

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R028-18

April 17, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, 17-27 and 28, NRS 679B.130 and section 10 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 167 (NRS 684A.235); §§8-16, NRS 679B.130, 684A.070 and Section 10 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 167 (NRS 684A.235).

A REGULATION relating to insurance; prescribing the prelicensing education requirements for applicants for a license as an adjuster or an associate adjuster; prescribing certain continuing education requirements for renewal of a license as an adjuster held by an individual; prescribing the requirements for the approval of courses of instruction for prelicensing education and continuing education and for the approval of instructors of such courses of instruction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code. (NRS 679B.130) Existing law also: (1) prohibits a person, with certain limited exceptions, from acting as or holding himself or herself out to be an adjuster or an associate adjuster without a license; (2) requires a person to successfully complete a prelicensing course of study as a prerequisite for issuance of a license as an adjuster; and (3) requires an individual who holds a license as an adjuster, with certain limited exceptions, to complete a minimum number of hours of courses of continuing education as a prerequisite to renewal of his or her license. (NRS 684A.040, 684A.070; section 7 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 166 (NRS 684A.135))

Existing law authorizes the Commissioner to license an individual as an independent adjuster, a public adjuster, a company adjuster or a staff adjuster. (NRS 684A.050) Existing law: (1) further authorizes the Commissioner to promulgate reasonable regulations relating to adjusters; and (2) requires the Commissioner to adopt regulations establishing a prelicensing course of study for an adjuster. (Section 10 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 167 (NRS 684A.235); NRS 684A.070)

Section 8 of this regulation requires an applicant for a license as an adjuster or as an associate adjuster to complete prelicensing education for the line of insurance for which the applicant is applying. **Sections 9-16** of this regulation establish requirements relating to such prelicensing

education, including, without limitation, requirements for approval of courses of instruction for prelicensing education and requirements for approval of instructors of such courses of instruction. **Section 17** of this regulation requires an individual who holds a license as an adjuster to complete continuing education related to the line or lines of insurance for which the licensee holds a license as an adjuster as a prerequisite for renewal of his or her license. **Sections 18-26** of this regulation establish requirements relating to such continuing education, including, without limitation, requirements for the approval of courses of instruction for continuing education and requirements for the approval of instructors of such courses of instruction.

Section 27 of this regulation revises the passing score which an applicant for a license as an adjuster must obtain in order to pass the licensing examination.

Section 1. Chapter 684A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 26, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Designated representative” means:*

1. Any nongovernmental entity with which the Commissioner contracts pursuant to NRS 684A.120 to perform ministerial functions associated with prelicensing, licensing or continuing education programs; or

2. An employee of the Division who has been designated by the Commissioner to act on behalf of the Commissioner with regard to prelicensing, licensing or continuing education programs.

Sec. 4. *“Instructor” means the person who will be responsible for teaching the material of the course to the participants of the course. The instructor may be, but is not required to be, the same person as the sponsor.*

Sec. 5. *“License as an adjuster” means a license as an independent adjuster, a public adjuster, a company adjuster or a staff adjuster.*

Sec. 6. "Sponsor" means the person seeking approval for a course of instruction pursuant to section 9 of this regulation.

Sec. 7. "Unsuitable person" has the meaning ascribed to it in NAC 679B.039.

Sec. 8. In addition to the requirements of chapter 684A of NRS, an applicant for a license as an adjuster or an associate adjuster must complete a course of instruction approved by the Commissioner or a designated representative for the line of insurance for which the applicant is applying. The course must have been completed within 2 years immediately preceding the date of the application for the license.

Sec. 9. 1. A course of instruction and the instructor for the course must be approved by the Commissioner or a designated representative before the course is offered to a prospective applicant for a license as an adjuster. The sponsor of the course must submit to the Commissioner or a designated representative:

(a) An application for approval of the instructor, specifying his or her experience and qualifications;

(b) An application for approval of the course, including, without limitation, a detailed outline of the course and a description of the scale to be used in grading the persons taking the course;

(c) A schedule of the times the course is to be taught; and

(d) A certification that the content of the course complies with sections 8 to 16, inclusive, of this regulation.

2. The Commissioner or a designated representative will not approve a course which:

(a) Substantially involves techniques for taking the licensing examination;

(b) Is directed toward teaching techniques of selling, soliciting or negotiating insurance, motivation or finding applicants for insurance;

(c) Is substantially a course to teach clerical skills; or

(d) Does not meet the requirements of sections 8 to 16, inclusive, of this regulation.

3. An approved course must not have more than 8 hours of instruction in the classroom each day.

4. The Commissioner or a designated representative will grant or deny approval of each course in writing within 60 days after receiving the information required pursuant to subsection 1.

5. Any material change in the content of a course approved by the Commissioner or a designated representative must be submitted for approval before presentation of the course.

Sec. 10. 1. An instructor must:

(a) Have at least 5 years of relevant experience in the topic to be taught; or

(b) Be approved by the Nevada System of Higher Education to teach insurance within that System.

2. Not more than one-third of any course approved by the Commissioner or a designated representative may be taught by:

(a) A person who does not satisfy the requirements of subsection 1;

(b) Videotapes or audiotapes; or

(c) Any other mechanical teaching aids.

3. For the purposes of this section, “mechanical teaching aids” includes, without limitation, digital or electronic versions of mechanical methods of instruction such as software

which presents a slideshow, video or audio recordings transmitted via the Internet and other similar methods of communication.

Sec. 11. 1. *A correspondence course, extension course or self-study course may be approved by the Commissioner or a designated representative if:*

(a) The course satisfies all the requirements of sections 8 to 16, inclusive, of this regulation;

(b) The student has quick and easy access to the sponsor or instructor of the course; and

(c) The student must pass a final examination at the end of the course to receive credit and the examination is directly monitored by the sponsor, the instructor or the sponsor's or instructor's representative.

2. The Commissioner or a designated representative will determine the equivalent number of hours of instruction in the classroom allowed for each approved correspondence course, extension course or self-study course.

Sec. 12. 1. *A course must consist of:*

(a) At least 5 hours of instruction in the classroom, or the equivalent in a self-study course approved by the Commissioner or a designated representative pursuant to section 11 of this regulation, in the provisions of title 57 of NRS and the regulations adopted pursuant thereto, at least one-half of which must cover the laws and regulations common to all lines of insurance; and

(b) At least 15 hours of instruction in the classroom covering:

(1) Principles and concepts of insurance in general;

(2) Basic principles and concepts of the line of insurance for which the applicant is applying;

- (3) The processes related to adjusting a claim;*
- (4) The ethical responsibilities of the adjuster; and*
- (5) Regulation by the government.*

2. The Commissioner or a designated representative will determine pursuant to section 11 of this regulation if a correspondence course, extension course or self-study course meets the requirements of subsection 1.

Sec. 13. *1. Each sponsor of a course shall maintain a complete record of each person attending the course. The record must:*

- (a) Indicate each person's attendance;*
- (b) Indicate his or her final grade in the course;*
- (c) Be available for review by the Commissioner or a designated representative upon request during normal business hours; and*
- (d) Be retained by the sponsor for not less than 4 years.*

2. Each sponsor of a course shall submit quarterly to the Commissioner or a designated representative for each course offered the name of the sponsor of the course, the date the course was completed and the name and grade of each person attending the course. If the course is a self-study course, the sponsor shall also submit the name and description of the course.

3. Except as otherwise provided in subsection 4, each sponsor of a course shall give to each person who successfully completes the course an original certificate of completion. The certificate must list the sponsor and instructor of the course, the grade obtained by the student in the course, the location, dates and times the course was offered and the fact that the course

was for an adjuster. An applicant for a license as an adjuster must submit the certificate of completion with his or her application for a license as an adjuster.

4. The sponsor of a course may comply with the provisions of subsection 3 by providing to a person who successfully completes a course an electronically generated certificate of completion, if the electronically generated certificate of completion cannot be altered in any way. The sponsor of a course that elects to issue an electronically generated certificate of completion shall upload the applicant's course completion directly to the Commissioner's education database as soon as practicable.

Sec. 14. 1. *The Commissioner or a designated representative thereof may suspend or revoke the approval of a course if he or she determines that:*

(a) The content of the course has been changed without notice to the Commissioner or designated representative and the change affects the number of hours of credit assigned to the course;

(b) A certificate of completion has been issued and hours were credited to a person who has not completed the course;

(c) A certificate of completion has not been issued and hours have not been credited when requested to a person who has successfully completed the course;

(d) The quality of instruction is inadequate;

(e) The content of the course does not meet the requirements for approval of a course set forth in section 12 of this regulation;

(f) The sponsor has not maintained the records required by section 13 of this regulation; or

(g) The sponsor has employed an unsuitable person as an instructor for the course.

2. The Commissioner or a designated representative may audit a course to ensure that the content and instructor meet the requirements of sections 8 to 16, inclusive, of this regulation.

3. If approval of a course is suspended or revoked by the Commissioner or a designated representative, approval may be reinstated at the discretion of the Commissioner or a designated representative and after the Commissioner or designated representative receives proof that the conditions giving rise to the suspension or revocation have been corrected.

Sec. 15. The Commissioner will refuse to issue a license as an adjuster to, or will suspend or revoke the license of, any person who knowingly submits to the Commissioner a false or fraudulent certificate of completion of a course of instruction.

Sec. 16. Every application, certificate or other form required to be filed with the Commissioner or a designated representative pursuant to sections 8 to 16, inclusive, of this regulation must be on a form approved by the Commissioner.

Sec. 17. To renew a license as an adjuster, each individual who holds a license as an adjuster must, except as otherwise provided in section 7 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 166 (NRS 684A.135), certify that he or she has successfully completed 24 hours of approved continuing education within the 3-year period before the date of renewal described in NRS 684A.130. Pursuant to section 7 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 166 (NRS 684A.135), three of the 24 hours of approved continuing education must be in a subject of ethics. The hours of continuing education must be related to the line or lines of insurance for which the licensee holds a license.

Sec. 18. 1. Any person who requests approval of a course of continuing education shall furnish to the Commissioner or to a designated representative thereof not later than 60 days before the beginning of the course:

- (a) An outline of the subject matter;*
 - (b) The method of presentation;*
 - (c) The qualifications of the instructor;*
 - (d) The number of classroom hours or, if the request is for approval of a correspondence course, a self-study course or an on-line computer course, the equivalent of classroom hours, and a written procedure for conducting a supervised final examination;*
 - (e) Any applicable fee established and required by the Commissioner; and*
 - (f) Any other information required by the Commissioner or a designated representative.*
- 2. Submission of the information required by subsection 1 must be on an application approved by the Commissioner.*
- 3. The course must be designed to increase the knowledge and understanding of the individual who holds a license as an adjuster regarding:*
- (a) Principles of adjusting insurance claims;*
 - (b) Applicable laws, rules and regulations concerning insurance;*
 - (c) Recent changes in adjusting principles or practices; and*
 - (d) The duties, ethics and responsibilities of the licensee.*
- 4. The Commissioner or a designated representative will not approve a course that teaches topics relating to personal improvement, motivation, time management, supportive office skills or other topics that are not related to increasing technical knowledge of insurance principles, coverage, laws or regulations. The provisions of this subsection do not limit the authority of the Commissioner or a designated representative to refuse to approve a course for noncompliance with any other provision of sections 17 to 26, inclusive, of this regulation.*

5. The Commissioner or a designated representative will not approve a course if the total number of classroom hours is less than 1 hour. One hour of credit will be awarded for each 50 minutes of instruction, or the equivalent in self-study approved pursuant to section 11 of this regulation.

6. The Commissioner or a designated representative will grant or deny approval of each course in writing within 60 days after receiving the information required pursuant to subsection 1.

7. Any material change in the content of a course approved by the Commissioner or a designated representative must be submitted for approval before presentation of the course.

8. A course that has been approved by the Commissioner or a designated representative is not required to be approved for any subsequent presentation of the course, except that the sponsor of the course shall submit a notice to the Commissioner or a designated representative, not later than 30 days before the course is offered, that includes the following information:

- (a) The name and number of the course;*
- (b) The name of the instructor of the course;*
- (c) The place where the course will be offered; and*
- (d) The date and time when the course will be offered.*

Sec. 19. 1. *A course of continuing education must not be advertised unless the Commissioner or a designated representative has approved the course in writing.*

2. Any advertisement of an approved course of continuing education must contain:

- (a) The title of the course;*
- (b) The name and address of the person approved to provide the course;*

(c) The lines of insurance for which the course has been approved;

(d) The number of hours of credit for continuing education for which the course has been approved; and

(e) A brief summary or outline of the contents of the course.

Sec. 20. *The sponsor of a course of continuing education approved by the Commissioner or a designated representative thereof shall:*

1. Provide a certificate of completion to each person who successfully completes the course. The certificate must be on a form approved by the Commissioner or a designated representative.

2. Maintain records of attendance and examination scores for not less than 4 years.

3. Make these records and scores available to the Commissioner or a designated representative upon request.

4. Not employ an unsuitable person as an instructor for the course.

Sec. 21. *An individual who holds a license as an adjuster who is seeking approval for hours of continuing education after completing a course organized by and conducted with the supervision of a trade association of the insurance industry or a national association of agents, brokers or adjusters that was not approved by the Commissioner or a designated representative thereof must:*

1. Request approval of the hours from the Commissioner or a designated representative;

2. Submit the information required in subsection 1 of section 18 of this regulation; and

3. Submit a document signed by the instructor or sponsor of the course which verifies the attendance of the licensee and his or her successful completion of each portion of the course for which credit is sought.

Sec. 22. An individual who holds a license as an adjuster who teaches an approved course may receive credit for continuing education for the number of hours that would be granted to a licensee taking and successfully completing the course. Such a licensee will receive credit in this manner only once during a renewal period for each course taught.

Sec. 23. An individual who holds a license as an adjuster:

1. May receive credit for continuing education only once during a renewal period for each course taken.

2. May not carry forward to the next renewal period any hours of continuing education that are accumulated during a renewal period in excess of the hours required pursuant to section 17 of this regulation.

Sec. 24. 1. Each individual who holds a license as an adjuster shall furnish to the Commissioner upon the renewal of his or her license or upon the request of the Commissioner, the original certificate of completion issued by the sponsor for each course of continuing education.

2. Such a licensee shall keep a copy of each certificate of completion for not less than 4 years after the completion of the course.

3. Failure to provide verification of continuing education credits upon request by the Commissioner is evidence that the licensee did not complete the required continuing education.

Sec. 25. 1. The Commissioner or a designated representative thereof may suspend or revoke the approval of a course of continuing education if he or she determines that:

(a) The content of the course has been changed without notice to the Commissioner or designated representative and the change affects the number of hours of credit assigned to the course;

(b) A certificate of completion has been issued and hours were credited to a person who has not completed the course;

(c) A certificate of completion has not been issued and hours have not been credited when requested to a person who has successfully completed the course;

(d) The quality of instruction is inadequate;

(e) The content of the course does not meet the objectives of subsection 3 of section 18 of this regulation;

(f) The sponsor has not maintained the records required by subsection 2 of section 20 of this regulation; or

(g) The sponsor has employed an unsuitable person as an instructor for the course.

2. The Commissioner or a designated representative may audit a course to ensure that the content and instructor meet the requirements of section 18 of this regulation.

3. If approval of a course is suspended or revoked by the Commissioner or a designated representative, approval may be reinstated at the discretion of the Commissioner or a designated representative and after the Commissioner or designated representative receives proof that the conditions giving rise to the suspension or revocation have been corrected.

Sec. 26. 1. The Commissioner will not, except as otherwise provided in section 7 of Assembly Bill No. 12, chapter 40, Statutes of Nevada 2017, at page 166 (NRS 684A.135), renew the license of an individual who holds a license as an adjuster and fails to comply with the requirements of sections 17 to 26, inclusive, of this regulation.

2. Any person who submits a false or fraudulent affidavit that certifies his or her compliance with the requirements of sections 17 to 26, inclusive, of this regulation shall be deemed to have:

(a) Violated a regulation for the purposes of subsection 2 of NRS 683A.451;

(b) Made a material misrepresentation in an application for a license for the purposes of subsection 1 or 3 of NRS 683A.451; and

(c) Proven himself or herself untrustworthy for the purposes of subsection 8 of NRS 683A.451.

Sec. 27. NAC 684A.010 is hereby amended to read as follows:

684A.010 ~~Am~~ *Unless exempted from taking or retaking the examination pursuant to NRS 684A.100 or 684A.105, an applicant for a license as an adjuster must attain a score of ~~80~~ 70 or more points in order to pass the licensing examination ~~is~~ required by NRS 684A.100.*

Sec. 28. This regulation becomes effective on July 1, 2018, or upon filing with the Secretary of State, whichever occurs later.