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Agent licensing and appointments.

(A) Purpose

The purpose of this rule is to set forth procedures and requirements for the licensing and appointment of insurance agents in this state; and to identify lines of authority eligible for limited authority lines licenses; ~~and to establish prelicensing education, examination and continuing education requirements for holders of limited authority licenses.~~

(B) Definitions

For purposes of this rule:

- (1) "Insurer" and "insurance company" shall have the same meaning in this rule as "insurer" does in section 3901.32 of the Revised Code.

(C) ~~Resident~~ agent licensing

- (1) For the purposes of resident agent licensing, the life, accident and health, and variable life and variable annuity products lines of authority shall be merged into a single line of authority. Additionally, the property and casualty lines of authority shall be merged into a single line of authority.

- ~~(1)~~(2) In applying for a license as an insurance agent, a resident individual of this state shall do all of the following:

- (a) Complete ~~an application using the form and means prescribed by the superintendent.~~the NAIC uniform application;
- (b) ~~Request the bureau of criminal identification to produce a criminal records check and transmit it to the superintendent or the superintendent's designee, as determined by the superintendent. The request shall be made on a form prescribed by the bureau of criminal identification or by section 109.572 of the Revised Code. Comply with the requirements contained in sections 3905.05 and 3905.06 of the Revised Code;~~
- (c) Unless the applicant satisfies section 3905.04(C)(1) of the Revised Code,

~~the applicant shall complete the following~~Complete any prelicensing education ~~program requirements: requirements.~~

(i) Life, accident and health, and variable life and variable annuity products: 40 hours;

(ii) Property and casualty: 40 hours;

(iii) Personal lines: 20 hours;

(iv) Surety bail bond: 20 hours;

(d) Pass any required licensing examination: as set forth in division (B) of section 3905.04 of the Revised Code. A single examination shall be offered for the combined life, accident and health, and variable life and variable annuity products line of authority and for the combined property and casualty line of authority;

(e) Pay any required fees.

~~(2)~~(3) An applicant is not eligible for a license or to sit for a licensing examination until the superintendent or the superintendent's designee, as determined by the superintendent, receives a completed application including the completed application form, the criminal records check, any other information required by the superintendent and any required fees. An incomplete application cannot be processed by the superintendent and may be returned to the applicant.

~~(3)~~(4) The superintendent may refuse to permit an applicant to sit for an examination if the application or the criminal records check ~~received from the bureau of criminal identification~~ contains any information that could disqualify the applicant for a license or if the superintendent has any other information which, if true, could disqualify the applicant. The superintendent may hold the application in abeyance pending an investigation of the matter.

~~(4)~~(5) A person who fails the licensing examination for a particular line(s) of insurance three consecutive times must take an additional forty hours of approved prelicensing education before the person is eligible to sit for such examination a fourth time.

~~(5)~~(6) ~~Effective dates~~If an examination is required for the issuance of a license, the license will be deemed issued on the date the applicant passes the examination. Otherwise, the license shall be deemed issued on the date it is processed and approved by the department.

- ~~(a) If an examination is required for the issuance of a license, the license will be deemed issued on the date the applicant passes the examination.~~
- ~~(b) If the applicant is a corporation, partnership or limited liability company, the license shall be deemed issued on the date it is processed and approved by the department.~~
- ~~(c) Limited authority licenses will be deemed issued on the date processed and approved by the department.~~

~~(6)~~(7) A license shall be issued in the legal name of the applicant.

(8) Term of license

- (a) An agent's license, excluding limited lines, surety bail bond, surplus lines, third party administrators, managing general agents, re-insurance intermediaries, public insurance adjusters, viatical settlement provider, and viatical settlement broker licenses, issued by the superintendent to an individual or business entity shall not expire unless the licensee surrenders the license or the superintendent suspends or revokes the license.
- (b) Limited lines licenses shall expire on August 31st of each year unless renewed. Renewal of limited lines licenses shall be accomplished by:
 - (i) automatic renewal of licenses where the licensee has at least one active appointment on July 1st of that year; or
 - (ii) the licensee filing a renewal notice with the department prior to the August 31st expiration date. The renewal notice must be on a prescribed form approved by the superintendent.
- (c) If an agent has active appointments at the time the agent's licenses are suspended, revoked or surrendered, the superintendent shall notify the appointing companies or agents of the suspension, revocation or surrender.

~~(7)~~ Trade names

~~All trade names shall be registered with the secretary of state of Ohio as provided by law and shall be reported to the superintendent within thirty days of such registration.~~

~~(8)~~ Types of agent licenses

~~The types of agent licenses, other than limited authority licenses, shall~~

include:

- ~~(a) All lines of property and casualty insurance;~~
- ~~(b) Life, accident and health;~~
- ~~(c) Variable contracts;~~
- ~~(d) Accident and health;~~
- ~~(e) Health insuring corporation;~~
- ~~(f) Title~~

~~(9) Term of license~~

- ~~(a) An agent's license, excluding limited authority licenses, issued by the superintendent to an individual, corporation, limited liability company or partnership shall not expire unless the licensee surrenders the license or the superintendent suspends or revokes the license.~~
- ~~(b) If an agent has active appointments at the time the agent's licenses are suspended, revoked or surrendered, the superintendent shall notify the appointing companies or agents of the suspension, revocation or surrender.~~

~~(10) Non-residents~~

- ~~(a) A non-resident who wishes to obtain an agent's license in this state, including a limited authority license, must do the following:~~
 - ~~(i) Complete an application using the form and means prescribed by the superintendent.~~
 - ~~(ii) Submit proof acceptable to the superintendent that the applicant possesses a like license in the applicant's state or province of domicile if that state or province of domicile is reciprocal.~~
 - ~~(iii) If the state or province of domicile is not reciprocal, then the applicant must complete any licensing requirements that are imposed upon residents of this state.~~
 - ~~(iv) Pay any required fees.~~
 - ~~(v) Comply with paragraph (D)(1)(a) of this rule if seeking a limited authority license.~~

- ~~(b) The license of a natural person, corporation, limited liability company or partnership shall be deemed issued on the date it is processed and approved by the department. If, however, an examination is required for the issuance of a license, the license will be deemed issued on the date the applicant passes the examination.~~

(D) Nonresident agent licensing

- (1) A nonresident individual who wishes to obtain a nonresident insurance agent license in this state, including a limited lines license, must do the following:
- (a) Complete the NAIC uniform application;
 - (b) Comply with the requirements contained in section 3905.07 of the Revised Code.
 - (c) Pay any required fees.
 - (d) Comply with paragraph (E) of this rule if seeking a limited lines license.
- (2) Upon satisfying the requirements of this rule, a nonresident agent license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.
- (3) If the applicant's home state does not issue nonresident insurance agent licenses to residents of this state, then the applicant must complete any licensing requirements that are imposed upon residents of this state.
- (4) A nonresident license shall be deemed issued on the date it is processed and approved by the department. If, however, an examination is required for the issuance of a license, the license will be deemed issued on the date the applicant passes the examination.

~~(D)~~(E) Limited authority lines licenses

- (1) A person may obtain a limited ~~authority~~ lines license for one or more of the lines of insurance specified in paragraph ~~(D)(2)~~ (E)(2) of this rule so long as the following conditions are met:
- ~~(a) An insurer has appointed the person to represent it with regards to the solicitation or sale of the insurance products listed in paragraph (D)(2) of this rule and has certified to the superintendent that the person is competent, financially responsible and suitable to represent the insurer.~~
 - ~~(b)~~(a) The person has submitted a completed application, using a form and

means prescribed by the superintendent.

~~(e)(b)~~ ~~Any required~~ Pay any required fees, are paid.

~~(d)(c)~~ ~~No appointment shall be effective until the superintendent is satisfied that the applicant is suitable to be licensed. The applicant is of good reputation and character, is honest and trustworthy, and is otherwise suitable to be licensed.~~

(2) Limited ~~authority~~ lines licenses may be issued for ~~only~~ the following lines of insurance:

(a) Credit insurance products ~~described in division (D)(2) of section 3905.011 as defined in division (G) of section 3905.01~~ of the Revised Code;

(b) ~~Insurance~~ Rental car insurance in accordance with rule 3901-5-10 of the Administrative Code; products that are sold exclusively in conjunction with the rental of an automobile and that are effective only for the duration of the rental agreement. This paragraph does not apply if the renter has any indicia of ownership of the automobile. This paragraph does not apply to any insurance required by or sold in conjunction with the rental or lease of an automobile for a term of thirty days or more;

(c) ~~Crop/hail~~ insurance providing protection against damage to crops from unfavorable weather conditions, fire, or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance;

~~(d)~~ ~~Extended warranties but only if the product is insurance;~~

~~(e)(d)~~ ~~Pre-need life~~ Funeral expense insurance sold to provide for payment of funeral or burial goods and services in accordance with sections 3905.45 and 3905.451 of the Revised Code so long as the agent is also a licensed funeral director in this state.

~~(f)(e)~~ ~~Travel/trip/baggage~~ insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier;

~~(g)(f)~~ Title insurance marketing representative as provided in paragraph ~~(E)~~

(F) of this rule:-

(g) Any limited lines insurance agent license as required by section 3905.072 of the Revised Code.

~~(3) A person who holds an agent license other than a limited authority license may obtain a limited authority license if the person's agent license(s) does not authorize the person to sell a line of insurance or insurance product for which a limited authority license is available.~~

~~(4)~~(3) No prelicensing education, licensing examination or continuing education is required for a limited authority lines license.

~~(5) The holder of a limited authority license may not engage in any activities for which a license is required on behalf of any insurer unless the insurer has duly appointed the person as an agent of the insurer.~~

~~(6)~~(4) Limited authority lines licenses are subject to section ~~3905.49~~ 3905.14 of the Revised Code and all other requirements for agents, except as provided in this rule.

~~(7) A limited authority license, except for a title insurance marketing representative license, is valid and authorizes the holder to act as a limited authority agent to the extent permitted by law only so long as the licensee is appointed by at least one insurer that is authorized to write any of the lines of insurance specified in paragraphs (D)(2)(a) to (D)(2)(f) of this rule.~~

~~(8)~~(5) The holder of a limited authority lines license may not ~~solicit or sell~~ solicit, or negotiate any insurance products on behalf of any insurer unless appointed to represent that insurer.

~~(9)~~(6) The superintendent has discretion to investigate the suitability of an applicant for a limited authority lines license and ~~shall have a reasonable time in which to conduct an investigation.~~ The superintendent may refuse to issue a limited authority lines license for any of the reasons that the superintendent may refuse to issue an full-lines agent's license.

~~(E)~~(F) Title insurance marketing representative

(1) Persons who market goods and services associated with the issuance of title insurance shall obtain a limited authority lines license as a title insurance marketing representative. A title insurance marketing representative shall be appointed by a licensed title agent. A title insurance marketing representative may solicit and perform marketing services only on behalf of the appointing

agent. A title insurance marketing representative who holds a limited ~~authority~~ lines license may not do any of the following:

- (a) Quote filed title insurance rates or premiums;
 - (b) Discuss insurance coverages, benefits or limits except that the marketing representative may, in general terms, explain the basic differences between an owner's policy and a lender's policy;
 - (c) Make recommendations, provide advice about, or negotiate title insurance;
 - (d) Execute or issue a title insurance policy, binder or commitment;
 - (e) Determine insurability;
 - (f) Hold self out as a representative of a title insurance company.
- (2) A title agent who appoints a title insurance marketing representative shall be responsible for the acts and omissions of the title insurance marketing representative. Violations of the insurance laws in Title 39 of the Revised Code that are committed by a title insurance marketing representative will be attributed to the appointing title agent as well as to the marketing representative and will subject the appointing licensed title agent to a civil forfeiture in an amount not to exceed ten thousand dollars for each violation, unless the violation is reported by the title agent to the superintendent promptly upon discovery and the title agent takes appropriate remedial action.
- (3) Any written materials used or distributed by a title insurance marketing representative must be pre-approved by the licensed title agent that appointed the title insurance marketing representative.
- (4) No prelicensing education, licensing examination or continuing education is required for a person who holds a limited ~~authority~~ lines license as a title insurance marketing representative.
- (5) Any person who is prohibited under division (B) of section 3953.21 of the Revised Code from acting as an agent for a title insurance company shall not be licensed as a title insurance marketing representative.
- (6) A license as a title insurance marketing representative is valid and authorizes

the holder to act as a title insurance marketing representative to the extent permitted by law only so long as the person is appointed by a licensed title insurance agent.

(F) Corporate licenses

~~A corporation, limited liability company or partnership, organized under the laws of this state, or any other state or province, may be licensed as an insurance agency in this state if it satisfies all of the following conditions:~~

- ~~(1) The applicant shall complete an application using any form and means prescribed by the superintendent and shall provide any other information required by the superintendent.~~
 - ~~(a) The applicant shall submit a certified copy of its articles of incorporation, articles of organization or its partnership agreement.~~
 - ~~(b) If the applicant is not organized under the laws of this state, its application shall include either a license certificate or a certificate of registration, depending upon the type of entity, or such other proof of good standing as the secretary of state of Ohio may issue.~~
 - ~~(c) If the applicant is a partnership subject to section 1777.02 of the Revised Code, the applicant shall file the certificate required by that section and may submit a certified copy with its application in lieu of submitting proof of good standing from the secretary of state.~~
 - ~~(d) At least one natural person who is an employee or contractor of the applicant, or a director or officer of a corporation, a member of a limited liability company, or a general or limited partnership must be licensed for each line of business for which the applicant is requesting a license.~~
- ~~(2) If any form of organization authorized by the laws of another state is not recognized by the secretary of state of Ohio, or cannot be authorized by the secretary of state of Ohio to do business in this state, such organization shall not be eligible to be licensed as an insurance agency.~~
- ~~(3) If the applicant's state of domicile does not reciprocate with Ohio as to the licensing of foreign corporations, limited liability companies and partnerships, the superintendent may refuse to issue or may restrict the applicant's authority to engage in the business of insurance in this state.~~
- ~~(4) A corporation, limited liability company or partnership must be in good standing with the secretary of state of Ohio in order to be eligible for the issuance and continuance of any agency license. An agency's failure to be in~~

~~good standing is grounds to suspend or revoke the agency's licenses.~~

- ~~(5) A licensed corporation, limited liability company or partnership must report all changes in its agents, officers, directors, shareholders, members or partners (including changes in their identities, respective percentages of ownership, names and addresses) to the superintendent within thirty days of the effective date of the change. Such reports shall be made using forms and means prescribed by the superintendent.~~
- ~~(6) All changes in address and tradenames of the agency must be reported to the superintendent within thirty days of the effective date of the change. Such reports shall be made using forms and means prescribed by the superintendent.~~
- ~~(7) Any amendment to a licensed agency's articles of incorporation or articles of association shall be filed with the superintendent within thirty days after the amendment is filed with the secretary of state in Ohio or filed as required by the state or province of domicile.~~

(G) Resident business entity licenses

- (1) For the purposes of resident business entity agency licensing, the life, accident and health, and variable life and variable annuity products lines of authority shall be merged into a single line of authority. Additionally, the property and casualty lines of authority shall be merged into a single line of authority.
- (2) A business entity that is either domiciled in Ohio or maintains a principal place of business in Ohio may be licensed as an insurance agency in this state if it satisfies all of the following conditions:
 - (a) Complete a uniform business entity application and provide any other information required by the superintendent;
 - (b) Comply with division (B) of section 3905.05 of the Revised Code and division (A)(2) of section 3905.06 of the Revised Code;
 - (c) Submit a copy of its certified articles of incorporation, articles of organization, partnership agreement, or other organizational documents;
- (3) A resident business entity agency license shall be deemed issued on the date it is processed and approved by the department.
- (4) If the resident business entity ceases to exist as a corporate or other legal entity, its agency license shall be subject to suspension or revocation.

(H) Nonresident business entity licenses

- (1) A business entity domiciled in another state or whose principal place of business is in another state may be licensed as an insurance agency in this state if it satisfies all of the following conditions:
 - (a) Complete a nonresident uniform business entity application;
 - (b) Comply with the provisions of section 3905.07 of the Revised Code.
- (2) Upon satisfying the requirements of this rule, a nonresident business entity license shall be issued to the applicant granting the applicant the same scope of authority as the applicant has under the license issued by the applicant's home state.
- (3) A nonresident business entity agency license shall be deemed issued on the date it is processed and approved by the department.
- (4) If the nonresident business entity ceases to exist as a corporate or other legal entity, its agency license shall be subject to suspension or revocation.

~~(G)~~(I) Inactive status

- (1) An agent may request inactive status by submitting a form prescribed by the superintendent and such other information as the superintendent may request. The person must attest that the conditions in paragraph ~~(G)~~(I)(2) of this rule are met.
- (2) A person may be eligible for inactive status only if and so long as all of the following conditions are met:
 - (a) The person is not employed or engaged, full or part-time, in any capacity for which an agent's license is required and does not engage in or in any way participate in or assist with any activity for which an agent's license is required in this state. This does not apply to clerical or ministerial acts;
 - (b) The person does not anticipate a change in the person's duties or activities that would require an agent's license for at least the next twenty-four months;
 - (c) The person is not ~~one of the following:~~an officer, manager, partner, member, director, or owner of a licensed insurance agency;
 - ~~(i) An officer or manager of a licensed insurance agency;~~

~~(ii) A partner, general, limited or otherwise, of a licensed partnership;~~

~~(iii) A member of a licensed limited liability company if the management is reserved to the members, in whole or in part;~~

~~(iv) A manager of a licensed limited liability company.~~

(d) The person must be in compliance with their continuing education requirements and be in good standing with the department at the time of the inactivation request.

(3) If the superintendent is satisfied that the agent is eligible for inactive status, the superintendent shall notify the agent and all appointing insurers and agents about the inactive status.

(4) Only a natural person is eligible for inactive status.

(5) A person who has been granted inactive status must notify each insurer with which he or she is appointed no later than ten days after inactive status is granted. Failure to do so is grounds to terminate the inactive status. All appointments held by a person who has been granted inactive status shall be void as of the date inactive status is granted.

(6) If a person is granted inactive status and subsequently engages in, participates or assists in any way in any conduct or activity for which a license is required, excluding clerical or ministerial acts, such person's license(s) may be suspended or revoked or the superintendent may impose a civil penalty in an amount not to exceed five thousand dollars.

(7) When a person is granted inactive status, the inactive status affects all licenses and appointments held by that person: except surety bail bond and title which may be maintained independent of the inactivation of other licenses.

(8) A person who has been granted inactive status is exempt from the continuing education requirements of this state.

(9) A person may return to active status upon the following conditions:

(a) The person notifies the superintendent using the form and means prescribed by the superintendent and provides any other information requested by the superintendent;

- (b) The person has completed twenty hours of approved continuing education, or has completed a prelicensing education course for the particular type of license, within the preceding twelve months;
 - (c) The person is otherwise eligible and suitable to be an agent.
- (10) The licenses of a person who has been granted inactive status may ~~shall~~ be subject to suspension, revocation or any other disciplinary action for actionable conduct occurring before or after the inactive status was granted. ~~the same as if the person had not been granted inactive status.~~ The superintendent may also refuse to return a person's licenses to active status for actionable conduct.
- (11) Inactive status applies prospectively.

~~(H)~~(J) Surrender

- (1) An agent may surrender all or some of the agent's licenses by submitting a notarized statement to the superintendent on a form prescribed by the superintendent. If an agent is under investigation by the superintendent or the superintendent has issued a notice of opportunity for hearing under Chapter 119. of the Revised Code, the superintendent may not accept a surrender except for cause and as a resolution of allegations that the agent violated the insurance laws and regulations of this state. For purposes of this paragraph, an investigation shall include the review of any complaint made against or involving the agent.
- (2) A surrender will be effective thirty days after the superintendent receives the request or at a ~~later~~ date chosen by the agent but in no case shall the surrender be effective prior to the date of receipt by the department or more than sixty days after receipt of the surrender request.
- (3) The surrender of an agent's license for any line of insurance voids all appointments held by the agent for that line of insurance.
- (4) The superintendent shall notify each appointing company and agent when an agent's licenses are surrendered.
- (5) A person who has surrendered a license or licenses and who wants to obtain a license as an agent will have to comply with the prelicensing education and examination requirements as if the person had never been licensed, if

otherwise eligible and suitable to be an agent. This provision shall apply to a license previously surrendered even when a person still has a license of another type.

- (6) A person who has been granted inactive status may surrender all or some licenses if the person is otherwise eligible to surrender licenses.

~~(H)~~(K) Appointments

- (1) ~~By the fifteenth day of every month,~~ Within thirty days after the date the agency contract is executed or the first insurance application is submitted, each insurer shall file a notice of appointment with ~~provide~~ the superintendent ~~with a list of~~ regarding all agents who were newly appointed to represent the insurer. Additionally, within thirty days of a termination, each insurer shall notify the superintendent and a list of all of any agents whose appointments were cancelled ~~terminated~~ by the insurer ~~in the prior calendar month~~. The insurer shall specify the effective date of appointment or ~~cancellation~~ termination for each agent. The insurer shall identify each agent by the full name that appears on the agent's insurance license, ~~date of birth,~~ license number, ~~type of license, address~~ and such other information as the superintendent may require.
- (2) Appointments ~~are renewable~~ will renew automatically annually before ~~on~~ the thirtieth day of June each year unless the insurer terminates the appointment prior to the renewal date.
- (3) No appointment shall be effective unless the appointee holds a valid license for the applicable type of insurance.
- ~~(4) When an insurer cancels an agent's appointment, the insurer shall notify the agent of the cancellation prior to the effective date of the cancellation. However, if the cancellation of an appointment is for any of the reasons set forth in division (B)(1) of section 3905.012 of the Revised Code, the termination may take effect immediately. The notice may be sent by ordinary mail to the agent's last known address. This paragraph shall not affect any obligations that an insurer may have under section 3905.50 of the Revised Code.~~
- ~~(5)~~(4) The superintendent will bill insurers for the appointment and ~~cancellation~~ termination fees. If an agent holds both a property and casualty appointment with an insurer, a single appointment fee will be billed for those appointments. If an agent holds both a life and accident and health appointment with an insurer, a single appointment fee will be billed for those

appointments. In all cases, a separate appointment fee will be billed for a variable life and variable annuity products appointment.

~~(6)~~(5) If the ~~cancellation~~ termination of an appointment is for any of the reasons set forth in division (B)~~(4)~~ of section ~~3905.012~~ 3905.14 of the Revised Code, the insurer shall provide a detailed statement of the facts and the reasons for the ~~cancellation~~ termination to the superintendent within thirty days of the effective date of the termination. Insurers who provide such statements shall be immune from liability to the extent provided in ~~division (B)(2)~~ of section ~~3905.012~~ 3905.211 of the Revised Code.

~~(7)~~(6) Any agent who appoints a solicitor as permitted by paragraph (J) of this rule shall follow the procedures set forth for insurers appointing agents as set forth in paragraphs ~~(I)(1)~~ (K)(1) to ~~(I)(6)~~ (K)(6) of this rule.

~~(8)~~(7) Agents holding limited authority licenses shall not appoint solicitors.

~~(9) An insurer that appoints a person as its agent must certify to the superintendent that the person is competent, financially responsible and suitable to represent the insurer using the forms and means prescribed by the superintendent.~~

~~(J)~~(L) Solicitors

(1) A solicitor may solicit insurance only on behalf of a licensed and appointed agent.

(2) A solicitor may procure applications for insurance on behalf of the appointing agent. Only the appointing agent may sign and submit the applications to the respective insurance company.

(3) The appointing agent will be responsible for any misrepresentations made by or other wrongful conduct on the part of the solicitor.

(4) A solicitor shall identify himself or herself as a representative of the appointing agent and not as a representative of any insurer.

(5) A solicitor shall be licensed in accordance with section 3905.10 of the Revised Code.

~~(K)~~(M) Compensation

(1) Commissions or other compensation paid by an insurer to a person for any

activity that requires a license must be paid in the legal name of the licensee as that name appears on the superintendent's records or a trade name registered in accordance with section 3905.11 of the Revised Code. ~~paragraph (C)(7) of this rule.~~

~~(2) An insurer may not pay commissions or other compensation to a person for any activity that requires a license until the person is appointed by the insurer.~~

~~(3)~~(2) An agent who is appointed with the issuing insurance company may pay commissions to another agent who is licensed for that line of business but who is not appointed with the issuing insurance company.

~~(4)~~(3) A licensed agent may assign commissions lawfully earned to a non-licensed person or entity pursuant to a written agreement and for a purpose that is not otherwise a pretext for the unlawful payment or split of commissions or the payment of an unlawful lead fee to the assignee.

~~(5)~~(4) An agent or insurer may pay an unlicensed person or organization for administrative services actually rendered by that person or organization in connection with an insurance program offered to the members or customers of the unlicensed person or organization. Such payment shall be negotiated in an arms-length transaction. The amount of payment may not be calculated as a percentage of premium or any other measure of sales production. The amount of payment must be reasonable in relation to the services actually rendered. This paragraph does not prohibit the payment of a flat fee per transaction or service.

~~(6)~~(5) An agent or insurance company may pay an unlicensed person or organization for an endorsement in favor of the agent, insurance company or a product. Such payment shall be a flat fee per member or customer or shall be in the amount of actual costs incurred by the unlicensed person or organization in making the endorsement. In no event shall the payment be calculated as a percentage of premium or any other measure of sales production.

~~(7)~~(6) For purposes of this rule, an "endorsement" means a communication by an unlicensed person in any medium that introduces or mentions the availability of a general type of insurance coverage, identifies a particular insurer or agent, explains the method for obtaining additional information, and contains the words "endorse," "endorsed by," "sponsor," or "sponsored by," if all of the following conditions apply:

(a) The communication does not contain any comparison to other insurance

products, insurers or agents;

(b) The communication does not contain any specific information or details about the benefits provided by the insurance;

(c) The communication does not indicate the rates or cost of the insurance;

(d) The communication does not contain any statement or suggestion that the recipient needs, or should apply for or buy the insurance.

~~(L)~~(N) If any section, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other section, term or provision of this rule, but the remaining sections, terms and provisions shall be and continue in full force and effect.

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