the course and 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.

### **§19.1019. Full-Time Home Office Salaried Employees.**

(a) Full-time home office salaried employees registered under the Insurance Code §4051.301 shall comply with the hourly continuing education requirement set forth in §19.1003(a) and (f) of this title (relating to Licensee Requirements). Insurers employing full-time home office salaried employees must provide the employees with instruction regarding the disclosure required by the Insurance Code §4051.301(c).

(b) An insurer employing full-time home office salaried employees may provide its employees with continuing education internally, provided the insurer registers as a

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provider and complies with all requirements set forth in this subchapter affecting providers and course certification, including payment of all provider and course fees.

(c) Insurers shall maintain all continuing education records and rosters documenting each employee's compliance with this subchapter for at least four years.

(d) The department or its designee may at any time investigate or audit an insurer's continuing education records and/or compliance with this subchapter. The commissioner may, after notice and opportunity for hearing, discipline an insurer or full-time home office salaried employee under the Insurance Code, Chapter 82, Chapter 4005, Subchapter C, §§4005.101 – 4005.108, and this subchapter, if the commissioner determines that the insurer or full-time home office salaried employee is in violation of, or has failed to comply with, the Insurance Code or this subchapter.

## **§19.1024. Medicare-Related Product Certification Course.**

(a) An individual whose life, accident, and health license is issued or renewed by the department on or after April 1, 2010, may not perform an action constituting the act of an agent under the Insurance Code §4001.051 with regard to a Medicare-related product, unless the individual:

(1) satisfies the requirements of §19.102 of this title (relating to Agent Authority to Market Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Prescription Drug Plans); and

(2) has completed a Medicare-related product certification course meeting the requirements of this subchapter.

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(b) This section establishes the standards for a Medicare-related product 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 each of the subjects described in subsection (f) of this section.

(c) Licensees may count a Medicare-related product 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 Medicare-related product certification course to satisfy a portion of the continuing education requirements prescribed in §19.1003 of this subchapter, the licensee shall comply with §19.1013 of this subchapter (relating to Licensee Record Maintenance).

(d) A licensee shall maintain proof of completion of a Medicare-related product 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 Medicare-related product certification course to the department.

(e) A provider issued completion certificate for a Medicare-related product certification course must comply with the requirements of §19.1011 of this subchapter (relating to Requirements for Successful Completion of Continuing Education Courses).

(f) Course subjects for a Medicare-related product certification course outline must include topics that address:

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- (1) topics related specifically to Medicare-related products;
- (2) state and federal laws and rules related to Medicare-related products;
- (3) prohibited sales practices regarding Medicare-related products;
- (4) topics related to the suitability of sales of Medicare-related products;

and

(5) fraudulent and unfair trade practices regarding the sale of Medicare-related products.

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

## **§19.1025. Medicare-Related Product Continuing Education.**

(a) In addition to completing the Medicare-related product certification course required by §19.1024 of this subchapter (relating to Medicare-Related Product Certification Course), in each reporting period following the reporting period in which a licensee completed a certification course, a licensee who performs or intends to perform any action constituting the act of an agent under the Insurance Code §4001.051 with regard to a Medicare-related product 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).

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(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 one or more subjects described in §19.1024(f) of this subchapter.

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

## **§19.1026. Small Employer Health Benefit Plan Specialty Certification Course.**

(a) An individual may advertise, in compliance with Chapter 21, Subchapter B of this title (relating to Insurance Advertising, Certain Trade Practices, and Solicitation), that the individual is specially trained to serve small employers in the health benefit plan market if the individual:

(1) holds a current life, accident, and health license issued by the department;

(2) agrees to market small employer health benefit plans to small employers that satisfy the requirements of the Insurance Code Chapter 1501 without regard to the number of employees to be covered under the plan;

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(3) maintains on file with the department a current business address, phone number, and general description of the individual's service area;

(4) has completed a small employer health benefit plan specialty certification course meeting the requirements of this subchapter or qualifies for an exception from completion of the small employer health benefit plan specialty certification course in accordance with the Insurance Code §4054.353(c); and

(5) has passed an examination testing the individual's knowledge and qualifications in compliance with the requirements of §19.1011 of this subchapter (relating to Requirements for Successful Completion of Continuing Education Courses) or qualifies for an exception from completion of the small employer health benefit plan specialty certification course in accordance with the Insurance Code §4054.353(c).

(b) This section establishes the standards for a small employer health benefit plan specialty 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;

(3) cover each of the subjects described in subsection (e) of this section;

and

(4) comply with the requirements of §19.1011 of this subchapter.

(c) Licensees may count a small employer health benefit plan specialty certification course toward completion of the continuing education requirements

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prescribed in §19.1003 of this subchapter (relating to Licensee Requirements). If a licensee chooses to use a small employer health benefit plan specialty certification course to satisfy a portion of the continuing education requirements prescribed in §19.1003 of this subchapter, the licensee shall comply with §19.1013 of this subchapter (relating to Licensee Record Maintenance).

(d) A licensee shall maintain proof of completion of a small employer health benefit plan specialty certification course for a period of four years from the date of completion of the course. Upon request, the licensee shall provide to the department the following:

(1) proof of completion of the small employer health benefit plan specialty certification course; or

(2) proof of exception from completion of the small employer health benefit plan specialty certification course in accordance with the Insurance Code §4054.353(c).

(e) Course subjects for a small employer health benefit plan specialty certification course outline must include topics that address:

(1) topics related specifically to small employer health benefit plans;

(2) state and federal laws and rules related to employer health benefit plans;

(3) anti-rebating and prohibited sales practices regarding employer health benefit plans;

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(4) federal programs and other alternatives related to small employer health benefit plans; and

(5) fraudulent and unfair trade practices regarding small employer health benefit plans.

## **§19.1027. Small Employer Health Benefit Plan Specialty Continuing Education.**

(a) In addition to completing the small employer health benefit plan specialty certification course required by §19.1026 of this subchapter (relating to Small Employer Health Benefit Plan Specialty Certification Course), in each reporting period following the reporting period in which a licensee completed a certification course, a licensee seeking to renew a small employer health benefit plan specialty certification must also complete at least five 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 one or more subjects described in §19.1026(e) of this subchapter.

## **§19.1028. Annuity Certification Course.**

(a) An individual who obtains a current resident agent license issued by the department on or after April 1, 2010, or renews a resident agent license on or after April 1, 2010, may not sell, solicit, or negotiate a contract for an annuity or represent an insurer in relation to an annuity in this state until they have completed the annuity certification course as specified in this section.

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

(c) This subsection establishes the standards for an annuity 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 four hours in length; and

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

(d) Licensees may count an annuity 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 an annuity certification course to satisfy a portion of the continuing education requirements prescribed in §19.1003 of this subchapter, the licensee shall comply with §19.1013 of this subchapter (relating to Licensee Record Maintenance).

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(e) A licensee shall maintain proof of completion of an annuity 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 annuity certification course to the department.

(f) A provider issued completion certificate for an annuity 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 an annuity certification course outline must include each of the following topics:

(1) the requirements of the Insurance Code Chapters 1114 and 1115, and the requirements of Chapter 3, Subchapter NN of this title (relating to Consumer Notices for Life Insurance Policy and Annuity Contract Replacements);

(2) the prohibitions specified in the Insurance Code §§541.051 – 541.061;

(3) recognition of indicators that a prospective insured may lack the short-term memory or judgment to knowingly purchase an annuity; and

(4) practices relating to annuities that are prohibited by the Penal Code Chapter 35.

(h) Course subjects for an annuity certification course outline may include additional topics addressing statutes enacted and rules adopted subsequent to the effective date of this section, provided that the statutes or rules relate specifically to annuities.

## **§19.1029. Annuity Continuing Education.**

(a) In addition to completing the annuity certification course required by §19.1028 of this subchapter (relating to Annuity Certification Course), a licensee who sells, solicits, or negotiates a contract for an annuity or represents an insurer in relation to an annuity in this state, or intends to sell, solicit, or negotiate a contract for an annuity or represent an insurer in relation to an annuity in this state must complete at least four hours of department certified annuity continuing education in compliance with this section.

(b) If a licensee completes the annuity certification course required by §19.1028 of this subchapter before the expiration of the 12th month of the licensee's licensing period, the continuing education required by this section must be completed by the end of the expiration of that licensing period. If a licensee completes the annuity certification course required by §19.1028 of this subchapter after the 12th month of the licensee's licensing period, the continuing education required by this section must be completed before the expiration of the 12th month in the licensing period following the licensing period in which the licensee completed the annuity certification course.

(c) For each successive licensing period following the expiration of a licensee's license occurring on or after April 1, 2010, and after a licensee has completed the annuity certification course required by §19.1028 of this subchapter, a licensee subject to the requirements of this section must complete at least four hours of department certified annuity continuing education every twelve months, calculated from the date of the license renewal.

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(d) 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 one or more of the subjects described §19.1028(g)(1) - (4) of this subchapter.

**§19.1030. Effect of License Expiration, Revocation, or Refusal to Renew on Certification Requirements.** A licensee whose license has been expired for one year or more or has been revoked or refused renewal by the Department shall, upon the issuance of a new original license, comply with the certification requirements of this subchapter and may not use any certification course or continuing education course completed under the licensee's inactive license to satisfy the requirements.

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

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TITLE 28. INSURANCE  
Part I. Texas Department of Insurance  
Chapter 19. Agents' Licensing

Adopted Sections  
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Issued at Austin, Texas, on January 28, 2010.

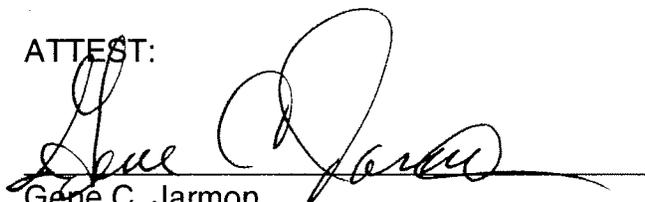
  
Gene C. Jarmon  
General Counsel and Chief Clerk

**IT IS THEREFORE THE ORDER** of the Commissioner of Insurance that amendments to §§19.1001 - 19.1007, 19.1009, 19.1011 - 19.1017, and 19.1019, and new §§19.1024 - 19.1030 specified herein, concerning Medicare-related product certification, small employer health benefit plan specialty certification, annuity certification, 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. **10-0076**  
JAN 29 2010