

Group Retiree Health Association/Affinity



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Compliance *focus*

SHARING LEGISLATIVE CHANGES SURROUNDING LICENSING AND CONTINUING EDUCATION (CE)

OHIO Producer Misconduct

Resident Agents only: The regulation on Agent and Solicitor Misconduct in Ohio was amended to *eliminate the hearing and notice requirements* for violations under that regulation.

In addition, a crime involving moral turpitude was defined as a conviction of a misdemeanor that requires a person to register as a sex offender. Being convicted of such a crime is conduct warranting suspension, revocation or refusal to issue or renew an insurance license. Other conduct that qualifies for suspension, revocation or refusal to issue or renew an insurance license includes:

- Knowingly or negligently failing to make a refund to an insured or potential insured after receipt of a written demand or compliance with the policy;
- Committing an unfair or deceptive act as defined in any section of the Revised Code or any rule or regulation of the Ohio Department of Insurance;
- Soliciting, procuring or placing additional or replacement health or sickness and accident insurance coverage where he or she knew or should have known that the insured or potential insured:
 - a. Was and would continue to be covered by substantially duplicative insurance coverage,
 - b. Would not be entitled to the benefits of the coverage because of existing health conditions where the individual caused the insured to believe that would be the case,
 - c. Would not be entitled to receive benefits on replacement coverage until he or she satisfied a waiting period that the producer failed to disclose.



This bulletin briefly highlights a change(s) to state regulations that may affect your business. In no way should the bulletin be considered legal or financial advice. You should consult with your legal and/or business advisor(s) and rely on your advisor(s) for guidance before acting.



NORTH CAROLINA
 Sanctions for Noncompliance with Continuing Education Requirements

MISSISSIPPI
 PRODUCER LICENSING
 APPEAL TIME FRAMES

Resident and Nonresident Agents:
 A person must appeal an adverse licensing decision made by the Commissioner within 30 days of receipt of notice of the decision.

Resident and Nonresident Agents: The law is amended to establish sanctions for licensees who fail to complete their annual continuing education requirements.

- Such sanctions are applicable to licensees, course providers, course provider personnel, course presenters, courses presenter personnel and course instructors who falsify any records or documents in connection with the continuing education program or who do not comply with the law concerning Requirements for Continuing Education Program and Qualifications of Instructors.
- If the license of any person lapses for failure to comply with continuing education requirements, the Commissioner may grant an extension for the licensee to comply with and complete these requirements provided, good cause is shown.
- If a person does not satisfy the reinstatement requirements by July 1st of the year in which the license was cancelled or lapsed, no license will be reinstated until they complete the appropriate pre-licensing education requirements and pass the appropriate licensing examination.
- Failure to respond to DOI inquiries, including continuation education audit requests is one of several reasons the Commissioner may revoke, suspend, or refuse to renew a license. This particular reason is amended to require that such request be responded to within seven (7) calendar days after receipt of the inquiry or request.
- Another reason the Commissioner may revoke, suspend, or refuse to renew a license is failing to provide notification of suspected or known violations of any General Statutes or Administrative Code. This is also amended to require that notification be in writing within 30 days after suspecting or knowing about the violations.
- By March 1st of each year, each nonresident licensee must certify to the Commissioner that their license complies with the continuing education requirements in their home state and the recertification fee is paid.
- If the license lapses and an extension of time is not sought, the Commissioner will reinstate the license when the person completes the home state continuing education requirements and the recertification fee is paid.

MASSACHUSETTS
 Producer Licensing Renewal Application Forms

Resident and Nonresident Agents: Massachusetts has begun to accept the NAIC's Uniform Application for Individual Producer License Renewal/Continuation and the Uniform Application for Business Entity Insurance License Renewal/Continuation.



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CALIFORNIA

Producer Licensing Background Review Guidelines

Resident and Nonresident Agents: This regulation clarifies the criteria the Commissioner will use to evaluate the backgrounds of licensed producers.

Crimes or Bad Acts

For purposes of denial, suspension, revocation, and/or restriction of a license the Commissioner may look into the background of the licensee or applicant to determine if the applicant or licensee is lacking in integrity, has a poor business reputation, or that allowing the licensee or applicant to have a license would be against the public interest. The following is a partial list of crimes or acts which are substantially related to the qualifications, functions or duties of a licensee: **a) Any felony; b) A misdemeanor which evidences unfitness to perform the functions of a producer.** These include, but are not limited to: 1) Dishonesty or fraud; 2) Any conviction resulting from acts of insurance or any acts in any other licensed profession; 3) Theft; 4) Certain sexually related conduct 5) Resisting, delaying or obstructing a public officer 6) Willfully causing injury to the person or property of another; 7) Violation of a relation of trust or confidence, or a breach of fiduciary duty; 8) Multiple convictions demonstrating a pattern of repeated and willful disregard for the law; **c) A willful attempt to derive personal gain from the nonpayment or underpayment of taxes or a willful failure to comply with a court order.**

Guidelines for Determining Weight of Crime or Bad Act

In considering the weight to be accorded the crime or bad act, the Commissioner may use the following guidelines:

- The extent to which the act, misconduct, or omission has adversely effected insurers, clients, employers or other persons and the probability that such adverse effect will continue;
- Any history of prior discipline, especially for the same or similar conduct;
- The recency or remoteness of the act, misconduct, or omission;
- The extenuating or aggravating circumstances;
- The type of license.

Criteria for Evaluating Rehabilitation

The Commissioner may consider all evidence presented in determining if a licensee or applicant has been sufficiently rehabilitated. The Commissioner may consider, but is not limited to the following:

- Nature and severity of the act, misconduct, or omission;
- Total criminal record;
- Time elapsed since the act, misconduct, or omission;
- Whether the licensee or applicant had made any restitution, re-compensation, or alleviated the wrong or damage caused by the act, misconduct, or omission;
- Significant and/or conscientious involvement in programs providing social benefits.



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