

Subchapter B. Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Part D Plans
28 TAC §19.103

Subchapter G. Licensing of Insurance Adjusters
28 TAC §19.602

Subchapter H. Licensing of Public Insurance Adjusters
28 TAC §§19.702, 19.704 - 19.706, 19.708, 19.709, and 19.712

Subchapter I. General Provisions Regarding Fees, Applications, and Renewals
28 TAC §§19.801, 19.802, and 19.805

Subchapter J. Standards of Conduct for Licensed Agents
28 TAC §19.902 and §19.906

Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs, and Certification Courses
28 TAC §§19.1002, 19.1003, and 19.1012

Subchapter N. Licensing and Regulation of Risk Managers
28 TAC §19.1304 and §19.1308

Subchapter O. Procedures and Requirements for Reinsurance Intermediaries (Brokers and Managers)
28 TAC §19.1403 and §19.1407

Subchapter Q. Discount Health Care Program Registration and Renewal Requirements
28 TAC §19.1604 and §19.1605

Subchapter R. Utilization Reviews for Health Care Provided Under a Health Benefit Plan or Health Insurance Policy
28 TAC §19.1704

Subchapter S. Forms to Request Prior Authorization
Division 2. Texas Standardized Prior Authorization Request Form for Health Care Services

28 TAC §19.1810

Division 3. Texas Standard Prior Authorization Request Form for Prescription Drug Benefits

28 TAC §19.1820

Subchapter T. Specialty Insurance License

28 TAC §19.1902 and §19.1908

Subchapter U. Utilization Reviews for Health Care Provided Under Workers' Compensation Insurance Coverage

28 TAC §19.2004

INTRODUCTION. The commissioner of insurance adopts the repeal of 28 TAC §§19.703, 19.1019, 19.1303, 19.1320, 19.1905, 19.3001 - 19.3005, and 19.4001 - 19.4017.

The commissioner also adopts amendments to 28 TAC §§19.103, 19.602, 19.702, 19.704 - 19.706, 19.708, 19.709, 19.712, 19.801, 19.802, 19.805, 19.902, 19.906, 19.1002, 19.1003, 19.1012, 19.1304, 19.1308, 19.1403, 19.1407, 19.1604, 19.1605, 19.1704, 19.1810, 19.1820, 19.1902, 19.1908, and 19.2004.

Sections 19.103, 19.602, 19.702, 19.705 - 19.706, 19.708, 19.709, 19.801, 19.802, 19.805, 19.902, 19.906, 19.1012, 19.1304, 19.1308, 19.1604, 19.1605, 19.1902, and 19.1908 are adopted without changes to the proposed text published in the January 13, 2023, issue of the *Texas Register* (48 TexReg 111), and §§19.704, 19.712, 19.1002, 19.1003, 19.1403, 19.1407, 19.1704, 19.1810, 19.1820, and 19.2004 are adopted with nonsubstantive changes to the proposed text to reflect TDI style preferences and proper punctuation.

REASONED JUSTIFICATION. The repeal of §19.703 implements Senate Bill 1060, 84th Legislature, 2015. The repeals of §§19.1019, 19.1905, and 19.3001 - 19.3005 implement House Bill 4030, 87th Legislature, 2021. The repeal of §19.1303 eliminates the forms adopted by reference in that section that are now obsolete. The repeal of §19.1320 reflects that copies of the Texas Insurance Code and Texas Administrative Code are readily available online through the Secretary of State website. The repeals of §§19.4001 - 19.4017 remove Subchapter W, which implemented former Chapter 4154 of the Insurance Code. That chapter expired on September 1, 2017, rendering Subchapter W obsolete.

The amended sections implement HB 4030 as well as Senate Bills 1060 and 876, both of the 84th Legislature, 2015. HB 4030 removed the subagent designation, references to life and health insurance counselor and insurance service representative licenses, the affidavit requirement for nonresident public insurance adjusters, and the requirement to report and register each branch location; discontinued the registration for home office salaried employees; and increased ethics continuing education requirements. SB 1060 eliminated the trainee designation, and SB 876 changed the expiration date for a license issued to an individual.

In addition to amendments to implement the referenced legislation, the amendments also include nonsubstantive changes to conform to plain language standards and current department language preferences and drafting practices. The amendments also update citations to statutes and rules by inserting their titles, and update or eliminate obsolete email and mailing addresses.

The amended sections are described in the following paragraphs, organized by subchapter.

Subchapter B. Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Part D Plans.

Section 19.103. Reporting Requirement. Amendments to §19.103 replace a mailing address with a reference to contact information on TDI's website and replace "subchapter" with "title."

Subchapter G. Licensing of Insurance Adjusters.

Section 19.602. Types of Adjuster's Licenses. Amendments to §19.602 update a code reference and insert the title of a cited provision; remove subsection (c), which addresses an expiration date for adjusters' licenses, to conform with Insurance Code §4003.001; redesignate the subsections that follow subsection (c) as appropriate to reflect removal of the subsection; replaces the words "pursuant to" with "under" and the word "shall" with "must"; and correct the title of §19.801.

Subchapter H. Licensing of Public Insurance Adjusters.

Section 19.702. Types of Public Insurance Adjuster Licenses. Amendments to §19.702 update a code reference and insert the title of the provision cited, and they replace "shall" with "will" and "pursuant to" with "under."

Section 19.704. Public Insurance Adjuster Licensing. Amendments to §19.704 update code references; insert the titles of the provisions cited; remove paragraph (5) of subsection (c), which addresses a branch office registration requirement; and renumber the paragraphs that follow paragraph (5) as appropriate to reflect its removal. The amendments also replace "10 percent" with "10%." The amendments replace "shall" with more appropriate words under the context of the provision. The amendments to §19.704(l) add a comma between "Disciplinary Action" and "or Insurance Code §4102.201."

Proposed amendments to capitalize the word "commissioner" throughout the section are not adopted, based on a change to TDI's rule drafting preferences.

Section 19.705. Financial Responsibility Requirement. Amendments to §19.705 remove subsection (b) and all references to "trainee, "; update a code reference; and insert the title of a cited provision.

Section 19.706. Demonstrating Financial Responsibility. Amendments to §19.706 remove a reference to "trainee" and replace "shall" with "must."

Section 19.708. Public Insurance Adjuster Contracts. Amendments to 19.708 update the mailing address in subsection (b)(10) with the current mailing address, replace "10 percent" with "10%," replace "prior to" with "before," and replace "in determining" with "to determine." Amendments also remove a reference to a former Insurance Code provision, insert the title of another Insurance Code provision, and revise notice language to remove the use of all capital letters, to improve readability.

Section 19.709. Nonresident Applicants and License Holders. Amendments to §19.709 remove subsection (b), which addresses a nonresident affidavit requirement in order to implement HB 4030 and replaces the word "shall" with "will."

Section 19.712. Advertisement. Amendments to §19.712 update a code reference, insert the title of the provision cited, replace the phrase "internet web sites" with "websites" and replace the words "audio visual" with "audiovisual."

The text of §19.712(a) as proposed has been changed to delete an unnecessary comma.

Subchapter I. General Provisions Regarding Fees, Applications, and Renewals.

Section 19.801. General Provisions. Amendments to §19.801 remove portions of the section concerning subagents and redesignates subsections as appropriate for

consistency with the proposed removal of text. The amendments replace a reference to "Texas.gov" with a reference to the department's website. The amendments also add the titles of Administrative Code and Insurance Code provisions cited in the section.

Section 19.802. Amount of Fees. Amendments to §19.802 remove portions of text concerning insurance service representatives, full-time home office salaried employee registration, and life and health insurance counselors. The amendments also remove language concerning subagent appointment fees. In addition, amendments renumber paragraphs as appropriate to reflect the removal of text, and they add the titles of cited Insurance Code provisions.

Section 19.805. Application for a New Individual License. Amendments to §19.805 insert the titles of Insurance Code and Administrative Code provisions cited in the section, remove a paragraph concerning home office salaried employees, and renumber a paragraph as appropriate to reflect this change. The amendments also replace "12 month" with "12-month," "preceding" with "before," "being" with "is," and "at the time of submitting to TDI" with "with." The amendments delete subsection (d), as that subsection is now outdated and anyone required to provide the information listed in it would have done so by now. Finally, the amendments replace a reference to §§19.1901 - 19.1910 with a reference to the subchapter where those sections are located.

Subchapter J. Standards of Conduct for Licensed Agents.

Section 19.902. One Agent, One License. Amendments to §19.902 update references to the State Board of Insurance, and they remove the branch office registration requirement. The amendments remove a reference to a form that no longer exists and instead reference instructions for registration of an agent's assumed name on TDI's website. The amendments also replace the words "shall" with "must," "utilized" with

"used," "thereunder" with "under it," "which" with "that," update a code reference, and insert the titles of a Business and Commerce Code provision and an Insurance Code provision cited in the section.

Section 19.906. Last Known Address. Amendments to §19.906 update references to the State Board of Insurance, clarify that an agent's address is presumed to be the most recent address on file with the department, and replace a mailing address with a reference to filing instructions on TDI's website. The amendments also replace "shall" with "must" or "will," as appropriate.

Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs, and Certification Courses.

Section 19.1002. Definitions. Amendments to §19.1002 remove references to life and health insurance counselors and insurance service representatives. The amendments correct improper citations to §19.1009(c) and §19.1009(d) by instead citing to §19.1009(g) and §19.1009(h), respectively. The amendments also remove nine uses of the word "the" and two unnecessary uses of a comma in statutory citations, remove an instance of the word "shall," replace "shall be" with "is," replace the word "subchapter" with "title," replace "as set forth in" with "under," move the word "only" to a more grammatically appropriate place, replace the word "which" with "that," update code references, and insert titles of Insurance Code provisions and other code provisions cited in the section. For clarification the amendments replace "and" with "or" in §19.1002(b)(17)(A) and newly numbered §19.1002(b)(17)(C) and insert the word "or" between newly numbered §19.1002(b)(17)(D) and (E). The text of §19.1002(b)(5) as proposed has been changed to remove a comma between "Insurance Code" and "§101.051." The text of §19.1002(b)(17)(A) as proposed has been changed to add a comma between "Subchapter I" and "concerning."

Section 19.1003. Licensee Hour and Completion Requirements. Amendments to §19.1003 change the ethics requirement specified in the section from two hours to three hours, as mandated by HB 4030. The amendments also replace the terms "prior to" with "before," "10 hour" and "24 hour" with "10-hour" and "24-hour," and "50 percent" with "50%." Finally, the amendments insert titles for Insurance Code and Administrative Code provisions cited within this section and cite subchapters in lieu of specific sections in §19.1003(a).

The text of 19.1003(a) as proposed has been changed to correct an incorrect reference to "Limited Life, Life, Accident and Health License," and change it to "Limited Life, Accident, and Health License."

Section 19.1012. Forms and Fees. Amendments to §19.1012 amend the section to generally refer interested persons to TDI's website for information on provider registration and courses. The amendments also remove an outdated mailing address and email address, and they replace "shall" with "will" where appropriate.

Subchapter N. Licensing and Regulation of Risk Managers.

Section 19.1304. Last Known Address. Amendments to §19.1304 update reference to the State Board of Insurance, clarify that a risk manager's address is presumed to be the most recent address on file with the department, and remove a mailing address, adding a reference to filing instructions on TDI's website in its place. The amendments also replace "shall" with "must" or "will," as appropriate.

Section 19.1308. Application for License. Amendments to §19.1308 update references to the State Board of Insurance and remove a mailing address, adding a reference to filing instructions on TDI's website in its place. The amendments also replace "shall" with "must."

Subchapter O. Procedures and Requirements for Reinsurance Intermediaries (Brokers and Managers).**Section 19.1403. Requirements for Bond or Errors and Omissions Policy.**

Amendments to §19.403 update the mailing address and recipient, and they replace "shall" with "must" or "will," as appropriate.

A proposed amendment to capitalize the word "commissioner" is not adopted, based on a change to TDI's rule drafting preferences.

Section 19.1407. Approval of Reinsurance Intermediary Manager's Contracts.

Amendments to §19.1407 remove a mailing address, adding a reference to filing instructions on TDI's website in its place. The amendments also update outdated code references, insert titles of Insurance Code provisions referenced in the section, replace "shall" with "must" or "will," as appropriate, replace "which" with "that," and replace "occur in the provisions set forth in" with "are made to."

A proposed amendment to capitalize the word "commissioner" is not adopted, based on a change to TDI's rule drafting preferences.

Subchapter Q. Discount Health Care Program Registration and Renewal Requirements.

Section 19.1604. Renewal. Amendments to §19.1604 amend the section to provide that TDI will send renewal notices by email rather than mail. The amendments clarify that a discount health care program operator's current address is presumed to be the address on file with TDI. The amendments also clarify the renewal submission requirements by using plain language and replacing an address with references to TDI's website. The amendments replace "shall" with "will" and "subchapter" and "chapter" with "title," update the title of an Occupations Code section, and delete five unnecessary uses

of the word "the." Finally, the amendments insert titles of Insurance Code provisions referenced in the section.

Section 19.1605. Requirements Related to Discount Health Care Program Information. Amendments to §19.1605 clarify filing requirements by removing a mailing address, email address, phone number, and fax number and instead reference TDI's website. The amendments also replace "shall" with "must," "subchapter" with "title," and delete four unnecessary uses of the word "the." Finally, the amendments insert the title of an Insurance Code provision referenced in the section.

Subchapter R. Utilization Reviews for Health Care Provided Under a Health Benefit Plan or Health Insurance Policy.

Section 19.1704. Certification or Registration of URAs. Amendments to §19.1704 update a mailing address with a current mailing address. The amendments also insert titles of Insurance Code provisions referenced in the section.

Proposed amendments to capitalize the word "commissioner" are not adopted, based on a change to TDI's rule drafting preferences.

Subchapter S. Forms to Request Prior Authorization.

Section 19.1810. Prior Authorization Request Form for Health Care Services, Required Acceptance, and Use. Amendments to §19.1810 replace an outdated or old mailing address with a current mailing address and insert the title of an Administrative Code section cited within the section.

Proposed amendments to capitalize the word "commissioner" are not adopted, based on a change to TDI's rule drafting preferences.

Section 19.1820. Prior Authorization Request Form for Prescription Drug Benefits, Required Acceptance, and Use. Amendments to §19.1820 replace an outdated

or old mailing address with a current mailing address. The amendments also replace "facsimile (fax)" with "fax."

Proposed amendments to capitalize the word "commissioner" are not adopted, based on a change to TDI's rule drafting preferences.

Subchapter T. Specialty Insurance License.

Section 19.1902. Definitions. Amendments to §19.1902 remove the defined term "registered location" and renumber the following paragraph as appropriate. The amendments also update Insurance Code citations, replace "10 percent" with "10%," and remove "shall" as appropriate. Finally, the amendments insert titles of Insurance Code provisions referenced in the section.

Section 19.1908. Notice to Department. Amendments to §19.1908 remove a paragraph addressing locations from which insurance sales are conducted under a specialty license and renumbers the following paragraphs as appropriate. The amendments also replace "shall" with "must" and insert "or" where appropriate.

Subchapter U. Utilization Reviews for Health Care Provided Under Workers' Compensation Insurance Coverage.

Section 19.2004. Certificate or Registration of URAs. Amendments to §19.2004 insert the word "and" and they replace an old or out of date mailing address with a current mailing address. The amendments also insert titles of Insurance Code and Administrative Code provisions referenced in the section.

Proposed amendments to capitalize the word "commissioner" are not adopted, based on a change to TDI's rule drafting preferences.

SUMMARY OF COMMENTS. The department did not receive any comments on the proposed amendments and repeals.

Subchapter B. Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Part D Plans
28 TAC §19.103

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.103 under Insurance Code §36.001.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.103. Reporting Requirements.

An insurer, health maintenance organization, or insurance agent is required to report in writing any violation of §19.102 of this title (relating to Agent Authority to Market Medicare Advantage Plans, Medicare Advantage Prescription Drug Plans, and Medicare Prescription Drug Plans) within four calendar days of discovering the violation to the Fraud and Enforcement Division at the contact information provided on the department's website.

Subchapter G. Licensing of Insurance Adjusters
28 TAC §19.602

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.602 under Insurance Code §4101.005 and §36.001.

Insurance Code §4101.005 provides that the commissioner may adopt rules necessary to implement Insurance Code Chapter 4101 and meet the minimum requirements of federal law, including regulations.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.602. Types of Adjuster's Licenses.

(a) Any references to the Act in this subchapter are references to Insurance Code Chapter 4101, concerning Insurance Adjusters. The following types of adjuster's licenses are approved for insurance:

- (1) all lines (issuance of "all lines" adjuster's license for those adjusters who qualify in paragraphs (2) and (3) of this subsection);
- (2) property, casualty, and surety; and
- (3) workers' compensation, employer's liability, USL&H (U.S. Longshoremen's and Harbor Workers' Compensation Insurance).

(b) Under Insurance Code Chapter 4101, the following are exempted from the requirement of an adjuster's license examination or reexamination administered by the department or the department's authorized testing service:

- (1) those persons holding CPCU designation;

(2) those persons who have received the Associate in Claims (AIC) designation;

(3) those persons who have a certificate of completion showing that within the past 12 months the applicant has completed a certified adjuster prelicensing education program and passed an examination in compliance with Insurance Code §4101.054, concerning Examination Required, and §19.1006(b) of this title (relating to Course Criteria); and

(4) those persons who have an adjuster's license that has been expired for a period of more than 90 days but less than one year.

(c) Adjusters must renew their licenses in the manner set forth in §19.801 of this title (relating to General Provisions).

(d) Adjusters may only renew a license that has not expired or has not been expired for more than 90 days; otherwise, the adjuster must apply to the department for a new license.

(e) If an adjuster's license has been expired for one year or more, the adjuster applicant must submit to reexamination. The reexamination must be completed within the 12 months preceding the application unless the adjuster applicant can show that the applicant is exempt from the reexamination as set forth in subsection (b) of this section.

Subchapter H. Licensing of Public Insurance Adjusters
28 TAC §§19.702, 19.704 - 19.706, 19.708, 19.709, and 19.712

STATUTORY AUTHORITY. The commissioner adopts amendments to §§19.702, 19.704 - 19.706, 19.708, 19.709, and 19.712 under Insurance Code §§4001.005, 4102.004, and 36.001.

Insurance Code §4001.005 provides that the commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 provides that the commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.702. Type of Public Insurance Adjuster Licenses.**

The department will issue a single public insurance license under Insurance Code Chapter 4102, concerning Public Insurance Adjustors and the provisions of this subchapter.

§19.704. Public Insurance Adjuster Licensing.

(a) Any individual that desires a public adjuster license must file with the department a fully completed license application, on a form as required by the commissioner, and otherwise meet the licensing qualification requirements of Insurance Code Chapter 4102, Subchapter B, concerning License Requirements, and this subchapter.

(b) Any corporation or partnership that desires a public insurance adjuster license must file with the department a fully completed license application on a form as required by the commissioner.

(c) The department will issue a license to a resident or nonresident corporation or partnership if the department finds that:

(1) the corporation or partnership is:

(A) organized under the laws of this state or any other state or territory of the United States;

(B) admitted to conduct business in this state by the secretary of state, if required; and

(C) authorized by its articles of incorporation or its partnership agreement to act as a public insurance adjuster;

(2) the corporation or partnership meets the definition of that entity adopted under Insurance Code §4001.003, concerning Definitions;

(3) at least one officer of the corporation or one active partner of the partnership and all other persons performing any acts of a public insurance adjuster on behalf of the corporation or partnership in this state are individually licensed by the department separately from the corporation or partnership;

(4) the corporation or partnership intends to be actively engaged in the business of public insurance adjusting;

(5) the corporation or partnership has submitted the application, appropriate fees, proof of financial responsibility, and any other information required by the department; and

(6) no officer, director, member, manager, partner, or any other person who has the right or ability to control the license holder has:

(A) had a license suspended or revoked or been the subject of any other disciplinary action by a financial or insurance regulator of this state, another state, or the United States; or

(B) committed an act for which a license may be denied under Insurance Code §4005.101, concerning Grounds for License Denial or Disciplinary Action, or §4102.201, concerning Denial, Suspension, or Revocation of License.

(d) Nothing contained in this section may be construed to permit any unlicensed employee or representative of any corporation or partnership to perform any act of a public insurance adjuster without obtaining a public insurance adjuster license.

(e) Each corporation or partnership applying for a public insurance adjuster license must file, under oath, on a form developed by the department, biographical information for each of its executive officers and directors or unlicensed partners who administer the entity's operations in this state, and shareholders who are in control of the corporation, or any other partners who have the right or ability to control the partnership. If any corporation or partnership is owned, in whole or in part, by another entity, a biographical form is required for each individual who is in control of the parent entity.

(f) Each corporation or partnership must notify the department not later than the 30th day after the date of:

(1) a felony conviction of a licensed public insurance adjuster of the entity or any individual associated with the corporation or partnership who is required to file biographical information with the department;

(2) an event that would require notification under Insurance Code §81.003, concerning Notification of Certain Disciplinary Actions Occurring in Other States; Civil Penalty; and

(3) the addition or removal of an officer, director, partner, member, or manager.

(g) A person may not acquire in any manner any ownership interest in an entity licensed as a public insurance adjuster under this subchapter if the person is, or after the acquisition would be directly or indirectly in control of the license holder, or otherwise acquire control of or exercise any control over the license holder, unless the person has filed the following information with the department under oath:

(1) a biographical form for each person by whom or on whose behalf the acquisition of control is to be effected;

(2) a statement certifying that no person who is acquiring an ownership interest in or control of the license holder has been the subject of a disciplinary action taken by a financial or insurance regulator of this state, another state, or the United States;

(3) a statement certifying that, immediately on the change of control, the license holder will be able to satisfy the requirements for the issuance of the public insurance adjuster license; and

(4) any additional information that the commissioner may prescribe as necessary or appropriate to the protection of the insurance consumers of this state or as in the public interest.

(h) If a person required to file a statement under subsection (g) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information required by paragraphs (1) - (4) of that subsection for an individual be provided regarding each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If the partner, member, or person is a corporation or the person required to file the

statement under subsection (g) of this section is a corporation, the commissioner may require that the information required by paragraphs (1) - (4) of that subsection be provided regarding:

(1) the corporation;

(2) each individual who is an executive officer or director of the corporation;

and

(3) each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(i) The department may disapprove an acquisition of control if, after notice and opportunity for hearing, the commissioner determines that:

(1) immediately on the change of control the license holder would not be able to satisfy the requirements for the public insurance adjuster license;

(2) the competence, trustworthiness, experience, and integrity of the persons who would control the operation of the license holder are such that it would not be in the interest of the insurance consumers of this state to permit the acquisition of control; or

(3) the acquisition of control would violate the Insurance Code or another law of this state, another state, or the United States.

(j) Notwithstanding subsection (h) of this section, a change in control is considered approved if the department has not proposed to deny the requested change before the 61st day after the date the department receives all information required by this section.

(k) The commissioner is the corporation's or partnership's agent for service of process in the manner provided by Insurance Code Chapter 804, concerning Service of Process, in a legal proceeding against the corporation or partnership if:

(1) the corporation or partnership licensed to transact business in this state fails to appoint or maintain an agent for service in this state;

(2) an agent for service cannot with reasonable diligence be found; or

(3) the license of a corporation or partnership is revoked.

(l) If a license holder does not maintain the qualifications necessary to obtain the license, the department will revoke or suspend the license or deny the renewal of the license under Insurance Code §4005.101, concerning Grounds for License Denial or Disciplinary Action, or Insurance Code §4102.201, concerning Denial, Suspension, or Revocation of License.

(m) Each public insurance adjuster must maintain all insurance records, including all records relating to customer complaints received from customers and the department, separate from the records of any other business in which the person may be engaged and in the manner specified in Insurance Code Chapter 4102, concerning Public Insurance Adjusters.

(n) The department may license a depository institution or entity chartered by the federal Farm Credit Administration under the farm credit system established under 12 U.S.C. Section 2001 et seq., as amended, to act as a public insurance adjuster in the manner provided for the licensing of a corporation under this section.

§19.705. Financial Responsibility Requirement.

Each public insurance adjuster, as a condition for being licensed, must maintain proof of financial responsibility by obtaining a surety bond in the principal sum of not less than \$10,000 that covers all the required perils and losses set forth under Insurance Code §4102.105, concerning Financial Responsibility.

§19.706. Demonstrating Financial Responsibility.

The public insurance adjuster applicant or licensee must demonstrate proof of financial responsibility by providing to the department the original surety bond upon application, renewal, or replacement of the bond.

§19.708. Public Insurance Adjuster Contracts.

(a) A public insurance adjuster may not, directly or indirectly, act within this state as a public insurance adjuster without having first entered into a written contract executed in duplicate by the licensee and the insured or the insured's duly authorized representative.

(b) A public insurance adjuster's written contract with an insured must contain:

(1) the name, address, and license number of the public insurance adjuster negotiating the contract and, if applicable, the name, address, and license number of the public insurance adjuster's employing public insurance adjuster, with each page of the contract prominently displaying the license number(s);

(2) the public insurance adjuster's telephone and fax number, including area code;

(3) the mailing and physical addresses to which notice of cancellation and all communications to the public insurance adjuster may be delivered;

(4) if any part of the contract or solicitation is made via the Internet, the email and website address to which notice of contract cancellation and all communications to the public insurance adjuster may be delivered;

(5) the date and time the contract was signed;

(6) for each nonresident public insurance adjuster named in the contract, the name and address of the nonresident public insurance adjuster's agent for service of process;

(7) the following separate statements in 12-point bold type on the signature page of the contract:

(A) "NOTICE: The insured may cancel this contract by written notice to the public insurance adjuster within 72 hours of signature for any reason.";

(B) "We represent the insured only."; and

(C) "You are entering into a service contract. You are being charged a fee for this service. You do not have to enter into this contract to make a claim for loss or damage on a policy of insurance."

(8) the statement: "If the insurance carrier pays or commits in writing to pay to the insured the policy limits of the insurance policy under Insurance Code §862.053, concerning Fire and Marine Insurance Companies, within 72 hours of the loss being reported to the insurer, the public insurance adjuster is not entitled to compensation based on a percentage of the insurance settlement, but is entitled to reasonable compensation for the public insurance adjuster's time and expenses provided to the insured before the claim was paid or the written commitment to pay was received.";

(9) the statement: "NOTICE: A public insurance adjuster may not participate directly or indirectly in the reconstruction, repair, or restoration of damaged property that is the subject of a claim adjusted by the public insurance adjuster or engage in any other activities that may reasonably be construed as presenting a conflict of interest, including soliciting or accepting any remuneration from, or having a financial interest in, any salvage

firm, repair firm, or other firm that obtains business in connection with any claim the public insurance adjuster has a contract or agreement to adjust.";

(10) on the first or second page of the contract, the following English and Spanish notices in 10-point bold type:

(A) "IMPORTANT NOTICE: You may contact the Texas Department of Insurance to get information about public insurance adjusters, your rights as a consumer, or information about how to file a complaint by calling 1-800-252-3439; or you may write the Texas Department of Insurance, at MC: CO-CP, P.O. Box 12030, Austin, Texas 78711-2030.";

(B) "ADVISO IMPORTANTE: Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca ajustadores publicos de seguros, sus derechos como consumidor, o informacion sobre como presentar una queja llamando 1-800-252-3439; o puede escribir al Departamento de Seguros de Texas, en MC: CO-CP, P.O. Box 12030, Austin, Texas 78711-2030.";

(11) a statement that under any method of compensation, the total commission payable to the public insurance adjuster, including expenses, direct costs, or any other costs accrued by the public insurance adjuster, must not exceed 10% of the amount of the insurance settlement;

(12) if applicable, a statement disclosing how payments issued before the effective date of the contract will be used in determining compensation to the public insurance adjuster; and

(13) a clear and prominent statement of the public insurance adjuster's commission including:

(A) the method of calculating the commission for the public insurance adjuster, whether an hourly rate, flat fee, percentage of settlement, or another method of compensation, specifically:

(i) if an hourly rate, the contract must state the hourly rate and how it will be applied to hours of service provided by the public insurance adjuster to calculate the amount payable;

(ii) if a flat fee, the contract must state the amount that will be payable to the public insurance adjuster;

(iii) if a percentage, the contract must state the exact percentage that will be applied to the settlement on the claim to calculate the amount payable to the public insurance adjuster; or

(iv) if another method of calculation is chosen, the contract must include a detailed explanation of how the amount payable will be determined based on services provided by the public insurance adjuster;

(B) a general description of services the public insurance adjuster will provide under the contract;

(C) a description of the claim and property damage, location, and event date;

(D) if based on an hourly rate, a provision that the public insurance adjuster will provide an invoice for services that includes a detailed listing of services provided and separate costs payable to the public insurance adjuster as part of the commission based on the claim settlement, including expenses, direct costs, and any other accrued costs.

(c) The contract must not contain any terms or conditions that have the effect of limiting or nullifying any requirements of the Insurance Code, this subchapter, or other rules of the department.

(d) All public insurance adjusters in Texas must use a written contract that is in the form prescribed by the department and that complies with all relevant Insurance Code requirements and department rules. Public insurance adjusters must select from the following contract form options:

(1) a standard language contract developed by the department, identified by FIN 535; or

(2) a contract filed and approved by the department before use.

(e) All contracts must be submitted with an original adjuster license application or an application for renewal to the department's Agent and Adjuster Licensing Office. Contracts also must be submitted to the office upon any modification or amendment of terms or conditions between license renewals.

(f) The failure by a public insurance adjuster or other individual to use a properly authorized and approved contract may result in suspension, nonrenewal, revocation of the adjuster's license, or other administrative penalty.

§19.709. Nonresident Applicants and License Holders.

An applicant for a nonresident public insurance adjuster license or temporary certificate must, through the law enforcement agency of the applicant's state of residence, submit a copy of the applicant's criminal history records to the department. The department will use the criminal history records to determine eligibility for issuance of a license in accordance with this subchapter and other laws of this state.

§19.712. Advertisement.

(a) As used in Insurance Code Chapter 4102, concerning Public Insurance Adjusters, "advertisement" includes:

(1) printed and published material, audiovisual material and descriptive literature of a public insurance adjuster used in direct mail, newspapers, magazines, radio, telephone and television scripts, websites, billboards, and similar displays;

(2) descriptive literature and promotional aids of all kinds issued by a public insurance adjuster for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations, and form letters;

(3) prepared promotional talks, presentations and materials for use by a public insurance adjuster, and those representations made on a recurring basis by a public insurance adjuster to members of the public;

(4) material used to:

(A) solicit contracts from insureds; or

(B) modify existing contracts;

(5) material included with a contract when the contract is delivered and materials used in the solicitation of contract renewals, extensions or reinstatements, except those extensions or reinstatements provided for in the contract;

(6) lead card solicitations, defined as communications distributed to the public which, regardless of form, content, or stated purpose, are intended to result in the compilation or qualification of a list containing names or other personal information regarding insureds who have expressed a specific interest in obtaining assistance with

having their claims settled, and which are intended to be used to solicit residents of this state for the execution of a contract for a public insurance adjuster's services; and

(7) any other communication directly or indirectly related to a public insurance adjuster contract, and intended to result in the eventual execution of such a contract.

(b) "Advertisement" does not include:

(1) communications or materials used within a public insurance adjuster's own organization, not used as promotional aids and not disseminated to the public;

(2) communications with insureds other than materials soliciting insureds to enter, renew, extend or reinstate a contract for a public insurance adjuster's services; and

(3) material used solely for the recruitment, training, and education of a public insurance adjuster's personnel and subcontractors, provided it is not also used to induce the public to enter, renew, extend or reinstate a contract for a public insurance adjuster's services.

Subchapter H. Licensing of Public Insurance Adjusters
Repeal of 28 Tac §19.703

STATUTORY AUTHORITY. The commissioner adopts the repeal of §19.703 under Insurance Code §4102.004 and §36.001.

Insurance Code §4102.004 provides that the commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.703. Temporary Training Certificates.****Subchapter I. General Provisions Regarding Fees, Applications, and Renewals
28 TAC §§19.801, 19.802, and 19.805**

STATUTORY AUTHORITY. The commissioner adopts amendments to §§19.801, 19.802, and 19.805 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.801. General Provisions.**

(a) Completed application. An applicant must provide all information required of the applicant by statute and TDI rule.

(b) Original application. In this subchapter, an original application is an application for any license type not currently held by the applicant.

(1) Individual application. An original application for an individual license must include the following information:

(A) the individual's:

- (i) name;
- (ii) date of birth;
- (iii) social security number;
- (iv) mailing address, physical address, and email address;
- (v) phone number; and
- (vi) professional background and criminal history information;

and

(B) other applicable information required by statute or rule, including:

(i) a complete set of the applicant's fingerprints, using the procedures and requirements under Chapter 1, Subchapter D, of this title (relating to Effect of Criminal Conduct);

(ii) for adjuster applicants, documentation of the successful completion of the applicable adjuster examination or prelicensing course as required under Insurance Code §4101.054, concerning Examination Required, and §4101.056, concerning Exemption from Examination Requirement; and

(iii) for public insurance adjuster applicants, evidence of financial responsibility and a sample contract as required under §19.705 of this title (relating to Financial Responsibility Requirement), §19.706 of this title (relating to Demonstrating Financial Responsibility), §19.707 of this title (relating to Type of Financial Responsibility), §19.708 of this title (relating to Public Insurance Adjuster Contracts), §19.709 of this title (relating to Nonresident Applicants and License Holders), §19.710 of

this title (relating to Nonresidents Required to File Biographical Information), and §19.711 of this title (relating to Fingerprint Requirement).

(2) Entity application. An original application for an entity license must include the following information:

(A) the name of the entity;

(B) the entity's federal employer identification number;

(C) information regarding the location and means of contacting the entity;

(D) disclosures regarding regulatory actions, criminal actions, and litigation history;

(E) the amount and type of financial responsibility applicable to the license type;

(F) the name, license information, and a complete set of fingerprints, using the procedures under Chapter 1, Subchapter D, of this title, of at least one individual who is an officer or active partner of the entity and holds, or is applying for, the same license type sought by the entity;

(G) the biographical information of all individuals in control of the entity, including the individual's:

- (i) name;
- (ii) date of birth;
- (iii) social security number;
- (iv) mailing address, physical address, and email address;
- (v) phone number;
- (vi) professional background and criminal history information;

(vii) a complete set of each individual's fingerprints, using the procedures under Chapter 1, Subchapter D, of this title; and

(H) other applicable information required by statute or rule, including information required for public insurance adjusters under §§19.705 - 19.711, including the sample contract.

(c) Appointment.

(1) An appointment authorizes an agent to represent and act as an agent for an insurer, as defined in Insurance Code §4001.003(6), concerning Definitions. An agent must be appointed directly by an insurer.

(2) An appointment fee of \$10 must accompany each notice of appointment.

(d) Submission of fees. All fees must be submitted as directed by:

- (1) the original or renewal application;
- (2) the appointment form;
- (3) TDI's designated testing service;
- (4) using the instructions provided on the department's website; or
- (5) other TDI designated service provider.

(e) Fees fully earned and not refundable or transferable. All fees are fully earned at the time the application, registration, or appointment is submitted, and they are not refundable or transferable to another application, registration, or appointment. These fees may not be reduced for any reason, except as authorized by statute or rule.

(f) Examination and examination fees.

(1) TDI administers examinations through its designated testing service. If TDI should cease to use a designated testing service, TDI will directly administer the

examinations and all references in this subchapter to TDI's designated testing service will apply to TDI.

(2) All examination fees for any license type, whether administered by TDI or TDI's designated testing service, are fully earned when the examination is scheduled and are not refundable or transferable to any other applicant or examination, except when approved by TDI as provided under Insurance Code §4002.005(c), concerning Examination Fee. A separate fee is required for each examination and reexamination. Examination fees may not be reduced for any reason, except as authorized by statute or rule.

§19.802. Amount of Fees.

(a) With each application for original license or renewal, notice of appointment, request for examination, or registration or renewal of registration, the applicant, licensee, or registrant must submit the amount shown in this section. The fees for examinations and reexaminations only apply if TDI does not contract with a testing service for the provisions of these examinations.

(b) The amounts of fees are as follows:

(1) General life, accident, and health insurance agent:

- A) original application--\$50;
- (B) renewal--\$50;
- (C) additional appointment--\$10;
- (D) qualifying examination--\$50.

(2) County mutual agent:

- (A) original application--\$50;
- (B) renewal--\$50;

(C) additional appointment--\$10.

(3) Insurance adjuster:

(A) original application--\$50;

(B) renewal--\$50;

(C) qualifying examination--\$50.

(4) Insurance adjuster (emergency license): original application--\$20.

(5) General property and casualty agent:

(A) original application--\$50;

(B) renewal--\$50;

(C) additional appointment--\$10;

(D) qualifying examination--50;

(E) emergency application for license issued under Insurance Code §4051.054, concerning Deceased, Disabled, or Insolvent Agents; Emergency License--\$50 (for original application with no additional charge for renewal).

(6) Managing general agent:

(A) original application--\$50;

(B) renewal--\$50;

(C) additional appointment--\$10;

(D) qualifying examination--\$50;

(E) emergency application for license issued under Insurance Code §4053.052--\$50.

(7) Limited lines agent (includes agents licensed under Insurance Code Chapter 4051, Subchapter C, concerning Limited Property and Casualty License, and Chapter 4054, Subchapter C, concerning Limited Life, Accident, and Health License):

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) additional appointment--\$10;
- (D) qualifying examination--\$50.

(8) Surplus lines agent:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) qualifying examination--\$50.

(9) Specialty insurance agent:

- (A) original application--\$50 (per license authority);
- (B) renewal--\$50 (per license authority);
- (C) additional appointment--\$10.

(10) Title attorney:

- (A) original application--\$50;
- (B) renewal--\$48.

(11) Life insurance not exceeding \$15,000:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) additional appointment--\$10.

(12) Risk manager:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) qualifying examination--\$50.

(13) Funeral prearrangement life insurance agent:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) additional appointment--\$10.

(14) Reinsurance intermediary:

- (A) original application--\$500;
- (B) renewal--\$500.

(15) Temporary license application--For license types authorized by Insurance Code Chapter 4001, Subchapter D, concerning Temporary License, to be issued on a temporary basis, \$100 in addition to the original license application fee for each license type.

(16) Utilization review agent:

- (A) original application--\$2,150;
- (B) renewal--\$545.

(17) Public insurance adjuster:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) qualifying examination--\$50.

(18) Provisional permit application fee is \$50 in addition to the original license application fee for each license type.

(19) Life agent:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) additional appointment--\$10;
- (D) qualifying examination--\$50.

(20) Personal lines property and casualty agent:

- (A) original application--\$50;
- (B) renewal--\$50;
- (C) additional appointment--\$10;
- (D) qualifying examination--\$50;

(21) Discount health care program operator:

- (A) initial registration fee--\$1,000; or
- (B) renewal registration fee--\$500.

(c) The limited lines agent license is a single license type that is authorized under Insurance Code Chapter 4051, concerning Property and Casualty Agents, and 4054, concerning Life, Accident, and Health Agents. Persons licensed as limited lines agents may be appointed to sell or solicit any line authorized by Insurance Code Chapter 4051, Subchapter C and Chapter 4054, Subchapter C without payment of additional license fees or examinations other than the necessary additional company appointment fees.

(d) All fees are the same for both residents and nonresidents. Insurance Code Chapter 4056 does not create an additional license type for nonresidents, but designates a procedure for licensing nonresidents under appropriate Texas license types.

§19.805. Application for a New Individual License.

(a) This section does not apply to:

(1) a provisional permit issued under Insurance Code Chapter 4001, Subchapter H, and §19.806 of this title;

(2) a temporary license issued under Insurance Code Chapter 4001, Subchapter D, concerning Temporary License, and §19.807 of this title (relating to Application for a Temporary License); or

(3) specialty agent licenses issued under Insurance Code Chapter 4054, concerning Life, Accident, and Health Agents and Chapter 19, Subchapter T of this title (relating to Specialty Insurance License).

(b) Examination required. Unless exempt by applicable statute or rule, all license applicants must successfully complete the applicable license examination to be eligible for licensure.

(1) Except as provided in paragraph (2) of this subsection:

(A) an applicant must submit:

(i) the required examination fee to TDI's designated testing service when the examination is requested; and

(ii) a complete original application, the original application fee, and all required fees, to TDI, or TDI's designated testing service, when the application is submitted; and

(B) TDI must receive the score report from TDI's designated testing service showing successful completion of the applicable examination within the 12-month period before the completed application is received by TDI.

(2) An applicant qualifying for a license through an insurance carrier administered examination under Insurance Code Chapter 4051, Subchapter E, concerning County Mutual Agent License; Chapter 4054, Subchapter D, concerning Funeral Prearrangement Life Insurance; or Chapter 4054, Subchapter E, concerning Life Insurance Not Exceeding \$25,000, must submit to TDI:

(A) all required fees at the time of filing an original application for license; and

(B) a completed original application with an appointment from the insurance carrier administering the examination indicating successful completion of the applicable examination within the 12-month period preceding the completed application being received by TDI.

(c) Examination not required. An applicant who is not required to qualify for a license by examination must submit to TDI the original application fee and all required fees with a completed original application.

Subchapter J. Standards of Conduct for Licensed Agents
28 Tac §19.902 and §19.906

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.902 and §19.906 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.902. One Agent, One License.

(a) Only one license of the same type permitted. No agent may hold more than one license of the same type currently in effect. An agent doing an insurance business subject to the provisions of this subchapter must have the agent's license certificate issued in the agent's true name. If an individual is authorized to act as a particular type of agent, that individual need not obtain an additional license in order to participate in a licensed partnership or corporate agency of the same type, but the partnership or corporation must obtain a separate license. Any licensed agent may have additional offices or do an insurance business under assumed names without obtaining an additional license; provided, however, each agent must furnish the Texas Department of Insurance with a certification showing any and all assumed names that the agent will use. Where such a filing is required under the Assumed Business or Professional Name Act (Texas Business and Commerce Code Chapter 71, concerning Assumed Business or Professional Name), or any similar statute, the agent must provide the Texas Department of Insurance with a copy of the valid assumed name certificate reflecting proper registration of each assumed name used by the agent.

(b) Standards for approval and disapproval of names to be used by licensed agents.

(1) Name states or implies insurance capabilities not permitted under licenses applied for or held. No name proposed by an applicant or license will be approved if such name states or implies, or would lead reasonable persons to infer, that the applicant or licensed agent is an insurer, motor club, hospital service plan, health maintenance organization, continuing care retirement community, or other entity entitled to engage in insurance activities which in fact are not permitted under licenses applied for or held.

(2) Name states or implies ability to act as an insurer or guarantor. No name proposed by an applicant or licensee will be approved if such name states or implies, or would lead reasonable persons to infer, that the applicant or licensee is an insurer or guarantor. Nothing in this subsection prohibits the following:

(A) any agent from indicating that such agent is an authorized representative of an admitted insurer if such agent is also clearly designated as an agent representing such insurer; or

(B) any agent from using a name which includes "underwriter," "underwriters," or "underwriting."

(3) When name is misleading. No name proposed by an applicant or licensee (other than the true name of an individual) will be approved if it appears that use of the proposed name may mislead the public in any respect. A disapproval under this paragraph may be based on one or more of the criteria listed in subparagraphs (A) - (C) of this paragraph.

(A) The name is the same as, closely resembles, borrows on the name of, or implies affiliation with or sponsorship by, a federal, state, or local governmental authority or program.

(B) The name fails to state or clearly indicate that the applicant or licensee is or will be an insurance agent and the name states or implies, or would lead reasonable persons to infer:

(i) that the applicant or licensee is primarily engaged in some line of business other than the insurance business;

(ii) that the applicant or licensee has expertise in the area of investment, tax shelter, financial or estate planning, or computer programming; or

(iii) that the applicant or licensee is a public interest organization seeking to educate consumers or perform research for the public's benefit.

(C) The name makes use of one or more of the following words or phrases or a derivation of one or more of such words or phrases in a misleading manner:

- (i) "administrator";
- (ii) "advisor";
- (iii) "agency";
- (iv) "America" or "American";
- (v) "analyst";
- (vi) "assigned risk";
- (vii) "associate";
- (viii) "association";
- (ix) "assurance company" or "assurance corporation" or "assurance, incorporated";
- (x) "benefit";
- (xi) "broker";
- (xii) "bureau";
- (xiii) "care";
- (xiv) "city";
- (xv) "company";
- (xvi) "compensation";
- (xvii) "consultant";
- (xviii) "consumer";
- (xix) "coop" or "cooperative";

- (xx) "corporation" or "Corp.";
- (xxi) "counselor";
- (xxii) "county";
- (xxiii) "credit union";
- (xxiv) "department";
- (xxv) "deposit insurance";
- (xxvi) "federal";
- (xxvii) "financial advisor" or "financial consultant" or "financial planner";
- (xxviii) "government";
- (xxix) "group";
- (xxx) "HMO" or "health maintenance organization";
- (xxxi) "incorporated" or "Inc.";
- (xxxii) "Indemnity Company" or "Indemnity Corporation" or "Indemnity Inc.";
- (xxxiii) "insurer" or "insuror";
- (xxxiv) "investment";
- (xxxv) "investor";
- (xxxvi) "Medi" when used as the first part of prefix of a word leg;
- (xxxvii) "mortgage guarantee" or "mortgage guaranty";
- (xxxviii) "national";
- (xxxix) "nationwide";
- (xl) "no fault";

- (xli) "plan";
- (xlii) "referral";
- (xliii) "research";
- (xliv) "reserve";
- (xlv) "savings";
- (xlvi) "senior";
- (xlvii) "service";
- (xlviii) "social security";
- (xlix) "state";
- (l) "statewide";
- (li) "Texas";
- (lii) "trust";
- (liii) "United States," "US," or "USA"; or
- (liv) "veteran."

(D) The list of words and phrases appearing in subparagraph (C) of this paragraph is representative only. Such list is intended to serve as a standard or guideline and will not be considered as enumerating the only words or phrases which might be used in a manner that would be misleading or would have the capacity or tendency to mislead the public in any respect. Subparagraph (C) of this paragraph may be amended from time to time as conditions warrant revision.

(4) Review of disapproval of proposed name by Commissioner. Any applicant or licensee whose proposed name has been disapproved pursuant to these standards may request a hearing before the Commissioner. Such request for hearing must

be in writing and must be submitted to the Commissioner no later than 30 days from written notice to the applicant or licensee of disapproval.

(5) Enforcement of standards. The standards established by these regulations are applicable to names filed with the Texas Department of Insurance upon the effective date of these rules. Agents may continue to use the name(s) under which they are licensed. The adoption of these regulations does not affect the authority of the department to order an agent to discontinue the use of a name that is shown to mislead the public and violate Insurance Code Chapter 541, concerning Unfair Methods of Competition and Unfair or Deceptive Acts or Practices, or rules adopted under it; provided, however, that any such action by the department must be conducted in accordance with the Insurance Code.

(c) An agent must register any assumed name using instructions provided on the department's website.

§19.906. Last Known Address.

Each agent must at all times keep the Texas Department of Insurance informed of the agent's current address. Such address must be included in each license application and each license renewal form. In the absence of the submission of a specific written request to change that address, which must be separate from any other submission, the agent's current address is presumed to be the most recent address on file with the department. Such address will be considered the agent's last known address for the purposes of notice to the agent by mail. Any request for a change of address must be made using the instructions provided on the department's website.

**Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs,
and Certification Courses**

28 Tac 28 Tac §§19.1002, 19.1003, and 19.1012

STATUTORY AUTHORITY. The commissioner adopts amendments to §§19.1002, 19.1003, and 19.1012 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the commissioner may adopt any rules necessary to implement Title 13 of the Texas Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1002. Definitions.

(a) Words and terms defined in Insurance Code §4001.003, concerning Definitions; §4004.151, concerning Agent Education Programs; or §4004.201, concerning Definition have the same meaning when used in this subchapter.

(b) The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Adjuster--An individual licensed under Insurance Code Chapter 4101, concerning Insurance Adjusters.

(2) Application level--Demonstration of the ability to use learned materials in a new situation, usually involving the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information.

(3) Assignee--Any provider that is authorized under §19.1008(f) of this title (relating to Certified Course Advertising, Modification, and Assignment).

(4) Authorized provider representative--The individual a provider designates as the contact individual responsible for all of the provider's communications and filings with the department.

(5) Business of insurance--Has the same meaning as set forth in Insurance Code §101.051, concerning Conduct that Constitutes the Business of Insurance.

(6) Classroom course--A course complying with §19.1009(g) of this title (relating to Types of Courses).

(7) Classroom equivalent course--A course complying with §19.1009(h) of this title.

(8) Certificate of completion--A document complying with §19.1007(a)(7) of this title (relating to Course Certification Submission Applications, Course Expirations, and Resubmissions).

(9) Certification course--A course designed to enhance the student's knowledge, understanding, and professional competence regarding specified subjects for an insurance product. The term includes courses that satisfy the requirements for the Long-Term Care Certification required by Insurance Code Chapter 1651, Subchapter C, concerning Partnership for Long-Term Care Program and Human Resources Code Chapter 32, Subchapter F, concerning Partnership for Long-Term Care Program; the Medicare-Related Product Certification required by Insurance Code Chapter 4004, Subchapter D, concerning Agent Education Programs; the Small Employer Health Benefit Plan Specialty Certification required by Insurance Code Chapter 4054, Subchapter H, concerning Specialty Certification for Agents Serving Certain Employer Groups; and the

Annuity Certification required by Insurance Code §1115.056, concerning Agent Training Requirements.

(10) Certified course--A classroom, classroom equivalent, or self-study course offered by a registered provider that the department or its designee has determined meets the requirements of this subchapter.

(11) Department--Texas Department of Insurance.

(12) Disinterested third party--An individual who is:

(A) not related to a student by blood, adoption, or marriage as a parent, child, grandparent, sibling, niece, nephew, aunt, uncle, or first cousin; or

(B) not an employee or subordinate of the student.

(13) Ethics course--A course that deals with usage and customs among members of the insurance profession, involving their moral and professional duties toward one another, toward clients, toward insureds, and toward insurers.

(14) Insurance course--A course primarily focused on teaching subjects related to the business of insurance.

(15) Interactive inquiries--An interactive electronic component that complies with §19.1009(g)(2) of this title.

(16) Knowledge level--Recall of specific facts, patterns, methods, rules, dates, or other information that must be committed to memory.

(17) Licensee--An individual licensed under one or more of the following Insurance Code provisions:

(A) Chapter 4051, Subchapter B, concerning General Property and Casualty License; Subchapter C, concerning Limited Property and Casualty License;

Subchapter E, concerning County Mutual Agent License; or Subchapter I, concerning Personal Lines Property and Casualty Agent;

(B) Chapter 4053, concerning Managing General Agents;

(C) Chapter 4054, Subchapter B, concerning General Life, Accident, and Health License; Subchapter C, concerning Limited Life, Accident, and Health License; Subchapter E, concerning Life Insurance Not Exceeding \$25,000; or Subchapter G, concerning Life Agent;

(D) Chapter 4101, concerning Insurance Adjusters; or

(E) Chapter 4102, concerning Public Insurance Adjusters.

(18) Long-term care partnership insurance policy--For purposes of §19.1022 of this title (relating to Long-Term Care Partnership Certification Course) and §19.1023 of this title (relating to Long-Term Care Partnership Continuing Education) only, a policy established under Human Resources Code Chapter 32, Subchapter F, and Insurance Code Chapter 1651, Subchapter C.

(19) National designation certification--A professional designation that is:

(A) nationally recognized in the insurance industry; and

(B) issued by an entity that maintains a not-for-profit status and has been in existence for at least five years.

(20) One-time-event--A type of classroom course complying with §19.1009(j) of this title.

(21) Provider--An individual or organization including a corporation, partnership, depository institution, insurance company, or entity chartered by the Farm Credit Administration as defined in Insurance Code §4001.108, concerning Issuance of License to Entity Chartered by Federal Farm Credit Administration, registered with the

department to offer continuing education courses for licensees, prelicensing instruction for adjusters, or long-term care partnership certification courses for licensees.

(22) Provider registration--The process of a provider seeking permission to offer continuing education courses for licensees, prelicensing education for adjusters, or long-term care partnership certification courses for licensees.

(23) Qualifying course--Insurance courses for which a licensee may receive continuing education credit and are:

(A) offered for credit by accredited colleges, universities, or law schools;

(B) part of a national designation certification program;

(C) approved for classroom, classroom equivalent, or participatory credit by the continuing education approval authority of a state bar association or state board of public accountancy; or

(D) certified or approved for continuing education credit under the guidelines of the Federal Crop Insurance Corporation.

(24) Reporting period--The period from the issue date or last renewal date of the license to the expiration date of the license, generally a two-year period.

(25) Self-study--A course complying with §19.1009(i) of this title.

(26) Speaker--An individual who is speaking from special knowledge regarding the business of insurance obtained through experience and position in professional or social organizations, industry, or government.

(27) Student--A licensee or adjuster applicant enrolled in and attending a certified course for credit.

(28) TDI license number--An identification number the department assigns to the licensee and found on the license certificate.

(29) Visually monitored environment--An environment permitting visual identification of students and visual confirmation of attendance, including observation by camera.

§19.1003. Licensee Hour and Completion Requirements.

(a) Continuing education hour requirement. Except as provided in subsections (c) - (e) of this section, for each license and reporting period that the individual is licensed, each licensee must complete 24 hours of continuing education, except that licensees holding only a license issued under Insurance Code Chapter 4051, Subchapter C, concerning Limited Property and Casualty License; Chapter 4051, Subchapter E, concerning County Mutual Agent License; Chapter 4054, Subchapter C, concerning Limited Life, Accident, and Health License; or Chapter 4054, Subchapter E, concerning Life Insurance not Exceeding \$25,000 must complete 10 hours of continuing education. The following requirements apply:

(1) licensees must:

(A) complete all required continuing education hours during the reporting period to avoid fines and be eligible to renew the license. A licensee who obtains a new license during the reporting period for an existing license held by the licensee may count all prior continuing education credits earned in the reporting period for the active license towards the new license if the licenses have the same expiration date;

(B) complete at least two hours of the licensee's continuing education requirement in certified ethics or consumer protection courses;

(C) complete at least 50% of the licensee's required continuing education hours in certified classroom or classroom equivalent courses; and

(D) complete the remainder of the continuing education requirement by completing certified courses applicable to any license type.

(2) Continuing education credit will not be granted for:

(A) any continuing education course credit received before the date the license is issued by TDI, including course credit earned while acting under a temporary license or a provisional permit, towards complying with the licensee's applicable continuing education requirement, except as provided in §19.1021 of this title (relating to Flood Insurance Education Course) and subsection (e) of this section;

(B) carry forward excess hours completed in one reporting period to a subsequent reporting period; or

(C) the current reporting period for any credit hours completed under Insurance Code §4004.055, concerning Consequences of Failure to Complete Continuing Education Requirement, to correct a shortage of hours in a previous reporting period.

(b) Maximum hour requirement. Licensees holding more than one license issued under the Insurance Code are not required to complete more than the number of continuing education hours required under their greatest single license requirement for a license held by the licensee during the reporting period, three hours of which must be in certified ethics or consumer protection courses, within each reporting period. This requirement applies even if the licensee chooses to cancel or nonrenew the license with the requirement. If the licensee is required to complete certain continuing education courses or course hours to maintain a voluntary certification, including certifications under §19.1022 of this title (relating to Long-Term Care Partnership Certification Course),

§19.1023 of this title (relating to Long-Term Care Partnership Continuing Education), §19.1024 of this title (relating to Medicare-Related Product Certification Course), §19.1025 of this title (relating to Medicare-Related Product Continuing Education), §19.1026 of this title (relating to Small Employer Health Benefit Plan Specialty Certification Course), §19.1027 of this title (relating to Small Employer Health Benefit Plan Specialty Continuing Education), §19.1028 of this title (relating to Annuity Certification Course), and §19.1029 of this title (relating to Annuity Continuing Education), the licensee must complete the requirement to maintain the certification even if the total number of hours would exceed the limit specified in this subsection.

(c) Adjuster prelicensing education. Adjuster applicants seeking an examination exemption under Insurance Code §4101.056(a)(4), concerning Exemption from Examination Requirement, must complete both a certified adjuster prelicensing education course of not less than 40 hours, and pass the course examination testing the applicant's knowledge and qualifications set forth in this subchapter. Adjuster applicants must complete at least 30 hours of the course requirement through classroom or classroom equivalent course work.

(d) Prorated requirement. Licensees holding a license that was issued with a term of less than two years and those licensees who convert from nonresident to resident licenses during a reporting period, excluding adjusters with a license under which Texas is the designated home state, must complete continuing education hours based on a prorated schedule, as follows:

(1) for license types with a 24-hour requirement, one hour for each whole month between the issue or last renewal date of the license, or the date of Texas residency,

to the end of the license period up to the maximum number of hours required for the license type during the reporting period; and

(2) for license types with a 10-hour requirement, the number of hours required in Figure: 28 TAC §19.1003(d)(2) for the license period between the issue date or last renewal date of the license, or the date of Texas residency, to the end of the license period up to the maximum number of hours required for the license type during the reporting period.

Figure: 28 TAC §19.1003(d)(2)

License Period	Total Required Hours	Ethics
Less than 6 months	0	0
6 months up to and including 7 months	2	3
8 months up to and including 9 months	3	3
10 months up to and including 11 months	4	3
12 months up to and including 14 months	5	3
15 months up to and including 16 months	6	3
17 months up to and including 19 months	7	3
20 months up to and including 21 months	8	3
22 months up to and including 23 months	9	3

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a licensee is not required to complete continuing education for the reporting period if the prorated reporting period is less than six months; and

(4) a licensee may not apply hours completed before becoming a Texas resident licensee towards compliance with the continuing education requirement.

(e) Texas designated home state adjuster requirement. A designated home state adjuster licensee under which Texas is the designated home state must complete continuing educations under the same requirements as a Texas resident adjuster. A licensee that converts from the Texas designated home state adjuster license to a Texas resident adjuster license during the reporting period:

(1) must complete continuing education in the same manner as a Texas resident adjuster for the combined period the individual held the Texas designated home state adjuster license and the Texas resident adjuster license; and

(2) does not qualify for completing continuing education on a prorated basis if the licensee becomes a Texas resident between renewals of the Texas designated home state adjuster license.

§19.1012. Forms and Fees.

(a) Information on provider registration, course registration, sample certificates of completion, and the list of courses can be obtained from the department's website.

(b) The department establishes the following nonrefundable fees, which are necessary to administer the continuing education and certification programs and will apply unless the department contracts with a third party to provide continuing education or certification services:

(1) Provider registration:

(A) Original Registration - \$50; and

(B) Renewal - \$50.

(2) Continuing education and certification course certification:

(A) Initial submission - \$10 for each hour of course credit requested on the application; and

(B) Resubmission - \$10 for each hour of course credit requested on the application.

(3) Course assignment - \$50 per assignment.

**Subchapter K. Continuing Education, Adjuster Prelicensing Education Programs,
and Certification Courses
Repeal Of 28 TAC §19.1019**

STATUTORY AUTHORITY. The commissioner adopts the repeal of §19.1019 under Insurance Code §4001.005 and §36.001.

Insurance Code §4001.005 provides that the commissioner may adopt any rules necessary to implement Title 13 of the Insurance Code and to meet the minimum requirements of federal law, including regulations.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1019. Full-Time Home Office Salaried Employees.

**Subchapter N. Licensing and Regulation of Risk Managers
Repeal of 28 TAC §19.1303 and §19.1320**

STATUTORY AUTHORITY. The commissioner adopts the repeal of §19.1303 and §19.1320 under Insurance Code under Insurance Code §4153.003 and §36.001.

Insurance Code §4153.003 provides that the commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1303. Forms Adopted by Reference.

§19.1320. Distribution of Rules and Attachments.

**Subchapter N. Licensing and Regulation of Risk Managers
28 TAC §19.1304 and §19.1308**

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1304 and §19.1308 under Insurance Code §4153.003 and §36.001.

Insurance Code §4153.003 provides that the commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.1304. Last Known Address.**

Each risk manager must at all times keep the Texas Department of Insurance informed of the risk manager's address. Such address must be included in each license application and each license renewal form. In the absence of the submission of a specific written request to change that address, which must be separate from any other submission, the risk manager's current address is presumed to be the address on file with the department. Such address will be considered the risk manager's last known address for the purpose of notice to the agent by the department. Any request for a change of address must be made using the instructions provided on the department's website.

§19.1308. Application for License.

Using the forms prescribed and furnished by the Texas Department of Insurance, a person who desires to be licensed as risk manager in Texas must submit an application for risk manager's license using the instructions provided on the department's website. The license fee is payable at the time of application. As part of the application, the applicant must furnish to the department any information relating to the applicant's identity, personal history, experience, business record, or other items as the department may require. All documentation and records submitted or maintained for the purpose of licensure or renewal are subject to audit or review by the department.

**Subchapter O. Procedures and Requirements for Reinsurance Intermediaries
(Brokers and Managers)
28 TAC §19.1403 and §19.1407**

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1403 and §19.1407 under Insurance Code §4152.004 and §36.001.

Insurance Code §4152.004 provides that the commissioner may adopt reasonable rules as necessary to implement Chapter 4152.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1403. Requirements for Bond or Errors and Omissions Policy.

Any reinsurance intermediary must file and maintain a bond with the commissioner for the protection of all insurers represented or file and maintain an errors and omissions policy, meeting the following criteria.

(1) The bond must be executed by the reinsurance intermediary as principal and by a surety company authorized to do business in this state, as surety, or surplus lines insurer eligible in this state, in the principal sum of \$100,000 for a broker and in the principal sum of \$250,000 for a manager, payable to the Texas Department of Insurance for the use and benefit of all insurers represented. The bond must provide that a copy of any cancellation or nonrenewal notice must be mailed to Agent and Adjuster Licensing

Office, Texas Department of Insurance, MC: CO-AAL, P.O. Box 12030, Austin, Texas 78711-2030. The executed bond must be furnished to the Texas Department of Insurance.

(2) The errors and omissions policy must be in a form acceptable to the Texas Department of Insurance, and must be filed with Agent and Adjuster Licensing Office at the address listed in paragraph (1) of this section. The policy must provide that the Texas Department of Insurance will be a certificate holder and will receive a copy of any cancellation or nonrenewal notice, which must be mailed to the deputy commissioner for licensing at the address listed in paragraph (1) of this section. The errors and omissions policy must cover all negligent acts or omissions of the reinsurance intermediary and any person acting on its behalf and must provide coverage of at least \$100,000 for each occurrence for brokers and must provide coverage of at least \$250,000 for each occurrence for managers.

(3) The commissioner may determine that special circumstances require an additional amount of coverage for the bond or policy.

§19.1407. Approval of Reinsurance Intermediary Manager's Contracts.

(a) A written contract, which specifies the responsibilities of each party, must be approved by the insurer's board of directors or attorney in fact and executed by a responsible officer of an insurer and a manager prior to entering into any transaction between the manager and the insurer.

(b) A copy of the executed contract and the approval of the insurer's board of directors or attorney in fact must be filed by the manager with the commissioner for approval at least 30 days before the insurer assumes or cedes any business through the manager.

(c) The contract must include the minimum requirements specified in Insurance Code §4152.201, concerning Contract Between Manager and Insurer. A contract that does not comply with the minimum requirements of the Insurance Code or this section will not be considered to have been filed with the commissioner for approval. The contract will be approved or disapproved within 30 days of its filing.

(d) A failure to file complete and accurate information in all material respects is grounds for disapproval of the contract by the commissioner under Insurance Code §4152.201.

(e) Any disapproval by the commissioner of any contract filed under this section will set forth the specific reasons for such disapproval.

(f) If any material changes are made to the contract filed with the commissioner, an amended contract setting forth such changes must be filed with the commissioner for approval as if it were a new contract.

(g) Contracts subject to this section and Insurance Code §4152.201, must be filed using the method described on the department's website for the purpose of determining compliance with this section. Telephonic or fax transmissions will not constitute proper filing under this section.

(h) This section will be cumulative of and in addition to the requirements of Insurance Code Chapter 4053, concerning Managing General Agents; Chapter 4152, concerning Reinsurance Intermediaries; and Chapter 823, concerning Insurance Holding Company Systems, and related regulations. Nothing contained in this section is intended to exempt an insurer or its reinsurance intermediary manager from other provisions of the Insurance Code.

**Subchapter Q. Discount Health Care Program Registration and Renewal
Requirements
28 TAC §19.1604 and §19.1605**

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1604 and §19.605 under Insurance Code §7001.003 and §36.001.

Insurance Code §7001.003 provides that the commissioner will adopt rules in the manner prescribed by Subchapter A, Chapter 36, as necessary to implement Chapter 7001.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1604. Renewal.

(a) Not later than 60 days before the date a person's registration as a discount health care program operator expires, the department will send a written registration renewal notice to the email address designated for such communications by the regulated person.

(b) In the absence of the submission of a written request to change the address of a registered discount health care program operator as required by Insurance Code §7001.005(a)(1), concerning Application for Registration and Renewal of Registration, and §19.1605 of this title (relating to Requirements Related to Discount Health Care Program Information), the discount health care program operator's current address is presumed to be the address on file with the department. Such address will be considered the discount

health care program operator's last known address for the purpose of the department sending a registration renewal notice to the discount health care program operator.

(c) A discount health care program operator may renew a registration to offer a discount health care program in this state by:

(1) submitting \$500 renewal fee and renewal application as required by Insurance Code §7001.006, concerning Fees, and §19.802 of this title (relating to Amount of Fees). A renewal fee paid under this section is nonrefundable and nontransferable. The discount health care program operator may submit the renewal notice and payment to the Texas Department of Insurance using the method described on the department's website; and

(2) certifying in writing to the department that its programs comply with the requirements of the Insurance Code Chapters 7001 and 562.

(d) A discount health care program operator renewing a registration must submit a written communication to the department of any information provided to the department that has changed since the initial registration or subsequent renewals as provided in Insurance Code §7001.005(a) and §19.1605 of this title.

(e) The renewal of the registration is valid for one year from the date issued by the department and is required to be renewed annually.

(f) Except as provided by Occupations Code §55.003, concerning Extension of Certain Deadlines for Military Service Members, a discount health care program operator whose registration has been expired may not renew the registration. The discount health care program operator may obtain a new registration by complying with the registration requirements as provided by Insurance Code §7001.005(a) and §19.1602 of this title (relating to Registration Requirement).

§19.1605. Requirements Related to Discount Health Care Program Information.

(a) Except for changes in the form of contracts as provided in Insurance Code §7001.005(b), concerning Application for Registration and Renewal of Registration, and subsection (b) of this section, a registered discount health care program operator whose registration or renewal information has changed since the initial registration or renewal pursuant to Insurance Code §7001.005(a) and this section must notify the department in writing of a change not later than the 30th day after the effective date of the change using instructions provided on the department's website.

(b) After the initial registration, if the form of a contract described by Insurance Code §7001.005(a)(5) and §19.1602(a)(2)(C) of this title (relating to Registration Requirement) changes, the program operator is required to file the modified contract with the department before it may be used.

(c) After the initial registration, a discount health care program operator must comply with the requirements of Insurance Code §7001.005(a)(4) and this section to submit to the department on a quarterly basis, not later than each June 30, September 30, December 31, and March 31, lists of marketers, both entities and individuals, separated as follows:

(1) a list of the marketers, both entities and individuals, authorized to sell or distribute the program operator's programs under the program operator's name; and

(2) a list of the marketers and individuals authorized to private label the program operator's programs.

(d) A discount health care program operator must submit the quarterly list of the marketers using instructions provided on the department's website.

(e) Assistance with notifying the department in writing of a change in information or with submitting the quarterly list of marketers is available at the department's website.

Subchapter R. Utilization Reviews for Health Care Provided Under a Health Benefit Plan or Health Insurance Policy
Division 1. Utilization Reviews
28 TAC §19.1704

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1704 under Insurance Code §4201.003(a) and §36.001.

Insurance Code §4201.003(a) provides that the commissioner may adopt rules to implement Chapter 4201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1704. Certification or Registration of URAs.

(a) Applicability of certification or registration requirements. A person acting as or holding itself out as a URA under this subchapter must be certified or registered, as applicable, under Insurance Code §4201.057, concerning Health Maintenance Organizations; Insurance Code §4201.058, concerning Insurers; or Insurance Code §4201.101, concerning Certificate of Registration Required, and this subchapter.

(1) If an insurance carrier or HMO performs utilization review for an individual or entity subject to this subchapter for which it is not the payor, the insurance carrier or HMO must be certified.

(2) If an insurance carrier or HMO performs utilization review only for coverage for which it is the payor, the insurance carrier or HMO must be registered.

(b) Application form. The commissioner adopts by reference the:

(1) URA application, for application for, renewal of, and reporting a material change to a certification or registration as a URA in this state; and

(2) Biographical affidavit, to be used as an attachment to the URA application.

(c) Original application fee. The original application fee specified in §19.802 of this title (relating to Amount of Fees) must be sent to TDI with the application for certification. A person applying for registration is not required to pay a fee.

(d) Where to obtain and send the URA application form. Forms may be obtained from www.tdi.texas.gov/forms and must be sent to: Texas Department of Insurance, Managed Care Quality Assurance Office, MC: LH-MCQA, P.O. Box 12030, Austin, Texas, 78711-2030.

(e) Original application process. Within 60 calendar days after receipt of a complete application, TDI will process the application and issue or deny a certification or registration. TDI will send a certificate or a letter of registration to an entity that is granted certification or registration. The applicant may waive the time limit described in this subsection.

(f) Omissions or deficiencies. TDI will send the applicant written notice of any omissions or deficiencies in the application. The applicant must correct the omissions or

deficiencies in the application or request additional time in writing within 15 working days of the date of TDI's latest notice of the omissions or deficiencies. If the applicant fails to do so, the application will not be processed and the file will be closed as an incomplete application. The application fee is not refundable. The request for additional time must be approved by TDI in writing to be effective.

(g) Certification and registration expiration. Each URA registration or certification issued by TDI and not suspended or revoked by the commissioner expires on the second anniversary of the date of issuance.

(h) Renewal requirements. A URA must apply for renewal of certification or registration every two years from the date of issuance by submitting the URA application form to TDI. The URA must also submit a renewal fee in the amount specified by §19.802(b)(19) of this title for renewal of a certification. A person applying for renewal of a registration is not required to pay a fee.

(1) Continued operation during review. If a URA submits the required information and fees specified in this subsection on or before the expiration of the certification or registration, the URA may continue to operate under its certification or registration until the renewal certification or registration is denied or issued.

(2) Expiration for 90 calendar days or less. If the certification or registration has been expired for 90 calendar days or less, a URA may renew the certification or registration by sending a completed renewal application and fee, as applicable. The URA may not operate from the time the certification or registration has expired until the time TDI has issued a renewal certification or registration.

(3) Expiration for longer than 90 calendar days. If a URA's certification or registration has been expired for longer than 90 calendar days, the URA may not renew

the certification or registration. The URA must obtain a new certification or registration by submitting an application for original issuance of the certification or registration and an original application fee as applicable.

(i) Contesting a denial. If an application for an original or renewal certification or registration is denied, the applicant may contest the denial under the provisions of Chapter 1, Subchapter A, of this title (relating to Rules of Practice and Procedure) and Government Code Chapter 2001, concerning Administrative Procedure.

(j) Updating information on effective date. A URA that is certified or registered before the effective date of this rule must submit an updated application to TDI to comply with this subchapter within 90 calendar days after the effective date of this rule. However, the submission of an updated application does not change the URA's existing renewal date, and this section still governs the URA's renewal process.

Subchapter S. Forms to Request Prior Authorization
Division 2. Texas Standardized Prior Authorization Request Form for Health Care
Services
28 TAC §19.1810

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1810 under Insurance Code §1217.004(a)(1) and §36.001.

Insurance Code §1217.004(a)(1) provides that the commissioner by rule prescribe a single, standard form for requesting prior authorization of health care services.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.1810. Prior Authorization Request Form for Health Care Services, Required Acceptance, and Use.**

(a) Form requirements. The commissioner adopts by reference the Prior Authorization Request Form for Health Care Services, to be accepted and used by an issuer in compliance with subsection (b) of this section. The form and its instruction sheet are posted on the TDI website at www.tdi.texas.gov/forms/form10.html; or the form and its instruction sheet can be requested by mail from the Texas Department of Insurance, Rate and Form Review Office, MC: LH-MCQA, P.O. Box 12030, Austin, Texas 78711-2030. The form must be reproduced without changes. The form provides space for the following information:

- (1) the plan issuer's name, telephone number, and facsimile (fax) number;
- (2) the date the request is submitted;
- (3) the type of review, whether:

(A) nonurgent; or

(B) urgent. An urgent review should only be requested for a patient with a life-threatening condition or for a patient who is currently hospitalized, or to authorize treatment following stabilization of an emergency condition. A provider or facility may also request an urgent review to authorize treatment of an acute injury or illness if the provider determines that the condition is severe or painful enough to warrant an expedited or urgent review to prevent a serious deterioration of the patient's condition or health;

- (4) the type of request (whether an initial request or an extension, renewal, or amendment of a previous authorization);

(5) the patient's name, date of birth, sex, contact telephone number, and identifying insurance information;

(6) the requesting provider's or facility's name, NPI number, specialty, telephone and fax numbers, contact person's name and telephone number, and the requesting provider's signature and date, if required (if a signature is required, a signature stamp may not be used);

(7) the service provider's or facility's name, NPI number, specialty, and telephone and fax numbers;

(8) the primary care provider's name and telephone and fax numbers, if the patient's plan requires the patient to have a primary care provider and that provider is not the requesting provider;

(9) the planned services or procedures and the associated CPT, CDT, or HCPCS codes, and the planned start and end dates of the services or procedures;

(10) the diagnosis description, ICD version number (if more than one version is allowed by the U.S. Department of Health and Human Services), and ICD code;

(11) identification of the treatment location (inpatient, outpatient, provider office, observation, home, day surgery, or other specified location);

(12) information about the duration and frequency of treatment sessions for physical, occupational, or speech therapy, cardiac rehabilitation, mental health, or substance abuse;

(13) if requesting prior authorization for home health care, information about the requested number of home health visits and their duration and frequency, and an indication whether a physician's signed order or a nursing assessment is attached;

(14) if requesting prior authorization for durable medical equipment, an indication whether a physician's signed order is attached, a description of requested equipment or supplies with associated HCPCS codes, duration, and, if the patient is a Medicaid beneficiary, an indication whether a Title 19 Certification is attached;

(15) a place for the requester to include a brief narrative of medical necessity or other clinical documentation. A requesting provider or facility may also attach a narrative of medical necessity and supporting clinical documentation (medical records, progress notes, lab reports, radiology studies, etc.); and

(16) if a requesting provider wants to be called directly about missing information, a place to list a direct telephone number for the requesting provider or facility the issuer can call to ask for additional or missing information if needed to process the request. The phone call can only be considered a peer-to-peer discussion required by §19.1710 of this title (relating to Requirements Prior to Issuing an Adverse Determination) if it is a discussion between peers that includes, at a minimum, the clinical basis for the URA's decision and a description of documentation or evidence, if any, that can be submitted by the provider of record that, on appeal, might lead to a different utilization review decision.

(b) Acceptance and use of the form.

(1) If a provider or facility submits the form to request prior authorization of a health care service for which the issuer's plan requires prior authorization, the issuer must accept and use the form for that purpose. An issuer may also have on its website another electronic process a provider or facility may use to request prior authorization of a health care service.

(2) This form may not be used by a provider or facility:

- (A) to request an appeal;
- (B) to confirm eligibility;
- (C) to verify coverage;
- (D) to ask whether a service requires prior authorization;
- (E) to request prior authorization of a prescription drug; or
- (F) to request a referral to an out of network physician facility or other

health care provider.

(c) Effective date. An issuer must accept a request for prior authorization of health care services made by a provider or facility using the form on or after September 1, 2015.

(d) Availability of the form.

(1) A health benefit plan issuer must make the form available on paper and electronically on its website.

(2) A health benefit plan issuer's agent that manages or administers health care services benefits must make the form available on paper and electronically on its website.

Subchapter S. Forms to Request Prior Authorization
Division 3. Texas Standard Prior Authorization Request Form for Prescription Drug
Benefits
28 TAC §19.1820

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1820 under Insurance Code §1369.304(a)(1) and §36.001.

Insurance Code §1369.304(a)(1) provides that the commissioner by rule prescribe a single, standard form for requesting prior authorization of prescription drug benefits.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.1820. Prior Authorization Request Form for Prescription Drug Benefits, Required Acceptance, and Use.**

(a) Form requirements. The commissioner adopts by reference the Prior Authorization Request Form for Prescription Drug Benefits form, to be accepted and used by an issuer in compliance with subsection (b) of this section. The form and its instruction sheet are on TDI's website at www.tdi.texas.gov/forms/form10.html; or the form and its instruction sheet can be requested by mail from the Texas Department of Insurance, Rate and Form Review Office, MC: LH-MCQA, PO Box 12030, Austin, Texas 78711-2030. The form must be reproduced without changes. The form provides space for the following information:

(1) the name of the issuer or the issuer's agent that manages prescription drug benefits, telephone number, and fax number;

(2) the date the request is submitted;

(3) a place to request an expedited or urgent review if the prescribing provider or the prescribing provider's designee certifies that applying the standard review time frame may seriously jeopardize the life or health of the patient or the patient's ability to regain maximum function;

(4) the patient's name, contact telephone number, date of birth, sex, address, and identifying insurance information;

(5) the prescribing provider's name, NPI number, specialty, telephone and fax numbers, address, and contact person's name and telephone number;

(6) for a prescription drug:

(A) drug name;

(B) strength;

(C) route of administration;

(D) quantity;

(E) number of days' supply;

(F) expected therapy duration; and

(G) to the best of the prescribing provider's knowledge, whether the medication is:

(i) a new therapy; or

(ii) continuation of therapy, and if so, to the best of the prescribing provider's knowledge:

(I) the approximate date therapy was initiated;

(II) whether the patient is adhering to the drug therapy regimen; and

(III) whether the drug therapy regimen is effective;

(7) for a provider administered drug, the HCPCS code, NDC number, and dose per administration;

(8) for a prescription compound drug, its name, ingredients, and each ingredient's NDC number and quantity;

(9) for a prescription device, its name, expected duration of use, and, if applicable, its HCPCS code;

(10) the patient's clinical information, including:

(A) diagnosis, ICD version number (if more than one version is allowed by the U.S. Department of Health and Human Services), and ICD code;

(B) to the best of the prescribing provider's knowledge, the drugs the patient has taken for this diagnosis, including:

(i) drug name, strength, and frequency;

(ii) the approximate dates or duration the drugs were taken;

and

(iii) patient's response, reason for failure, or allergic reaction;

(C) the patient's drug allergies, if any; and

(D) the patient's height and weight, if relevant;

(11) a list of relevant lab tests, and their dates and values;

(12) a place for the prescribing provider to:

(A) include pertinent clinical information to justify requests for initial or ongoing therapy, or increases in current dosage, strength, or frequency;

(B) explain any comorbid conditions and contraindications for formulary drugs; or

(C) provide details regarding titration regimen or oncology staging, if applicable; and

(13) a directive to the prescribing provider stating that:

(A) for a request for prior authorization of continuation of therapy (other than a request for a step-therapy exception as provided in subparagraph (B) of this paragraph), it is not necessary to complete the sections of the form regarding patient

clinical information and justification for the therapy unless there has been a material change in the information previously provided; and

(B) for a request for a step-therapy exception, the section of the form regarding justification for the step-therapy exception must be completed.

(b) Acceptance and use of the form.

(1) If a prescribing provider submits the form to request prior authorization of a prescription drug benefit for which the issuer's plan requires prior authorization, the issuer must accept and use the form for that purpose. An issuer may also have on its website another electronic process a prescribing provider may use to request prior authorization of a prescription drug benefit.

(2) This form may be used by a prescribing provider to request prior authorization of:

- (A) a prescription drug;
- (B) a prescription device;
- (C) formulary exceptions;
- (D) quantity limit overrides; and
- (E) step-therapy requirement exceptions.

(3) This form may not be used by a prescribing provider to:

- (A) request an appeal;
- (B) confirm eligibility;
- (C) verify coverage;
- (D) ask whether a prescription drug or device requires prior authorization; or
- (E) request prior authorization of a health care service.

(c) Effective date. An issuer must accept a request for prior authorization of prescription drug benefits made by a prescribing provider using the form on or after the effective date of this section. An issuer must accept a request using the form that was in place prior to the effective date of this section for 90 days after the effective date.

(d) Availability of the form.

(1) A health benefit plan issuer must make the form available electronically on its website.

(2) A health benefit plan issuer's agent that manages or administers prescription drug benefits must make the form available electronically on its website.

**Subchapter T. Specialty Insurance License
28 TAC §19.1902 and §19.1908**

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.1902 and §19.1908 under Insurance Code §§4055.003, 4102.004, and 36.001.

Insurance Code §4055.003 provides that the commissioner may adopt rules necessary to implement Insurance Code Chapter 4055 and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 provides that the commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.**§19.1902. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise.

(1) Associated consumer transaction--A retail exchange of goods or services other than insurance which is the basis of the relationship between the specialty license holder and its customer.

(2) Control--The power to direct or cause the direction of the management and policies of a specialty license holder, whether directly or indirectly. For the purpose of this subchapter, a person is considered to control:

(A) a corporate specialty license holder if the person is an officer or director of the corporation or if the person, individually or acting with others, directly or indirectly, holds with the power to vote, owns, or controls, or holds proxies representing, at least 10% of the voting stock or voting rights of the corporate specialty license holder; or

(B) a partnership if the person through a right to vote or through any other right or power exercises rights in the management, direction, or conduct of the business of the partnership.

(3) Corporation--A legal entity organized under the business corporations laws or limited liability company laws of this state, another state, or a territory of the United States.

(4) Credit accident and health insurance--A type of insurance as set out in Insurance Code Chapter 1153, concerning Credit Life Insurance and Credit Accident and Health Insurance.

(5) Credit involuntary unemployment insurance--A type of insurance as set out in Insurance Code Chapter 3501, concerning Credit Involuntary Unemployment Insurance.

(6) Credit life insurance--A type of insurance as set out in Insurance Code Chapter 1153, concerning Credit Life Insurance and Credit Accident and Health Insurance.

(7) Department--The Texas Department of Insurance.

(8) Depository institution--Any bank or savings association as defined under 12 U.S.C. §1813 including a state or federal credit union.

(9) Employee--A person that:

(A) is trained to act individually on behalf of the specialty license holder;

(B) is acting on behalf of and under the supervision of the license holder; and

(C) is not compensated based primarily on the amount of insurance sold.

(10) Franchisee--A person that is granted a franchise by a franchisor.

(11) Location--A place of business.

(12) Franchisor--A person that grants a franchise to a franchisee.

(13) Partnership--An association of two or more persons organized under the partnership laws or limited liability partnership laws of this state, another state, or a territory of the United States.

(14) Person--An individual, partnership, corporation, or depository institution.

(15) Specialty insurance product--Any of the types of insurance set out in Insurance Code Chapter 4055, concerning Specialty Agents.

(16) Specialty license holder or specialty licensee--A person who holds a license under Insurance Code Chapter 4055.

(17) Supervision--Supplying trained employees with forms, specific requirements, and procedures necessary for the sale of insurance under the specialty license.

§19.1908. Notice to Department.

Each specialty license holder must notify the department within 30 days of the occurrence of the following:

- (1) a change of the specialty license holder's mailing address;
- (2) an administrative action taken against the specialty license holder by the insurance regulator of another state;
- (3) a felony conviction of the specialty license holder or any individual who exercises control of the specialty license holder; or
- (4) the addition or removal of an officer, director, partner, member, manager, or any other person in control of the specialty license holder.

**Subchapter T. Specialty Insurance License
Repeal of 28 TAC §19.1905**

STATUTORY AUTHORITY. The commissioner adopts the repeal of §19.1905 under Insurance Code §§4055.003, 4102.004, and 36.001.

Insurance Code §4055.003 provides that the commissioner may adopt rules necessary to implement Insurance Code Chapter 4055 and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 provides that the commissioner may adopt reasonable and necessary rules to implement Insurance Code Chapter 4102.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.1905. Place of Business.

**Subchapter U. Utilization Reviews for Health Care Provided Under Workers'
Compensation Insurance Coverage
28 TAC §19.2004**

STATUTORY AUTHORITY. The commissioner adopts amendments to §19.2004 under Insurance Code §4201.003 and §36.001.

Insurance Code §4201.003 provides that the commissioner may adopt rules to implement Insurance Code Chapter 4201.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of the department under the Insurance Code and other laws of this state.

TEXT.

§19.2004. Certificate or Registration of URAs.

(a) Applicability of certification or registration requirements. A person acting as or holding itself out as a URA under this subchapter must be certified or registered, as applicable, under Insurance Code §4201.057, concerning Health Maintenance Organizations; Insurance Code §4201.058, concerning Insurers; or Insurance Code §4201.101, concerning Certificate of Registration Required, and this subchapter.

(1) If an insurance carrier performs utilization review for an individual or entity subject to this subchapter for which it is not the payor, the insurance carrier must be certified.

(2) If an insurance carrier performs utilization review only for coverage for which it is the payor, the insurance carrier must be registered.

(b) Application form. The commissioner adopts by reference the:

(1) URA application, for application for, renewal of, and reporting a material change to a certification or registration as a URA in this state; and

(2) Biographical affidavit, to be used as an attachment to the URA application.

(c) Original application fee. The original application fee specified in §19.802 of this title (relating to Amount of Fees) must be sent to TDI with the application for certification. A person applying for registration is not required to pay a fee.

(d) Where to obtain and send the URA application form. Forms may be obtained from www.tdi.texas.gov/forms and must be sent to: Texas Department of Insurance, Managed Care Quality Assurance Office, MC: LH-MCQA, P.O. Box 12030, Austin, Texas 78711-2030.

(e) Original application process. Within 60 calendar days after receipt of a complete application, TDI will process the application and issue or deny a certification or registration. TDI will send a certificate or a letter of registration to an entity that is granted certification or registration. The applicant may waive the time limit described in this subsection.

(f) Omissions or deficiencies. TDI will send the applicant written notice of any omissions or deficiencies in the application. The applicant must correct the omissions or deficiencies in the application, or request additional time in writing, within 15 working days of the date of TDI's latest notice of omissions or deficiencies. If the applicant fails to do so, the application will not be processed and the file will be closed as an incomplete application. The application fee is not refundable. The request for additional time must be approved by TDI in writing to be effective.

(g) Certification and registration expiration. Each URA registration or certification issued by TDI and not suspended or revoked by the commissioner expires on the second anniversary of the date of issuance.

(h) Renewal requirements. A URA must apply for renewal of certification or registration every two years from the date of issuance by submitting the URA application to TDI. A URA must also submit a renewal fee in the amount specified by §19.802 of this title (relating to Amount of Fees) for renewal of a certification. A person applying for renewal of a registration is not required to pay a fee.

(1) Continued operation during review. If a URA submits the required information and fees specified in this subsection on or before the expiration of the certification or registration, the URA may continue to operate under its certification or registration until the renewal certification or registration is denied or issued.

(2) Expiration for 90 calendar days or less. If the certification or registration has been expired for 90 calendar days or less, the URA may renew the certification or registration by sending a completed renewal application and fee as applicable. The URA may not operate from the time the certification or registration has expired until the time TDI has issued a renewal certification or registration.

(3) Expiration for longer than 90 calendar days. If a URA's certification or registration has been expired for longer than 90 calendar days, the URA may not renew the certification or registration. The URA must obtain a new certification or registration by submitting an application for original issuance of the certification or registration and an original application fee as applicable.

(i) Contesting a denial. If an application for an original or renewal certification or registration is denied, the applicant may contest the denial under the provisions of Chapter 1, Subchapter A, of this title (relating to Rules of Practice and Procedure) and Government Code Chapter 2001, concerning Administrative Procedure.

(j) Updating information on effective date. A URA that is certified or registered before the effective date of this rule must submit an updated application to TDI to comply with this subchapter within 90 calendar days after the effective date of this rule. However, the submission of an updated application does not change the URA's existing renewal date, and this section still governs the URA's renewal process.

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

2023-7999

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 19. Licensing and Regulation of Insurance Professionals

Adopted Sections
Page 84 of 84

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Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance

The repeal of 28 TAC §§19.703, 19.1019, 19.1303, 19.1320, 19.1905, 19.3001 - 19.3005, and 19.4001 - 19.4017 is adopted.

The amendments to 28 TAC §§19.103, 19.602, 19.702, 19.704 - 19.706, 19.708, 19.709, 19.712, 19.801, 19.802, 19.805, 19.902, 19.906, 19.1002, 19.1003, 19.1012, 19.1304, 19.1308, 19.1403, 19.1407, 19.1604, 19.1605, 19.1704, 19.1810, 19.1820, 19.1902, 19.1908, and 19.2004 are adopted.

DocuSigned by:
Cassie Brown
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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2023-7999