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NM OFFICE OF  
SUPERINTENDENT  
OF INSURANCE

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**Bulletin 2015-017**  
**April 16, 2015**

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**TO: ALL LICENSED INSURANCE PROFESSIONALS, CONTINUING EDUCATION PROVIDERS, CE COMMITTEE**

**RE: INTERPRETATION OF § 13.4.7.10 NMAC IN CONTEXT WITH § 13.4.7.10 NMAC**

**THE FOLLOWING BULLETIN is issued pursuant to NMSA 1978, §§ 59A-12-26, 12-2A-1 et seq., 12-2A-18(A)(3); §§ 13.4.7 et seq., 13.4.7.8, 13.4.7.9 and 13.4.7.10 NMAC.**

The New Mexico statute requiring the completion of annual continuing education classes by insurance licensees, does not specify the particular number of hours per year that a licensee is required to complete. This statute provides that “a minimum number of hours of formal class instruction, lectures or seminars” are required...covering the kinds of insurance for which” a licensee is licensed. NMSA 1978, § 59A-12-26(A).

The associated New Mexico rule, § 13.4.7.9 NMAC, requires that title insurance licensees “shall annually complete seven (7) credit hours of approved courses.” All other insurance licensees must complete 15 credit hours of approved courses. However, § 13.4.7.10 NMAC, requires that all approved continuing education courses “shall be a minimum of 2 credit hours in length.”

In order to meet the statutory requirement of providing quality insurance education courses related to a licensees area of expertise, § 13.4.7.8 NMAC established an Insurance Continuing Education Committee (CE Committee). The CE Committee is a volunteer committee appointed by the Superintendent of Insurance. This committee reviews and approves courses of instruction for continuing education credit on behalf of the Office of Superintendent of Insurance (OSI)

There is an inherent conflict in the language in § 13.4.7.10 NMAC requiring each course to be a “minimum of least 2 credit hours in length,” and the annual hourly requirements of seven (7) and 15 hours set by the same rule in § 13.4.7.9 NMAC. Specifically, if New Mexico is only able to offer courses that are restricted to two (2) credit hours each, a licensee will not be able to meet the seven (7) hour or 15 hour requirement in the rule, unless they take eight (8) hours or 16 hours to meet the annual requirements, which will result in excess time and expense.

Additionally, OSI has signed on to the National Association of Insurance Commissioners, Uniform Declaration Regarding Continuing Education Reciprocity Course Approval Guidelines. These guidelines require that New Mexico automatically accept an insurance continuing education provider and their courses, if another state has accepted the provider and their courses. Most of the continuing education providers requesting reciprocity under this agreement offer one hour courses, but due to the two (2) credit hour requirement in the rule, the review and approval of these courses presents a problem for OSI.

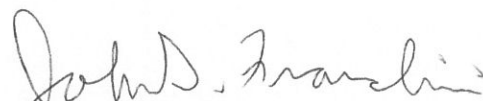
Pursuant to the New Mexico Uniform Statute and Rule Construction Act which applies to § 13.4.7.10 NMAC, a rule should be construed “if possible” to “avoid an...absurd or unachievable result.” NMSA 1978, § 12-2A-18(A)(3). An agency may waive requirements in a rule, or in the rule making process, “for good cause shown” when that rule is “inconsistent with the public interest.” *Omnipoint Corp. v. F.C.C.*, 78 F. 3d 620, 631 (1996).

By enforcing the minimum two (2) credit hour requirement for all insurance continuing education courses as specified in § 13.4.7.10 NMAC, an absurd and unachievable result occurs when the hourly requirement is seven (7) or 15 hours per year.

In order to resolve the inherent conflict in the language in §§ 13.4.7.9 and 13.4.7.10, OSI will adopt an interpretation of § 13.4.7.10 that will eliminate the absurd and unachievable result. OSI will allow the CE Committee to approve 1 credit hour courses for in state and out of state providers, if each course meets all other regulatory and statutory requirements.

For more information about this bulletin, please contact Lorinda Martinez, 505-827-4554 in the Producer Licensing Bureau.

**ISSUED** at Santa Fe, New Mexico on April 16, 2015.



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**JOHN G. FRANCHINI**  
**Superintendent of Insurance**