

PROPOSED RULES – CONTINUING EDUCATION REQUIREMENTS

**TITLE 13 INSURANCE
CHAPTER 4 LICENSING OF INSURANCE PROFESSIONALS
PART 7 CONTINUING EDUCATION REQUIREMENTS**

13.4.7.1 ISSUING AGENCY: Office of Superintendent of Insurance (OSI), Producer Licensing Bureau (PLB).

[13.4.7.1 NMAC - Rp, 13 NMAC 4.7.1, 12/28/17]

13.4.7.2 SCOPE:

A. This rule applies to all licensed adjusters, insurance producers, limited surety agents, bail bond solicitors, property bondsmen, and nonresident insurance producers unless exempted by Subsection B of this section.

B. The continuing education requirements of this rule shall not apply to:

- (1) holders of limited licenses issued pursuant to Section 59A-12-18 NMSA 1978;
- (2) licensees who have been continuously licensed by the superintendent for 25 years or more, without a lapse of more than 90 days;
- (3) persons who maintain a license solely for the purpose of receiving renewal fee residuals and who do not otherwise transact the business of insurance;
- (4) agents of fraternal benefit societies licensed pursuant to Section 59A-44-33 NMSA 1978;

or

- (5) nonresident insurance producers who are licensed in another state or country that requires completion of continuing education courses.

[13.4.7.2 NMAC - Rp, 13 NMAC 4.7.2, 12/28/17]

13.4.7.3 STATUTORY AUTHORITY: Sections 59A-2-9, 59A-6-1, 59A-11-10, 59A-11-23, 59A-12-16, 59A-12-26, 59A-13-12, 59A-44-33, 59A-51-4.1 NMSA 1978.

[13.4.7.3 NMAC - Rp, 13 NMAC 4.7.3, 12/28/17]

13.4.7.4 DURATION: Permanent.

[13.4.7.4 NMAC - Rp, 13 NMAC 4.7.4, 12/28/17]

13.4.7.5 EFFECTIVE DATE: Upon publication.

[13.4.7.5 NMAC - Rp, 13 NMAC 4.7.5, 12/28/17]

13.4.7.6 OBJECTIVE: The purpose of this rule is to set forth continuing education requirements for persons who are licensed by the superintendent to transact business in this state and for continuing education providers.

[13.4.7.6 NMAC - Rp, 13 NMAC 4.7.6, 12/28/17]

13.4.7.7 DEFINITIONS: As used in this rule:

A. “**adjuster**” means a resident or non-resident public adjuster, staff adjuster or independent adjuster as defined in Section 59A-13-2 NMSA 1978;

B. “**approved course**” means a course of instruction approved by the committee as satisfying the continuing education requirements of this rule or that has been previously approved by another state with which New Mexico has reciprocal privileges;

C. “**bail bondsman**” has the same definition as in Subsection A of Section 59A-51-2 NMSA 1978;

D. “**biennially**” means every two years or during the twenty-four months next preceding expiration of the current license. The time period from the issue date or last renewal date of the license to the expiration date of the license shall be referred to as the “**compliance period**” for purposes of satisfying the continuing education requirement;

E. “**committee**” means the insurance continuing education committee;

F. “**credit hour**” means 50 minutes of actual instruction or self-study time in an approved course;

G. “**ethics course**” means a course that deals with usage and customs among members of the insurance profession, involving moral and professional conduct and fiduciary obligations and duties toward one

another, toward clients, toward insureds, and toward insurers and of responsible insurance agency management;

H. “insurance producer” means a person required to be licensed under the laws of the state of New Mexico to sell, solicit or negotiate insurance;

I. “licensee” means an adjuster, insurance producer, limited surety agent, bail bond solicitor, property bondsman or nonresident insurance producer within the scope of this rule;

J. “limited surety agent” has the same definition as in Subsection C of Section 59A-51-2 NMSA 1978;

K. “nonresident licensee” means a person licensed in this state pursuant to Section 59A-11-23 NMSA 1978;

L. “property bondsman” has the same definition as in Subsection D of Section 59A-51-2 NMSA 1978;

M. “provider” means a person who is authorized by the superintendent to provide approved continuing education courses for licensees and report licensee attendance for credit toward continuing education requirements;

N. “roster” is an official list of licensees who have successfully completed an offering of an approved course; and

O. “solicitor” has the same definition as in Subsection E of Section 59A-51-2 NMSA 1978; [13.4.7.7 NMAC - Rp, 13 NMAC 4.7.7, 12/28/17]

13.4.7.8 INSURANCE CONTINUING EDUCATION COMMITTEE:

A. The superintendent shall appoint an insurance continuing education committee that shall serve at the superintendent’s pleasure. The committee shall be a volunteer committee and shall not be entitled to per diem or other reimbursement or remuneration.

B. The committee shall approve individual courses of instruction for continuing education credit, notify the superintendent of approved courses as they are approved, make recommendations regarding continuing education courses and perform other tasks assigned by the superintendent.

C. The committee shall not approve any continuing education course that does not provide a method by which a provider can assure that a licensee has completed the course.

[13.4.7.8 NMAC - Rp, 13 NMAC 4.7.8, 12/28/17]

13.4.7.9 REQUIREMENTS FOR LICENSEES:

A. Hours required biennially.

(1) All licensees must complete a minimum of three hours of credits in ethics during each compliance period. Ethics credit hours may be included toward the total credit hour requirement for each license type.

(2) Title insurance licensees shall complete ten credit hours of approved courses covering title insurance.

(3) Limited surety agents, property bondsmen, solicitors and bail bond solicitors shall complete 14 hours of approved courses covering the Bail Bondsmen Licensing Law, Sections 59A-1-1 et seq. NMSA 1978 and related regulations during each two-year compliance period.

(4) All other licensees shall complete 24 credit hours of approved courses covering some or all of the kinds of insurance for which they are licensed during each compliance period. Licensees who transact insurance under multiple lines of authority are only required to satisfy a single 24 hour continuing education requirement for each compliance period.

(5) Adjusters who are licensed prior to July 1, 2017 must satisfy continuing education credits prior to renewal of licenses beginning with the first biennial renewal cycle occurring after April 30, 2018.

(6) Non-resident licensees are not required to complete continuing education if the home-state requires equivalent continuing education and the licensee has complied with the continuing education requirements of the home-state, pursuant to the provisions of Section 59A-11-23 NMSA 1978.

B. No carryover. No licensee may carryover credit hours earned in a compliance period to the next compliance period.

C. No duplicate credit. No additional credit will be granted to a licensee for completion of the same approved course more than once in any compliance period.

D. Course completion date. Course credits are applied to licensing requirements based on the date that the course is taken, rather than on the date that the course credit is reported by the provider.

E. Course approval. Licensees shall receive course credit only for courses that have been approved

by the superintendent prior to enrollment in the course.

F. Extensions. Licensees who meet the criteria of illness, medical disability, military deployment 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.

(1) The superintendent shall establish the duration of the extension when it is granted.

(2) If the circumstances supporting the extension continue beyond the granted extension period, the licensee may reapply for an extension.

(3) The licensee must request the extension prior to the end of the compliance period for which it applies, using the form available on the OSI website.

(4) Licensees called to active military service in a combat theater, may apply 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 extension or waiver prior to the end of the compliance period, using the form available on the OSI website.

G. Reinstating a discontinued license. A licensee whose license is discontinued shall complete all continuing education credits that would have been required to maintain the license in active status before submitting an application for reinstatement. If the license is discontinued for longer than a single biennial compliance period, the licensee must complete credits for the period or periods during which the license was discontinued in addition to all credits necessary to renew the license.

[13.4.7.9 NMAC - Rp, 13 NMAC 4.7.9, 12/28/17]

13.4.7.10 COURSE CONTENT:

A. Course length. Individual courses shall be a minimum of one credit hour in length.

B. Ethics. A single continuing education course may include both ethics and other insurance topics meeting the requirements of Subsection C of this section.

C. Insurance subjects.

(1) General instruction time shall be designed to refresh the licensee's understanding of basic insurance principles and coverages, applicable laws and regulations, and recent and prospective changes to them.

(2) Required hours for specialized training requirements must be completed prior to transacting the type of insurance and may also be counted toward the 24 credit hour general producer licensee requirement.

(a) Producers desiring to transact business relating to stop loss insurance shall complete at least 10 credit hours relating specifically to stop loss insurance.

(b) Adjusters and producers desiring to transact business relating to flood insurance shall complete at least 10 credit hours relating specifically to flood insurance.

(c) Producers shall not transact business relating to long term care until they have completed at least eight hours of continuing education relating specifically to long term care, and shall complete at least four hours of continuing education relating specifically to long term care during each compliance period thereafter.

(3) Required training shall not include training that is insurer- or company-product specific and may not include sales or marketing information.

D. Approved learning formats.

(1) A course may utilize any combination of formal classroom instruction, lectures, seminars, panel discussions, question-and-answer periods, correspondence courses, online web-based courses and recorded presentations, as long as the provider can assure that a licensee has completed the course.

(2) A minimum of three hours of continuing education course hours must be earned through formal classroom instruction for each compliance period.

[13.4.7.10 NMAC - Rp, 13 NMAC 4.7.10, 12/28/17]

13.4.7.11 PROVIDER AND COURSE REQUIREMENTS:

A. Provider qualifications. Prior to submitting proposed courses to the committee for approval, the provider must submit the following information to the superintendent and be approved as a provider:

(1) the name and contact information for the provider's primary contact person;

(2) the provider's physical and mailing address;

(3) the provider's website address;

(4) a link that will be provided for licensees to review course dates, location, and content;

(5) procedures that will be used to process online enrollment in courses, including payment via

credit card; and

(6) experience and qualifications of the course instructors.

B. Course content. To obtain approval of a course, a provider shall assure that:

(1) the curriculum offered relates to insurance subjects, or subjects which relate to the individual licensee's transaction of insurance business;

(2) the course has significant intellectual or practical content and that its primary objective is to increase the participant's professional competence as a licensee; and

(3) pursuant to Subsection B of Section 59A-12-26 NMSA 1978, instruction shall be designed to refresh the licensee's understanding of:

(a) basic principles and coverages involved,

(b) applicable insurance laws and regulations,

(c) proper conduct of the licensee's business,

(d) duties and responsibilities of the licensee, and

(e) to address recent and prospective changes.

C. Course approval.

(1) The provider's course application to the superintendent shall include, at a minimum, the following information:

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

(b) a detailed course content outline showing the approximate times for major topics;

(c) a detailed description of the course materials, including a word count, that demonstrates that the course supports the number of credit hours requested;

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

(e) the total number of course hours requested for approval, including the method the applicant is using to determine the number of course hours and the number of hours included in the total number of course hours requested for approval that are ethics topics;

(f) the course application fee as specified in Section 59A-6-1 NMSA 1978; and

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

(2) **Prior approval.** A provider must submit each course for review and receive approval of the course prior to making that course available for enrollment by licensees. If the committee determines that the course content is incomplete or inadequate, the provider will be notified and required to supplement or modify the course before receiving approval.

(3) **Renewals.** The original course application fee covers the period until the initial expiration of the course. Courses must be resubmitted for renewal, along with the renewal fee specified in Section 59A-6-1 NMSA 1978. Courses will not automatically be re-approved by the committee.

(4) **Electronic course submission.** Beginning July 1, 2017 any provider wishing to have a course approved by the committee, must submit each course for approval electronically. Instructions for electronic submission of courses may be found on the OSI website.

(5) **Course expiration.** All continuing education courses already approved by the committee at the time of the adoption of the final version of this regulation by the superintendent, will expire on December 31, 2017. All courses approved by the committee thereafter will expire two years after the date the course is approved.

(6) **Voluntary cancellation.** Providers shall notify the superintendent when a course is discontinued or no longer active and when there is a change to the provider's information of record.

(7) **Non-voluntary course cancellation.** Approved courses shall be cancelled and the content updated, as necessary, to reflect changes in the law or regulations. Failure of the provider to update courses in a timely manner may result in cancellation of the course by the superintendent.

D. Statement of approved courses. Providers of approved courses shall include the following written statement in the course materials for each approved course: "This course has been approved by the Insurance Continuing Education Committee as New Mexico Insurance Continuing Education Course Number [insert number] for [insert number] hours of credit."

E. Instructors. A provider of an approved course shall assure that instructors for all courses are qualified by practical or academic experience to teach the subject to be covered. For purposes of this rule, practical or academic experience shall include, but is not limited to, actual experience related to the kind of insurance which is the

subject of the course, undergraduate or graduate educational training, or professional insurance industry designations such as the *Chartered Property Casualty Underwriter (CPCU)*, *Chartered Life Underwriter (CLU)*, and *Fellow of the Life Management Institute (FLMI)* designations.

F. Enrollment. Providers shall make available a current list of scheduled courses including course content, applicable credits, course dates, instructor information and course location as appropriate. Providers shall collect course fees at the time of registration.

G. Minimum classroom requirements.

(1) Courses must comply with the approved learning formats listed in Subsection D of Section 13.4.7.11.

(2) 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 of the course presentation area at all times during the course preparation.

(3) At least three students and an instructor must be involved in each presentation of the course, although in circumstances involving remote presentations, all students and the instructor do not need to be in the same location. While 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.

(4) Question and answer discussion periods must be provided by either 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 student inquiries and responses with the presenting instructor, or by an instructor who is present for the entire remote, recorded, or computer-based course presentation with the students in the same room.

(5) The course pace shall be set by the instructor and does not allow for independent completion of the course by students.

(6) Providers may not include time spent by students on the final examination and pre-tests in determining course credit hours.

H. Course completion. A provider shall assure that each licensee completes the course either by:

(1) monitoring the course to witness attendance and participation; or

(2) requiring submission of a test or other written work evidencing understanding of the course

material.

I. Reciprocal courses. In order for a licensee to receive credit for a reciprocal course, the reciprocal course must be approved in the provider's resident state and have been submitted to the committee for prior approval.

J. Submission of roster. Within ten business days after the completion of the course of instruction by a licensee, the provider must electronically submit an attendance roster to the superintendent. Instructions for electronic submittal may be found on the OSI website.

K. Records. A provider shall maintain records of attendance and course completion for a minimum of three years and make such records available to the superintendent or the committee at any time upon request.

L. Audits. The OSI staff may conduct audits of any course or provider without prior notice to the provider. OSI staff or a designee may attend courses without identifying themselves as employees or representatives of OSI. If continuing education records are audited or reviewed and the validity or completeness of the records are questioned, the provider shall have 30 days from the date of notice to correct discrepancies or submit new documentation.

[13.4.7.11 NMAC - Rp, 13 NMAC 4.7.11, 12/28/17]

13.4.7.12 REPORTING REQUIREMENTS:

A. Reporting by providers. Continuing education providers are required to report completion of continuing education courses to the superintendent. However, it is the responsibility of the individual resident licensee to ensure that the superintendent's records reflect the completion of the required number of continuing education courses on or before the continuing education due date. The licensee must correct any discrepancies in the record through the continuing education provider:

B. Transition and reporting after July 1, 2017.

(1) All continuing education courses must be completed and reported prior to renewal of the license. Licensees who fail to complete the required continuing education courses will not be permitted to renew the license, which will result in immediate termination of the license, pursuant to Section 59A-11-10 NMSA 1978.

(2) For individual licensees who were issued or who renewed a one-year agent, broker, or solicitor license prior to July 1, 2017, the licensee must be renewed for a biennial insurance producer license by April 30, 2018. Prior to that renewal, the individual licensee must have completed 15 hours of continuing education courses, including 3 hours of ethics courses, as was required at the time the license was issued or renewed.

(3) For all biennial insurance producer licenses issued after July 1, 2017, the insurance producer shall renew on the last day of the second birth month following issue of the license, such that the initial compliance period shall be no less than thirteen months and no more than twenty-four months in length. Prior to renewal, licensees shall complete the required number of continuing education courses, as set forth in Subsection A of Section 13.4.7.9 NMAC. The compliance period for completion of continuing education courses is the period between issue of the license and renewal on or before the last day of the licensees second birth month following issue.

(4) Thereafter, insurance producer licenses must be renewed biennially on or before the last day of the licensee's birth month. Required continuing education courses must be completed and reported during the compliance period, which is the twenty-four-month period immediately preceding renewal of the license.

C. Fees. A licensee shall electronically submit all continuing education fees prescribed by Subsection E of Section 59A-12-26 NMSA 1978 to the provider. The provider will then submit the hourly course fee to the superintendent on behalf of the licensee. Registration fees are nonrefundable for licensees who fail to attend or fail to successfully complete a course. Instructions for electronic submittal of fees may be found on each provider's website and on the OSI website.

D. Records.

(1) The licensee is responsible for confirming that all continuing education credits have been correctly recorded by the provider. The licensee may print a copy of the entire educational transcript for reference purposes. Instructions for reviewing and printing the transcript may be found on the OSI website.

(2) It is recommended that all licensees maintain copies of certificates of completion of approved courses and verified statements for a period of three years.

(3) Individual continuing education credit information can be reviewed by the licensee, by the public or by the superintendent. Instructions for viewing continuing education information may be found on the OSI website.

(4) The superintendent shall be notified electronically of any noncompliance with the continuing education requirements by licensees.

(5) Nonresident licensees who are seeking a waiver of this state's continuing education requirement based on satisfactory completion of reciprocal courses shall provide the superintendent with evidence of compliance from the home state, as requested by the superintendent.

[13.4.7.12 NMAC - Rp, 13 NMAC 4.7.12, 12/28/17]

13.4.7.13 AUDITING PROCEDURES:

A. All continuing education records submitted or maintained pursuant to this rule are subject to audit by the superintendent.

B. If the superintendent finds a licensee or provider has failed to timely report continuing education credits through the online system, the superintendent may impose a penalty.

C. A provider who fails to submit the roster to the superintendent within ten business days may be subject to removal from the list of approved continuing education providers in the state.

[13.4.7.13 NMAC - Rp, 13 NMAC 4.7.13, 12/28/17]

HISTORY OF 13.4.7 NMAC:

Pre-NMAC history. The material in this rule was previously filed with the State Records Center as: SCC 85-2, In Re to Article II: Rules Regarding Continuing Education Requirements, on April 17, 1985; SCC-85-11, Insurance Department Regulation 12 - Insurance Agents, Brokers and Solicitors, on October 10, 1985; SCC-91-3-IN, Continuing Education Requirements of Insurance Agents, Brokers, and Solicitors, on January 31, 1992.

NMAC history.

Recompiled as 13 NMAC 4.7, Continuing Education Requirements, effective 7/1/1997.

13.4.7 NMAC, Continuing Education Requirements, effective 5/1/2002

History of repealed material.

13 NMAC 4.7, Continuing Education Requirements, effective 5/1/2002

13.4.7 NMAC Continuing Education Requirements, filed 5/1/2002 – Repealed effective 12/28/17.