



Pennsylvania Association of REALTORS®

The Voice for Real Estate® in Pennsylvania

4501 Chambers Hill Road
Harrisburg, PA 17111-2406

October 10, 2003

Judith Pachter Schulder, Counsel
State Real Estate Commission
P.O. Box 2649
Harrisburg, PA 17105-2649

Dear Ms. Schulder:

The Commission is to be commended for many positive changes in regulation packet 16A-561 as published in the September 13 edition of *The Pennsylvania Bulletin*. These changes will benefit real estate licensees in creating a more flexible environment for completion of education requirements. The Pennsylvania Association of REALTORS® remains in full support of moving forward with distance learning and consolidation of education regulations.

We offer several comments as outlined below.

Clarification on proposed changes:

ADMINISTRATION OF [SCHOOLS] EDUCATION PROVIDERS

§ 35.352. Location and facilities.

(b) The [main] location [and each satellite location] where classes are taught shall:

(1) ***

(2) Not share office space, [classroom] instruction space or a common [entrance] space with a real estate franchise, network or organization. This paragraph does not apply to a real estate trade association.

In a June 5, 2003 letter, the Commission issued a new policy which stated:

[A Continuing Education Course] may be provided at the provider's location, the company/broker's location, or a location chosen by the provider and the company/broker.

This statement in (2) above seems to be in conflict with this policy. This may be the time to change the regulation to match the current Commission policy.

§ 35.358. Administration of curriculum.

In opening comments, it appears that the Commission's intent is to accept distance education programs for both continuing education and pre-license credit. By referring specifically to 35.384 in the following paragraph, only continuing education is included. Please consider adding the inserted phrase to also include pre-license courses.

(4) Courses delivered by distance education, in addition to meeting the content requirements for pre-license education in Subchapters C & D and continuing education in § 35.384 (relating to qualifying courses), shall be approved by the Association of Real Estate License Law Officials or another certifying body with similar approval standards approved by the Commission.

Related questions:

Is it the intent of the Commission to require ARELLO or similar approval for all of the following providers (as listed currently in 35.385) so that all courses meet the same standards?

- (1) An accredited college, university, or institute of higher learning whether in this Commonwealth or outside this Commonwealth.*
- (2) A real estate **education provider** in this Commonwealth approved by the Commission.*
- (3) A real estate **education provider** outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the **provider** is located.*

If yes, how will this requirement be enforced? This is especially a concern in light of the plan to have providers submit electronic course completion records in a format that does not currently include the ARELLO approval number.

Subchapter H. CONTINUING EDUCATION

§ 35.384. Qualifying courses[; required and elective topics].

(a) [Qualifying courses. A] Except as provided in subsection (b), a licensee [may satisfy the continuing education requirement by doing one of the following:] shall complete 14 hours of continuing education in acceptable topics in a minimum of 3 1/2-hour increments.

In past regulations, there was a reference to a minimum of 2 hours being sent on a specific topic – the wording here could be misinterpreted to mean that at least 3 ½ hours must be spent on each topic. Is it possible to distinguish between “topics” and “courses”? For example

- 1) Shall complete 14 hours in acceptable topics*
- 2) Courses must be approved in 3 ½ hour increments*

Comments on consolidation of real estate education provider regulations:

The changes made are extremely helpful in simplifying and consolidating the education regulations. However, the Commission is encouraged to take one more step that would further consolidate information on “Education Providers.”

"Education Providers" are currently defined in two places:

- *Subchapter D 35.271 through 275 on Licensing Examinations AND*
- *Subchapter H 35.385 on Continuing Education*

Is it possible to combine these two sections and relocate them in Subchapter F: Real Estate Schools?

The primary distinction currently found between Subchapter D and Subchapter H is that the pre-license Commission-developed courses must be taught by in-state colleges and schools, while basic real estate courses can also be taught by out-of-state colleges or schools - see 35.272(b)(2&3). This language is not consistent in all pre-licensing sections – also see 35.271; 273; 275.

If it IS the intent of the Commission to make this distinction and require that Commission-developed courses (Real Estate Fundamentals, Real Estate Practice; Commission-developed broker courses) be presented only by in-state providers, perhaps this could be accomplished with a statement in 35.271; 273; 275 something to the effect of:

- Credits will be allowed for each of the Commission-developed courses when offered by in-state education providers as defined in Subchapter F.*
- Credits will be allowed for basic real estate courses when offered by any approved education providers as defined in Subchapter F.*

(Wording would need to be slightly different in 35.272 as there are only Commission-developed courses; and in 35.274 as there do not appear to be any education requirements)

If it is NOT the intent of the Commission to make an in-state vs. out-of-state distinction, it becomes even easier as follows...

- 1) The definitions for "approved education providers" as currently outlined in 35.385 could be made to be general definitions that apply to both pre-license and continuing education providers.*
- 2) This generic section defining education providers can then be moved to the beginning of Subchapter F so that all regulations regarding education providers are in one location.*
- 3) In all sections where there is a reference to completing an education requirement (all license examinations in 35.271 – 273; 35.275; and in 35.385 on approved continuing education providers, existing language could be expanded to read...*

"To be counted toward the continuing education requirement, a real estate course shall have been offered by an approved education provider as defined in Subchapter F."

It would no longer be necessary to list out the types of education providers in each of these sections.

**Subchapter F. REAL ESTATE [SCHOOLS] EDUCATION PROVIDERS
APPROVAL OF [SCHOOLS AND SCHOOL DIRECTORS] EDUCATION PROVIDERS**

Following above suggestions, move here from 35.385 and place prior to 35.341

Approved [Continuing] education providers.

The following providers [are approved to] may offer instruction for pre-license and continuing education:

*(1) * * **

(2) A real estate [school] education provider in this Commonwealth approved by the Commission.

(3) A real estate [school] education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the [school] provider is located.

[(4) A real estate industry organization outside this Commonwealth, if the Commission has given its prior approval to the industry organization's continuing education curriculum.]

Subchapter H. CONTINUING EDUCATION

§ 35.385. [Approved continuing] Continuing education providers.

As noted earlier, if this section can be moved forward to the beginning of Subchapter F, it will contribute to the effort to consolidate education provider regulations. A statement could be added here to the effect of...

"To be counted toward the continuing education requirement, a real estate course shall have been offered by an approved education provider as defined in Subchapter F." OR

"Education providers as listed in Subchapter F may offer instruction for continuing education"

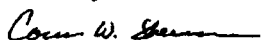
Final comment on consolidation:

Though this may be a bigger change than is prudent at this point due to the desire to move these revisions forward, the Commission is asked to consider consolidating Subchapter D: Licensing Exams into Subchapter C: Licensure. This would accomplish two things:

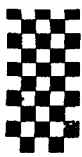
- 1) This would put all the licensure requirements in one section, as the Exam is part of the Licensure Requirements.*
- 2) Pre-license education requirements are not currently formatted consistently and are scattered throughout both Subchapter C and D. This change would provide a more consistent format.*

Again, thank you for the opportunity to comment on these important regulations concerning real estate education.

Sincerely,



Corrine W. Shearer
Director of Education



FAX FROM:



Schlicher Kratz Institute

The Village Center, Suite 220
515 Stump Road, North Wales, PA 19454

DATE: 10/10/03

TO: Judith Pachtel Schuler

FAX #: 717-787-0251

TOTAL PAGES INCLUDING COVER: 2.

COMMENTS:

My Comments

Thank You!

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October 10, 2003

Good morning,

Please forgive me for preaching to the choir about why we have Rules that support the License Act. Simply stated if there is no License Act provision there should be no Rule supporting a nonexistent License Act provision. The Commission has already proposed a change by deleting one rule that does not have a connection to the License Act. The other overriding factor is that the License Act and Rules are to protect the general public first and the licensees second. With those positions in mind my comments are addressed to proposed changes for selected sections in the order that they appear in the **PA Bulletin Vol. 33, starting on page 4571.**

In **Section 35.201** the proposed definition change from real estate *school* to real estate *education provider* is fine as long as the definition for an *education provider owner* and *education provider director* are noted in proposed **Section 35.341 and 342**. Later in the proposed rules a reference is made to the education provider being the owner, yet there is a difference.

In **Section 35.341(5)** the proposed surety bond limitation to \$10,000 is totally appropriate for the schools/providers approved by the Commission. Since out of state schools are not bound by this provision and will be able to offer Pennsylvania in-state licensees courses via distance education, what protection do **PA licensees** have when it comes to the surety bond? Do all of the other real estate commissions require a similar bond? My quick check says "no" to this question. This issue needs to be as addressed.

By proposing to drop **Section 35.341 (6)(iv)---(viii) and (ix)** the Bureau inspector that is referenced in the notes, found in the **PA Bulletin Vol. 33, page 4573**, would have no guide for an approval process nor would the education provider have a guide as well. The Commissioners are correct in removing this section from the initial education provider application, but the rules are still needed for guidance as noted above. They need to be included for later use. They need to be placed at another location.

The proposed changes in **Section 35.3529(b)(2)** where **classroom** is replaced with **instruction** and **entrance** with **space** are appropriate. Please note that the current Commission position, which was given as a guide to Commission approved real estate schools (published earlier in 2003), states that a real estate school can share a classroom and common space as well when delivering continuing education courses. The 2003 Commission letter is in conflict with the current and proposed rule change. This conflict needs to be addressed.

Since the Commission has proposed removing **Section 35.351a**, no reference should be made to the possibility that a Director could delegate any responsibility to an Assistant Director as is noted in the Commission comments in **PA Bulletin Vol. 33, page 4573**. Should this proposed rule change be accepted, Real Estate Schools/Providers will not be permitted to have Assistant Directors just like brokers cannot have Assistant Branch Managers.

In **Section 35.352(c)** the proposed rule would drop the need for keeping a copy of the lease(s) for the main location and the satellite locations. Yet, in the proposed **Section 35.360(a)(2)(ii)** the school/provider has to retain a copy of the lease(s). There is a point of inconsistency on this issue. It looks like **35.360(a)(2)(ii)** should be changed to reflect **Section 35.352(c)**.

In the proposed **Section 35.353** the instructor approval changes are appropriate with one major exception, what minimum standards will an inspector or monitor use to determine whether a Director has met the approved instructor approval rules. Without some specific instructor rules the Commission is letting each Director create his/her own instructor approval standards. The Commission does not need to encourage multiple standards on this issue. Some simple rules should be retained.

In the proposed **Section 35.358(a)(3) and (b)(1)** is it the Commission's intention to permit the Salespersons 30-hour prelicense courses, titled Real Estate Fundamentals and Real Estate Practice, to be offered in 15-hour segments? Will the Commission accept 15-hour Salesperson courses? The current 30-hour salesperson course minimum works well. I question whether a change to four (4) 15-hour courses is necessary or appropriate. The proposed rule change will allow the 15-hour courses. Fifteen-hour (15) courses are fine for pre-broker requirements, I question the value for pre-salesperson requirements.

In the proposed **Section 35.358(a)(4)** distance education courses are to be approved by The Association of Real Estate License Law Officials (ARELLO). What is ARELLO authorized to approve? Yes, I personally know that the ARELLO has a subsidiary that approves distance education delivery systems for real estate course providers. Please note that no mention is made that the ARELLO approval is to be limited to the distance education delivery methods. The reference to the ARELLO approval process is very broad and open to question. Furthermore, designating a trade association for real estate regulators (ARELLO) is not appropriate when that entity will be codified in the Rules promulgated by PA State Real Estate Commission. If the Commission wants a rule to

appoint a certification organization to approve the delivery system for distance education courses and/or course content, the Commission should simply state that fact in the proposed rules. Next, the Commission should add a provision to the rules that allows the Commission to annually designate the appropriate organizations that are permitted to approve the distance education delivery system and/or course content approvals as well as any other approval that may be necessary for the regulating course providers. Yes, an annual designation/appointment would be appropriate for designating third party service providers. Finally, please remember the real estate school/real estate education provider will be paying the fees charged for this third party approval not the Commission. Has the Commission considered the cost to the education providers to pay for the delivery approval process?

The proposal to drop **Section 35.381** means no reference will be made as to why the Commission has created the Rules to implement the Continuing Education provisions of the License Act. I suggest that this **Section** be retained as a reminder to all licensees and future Commissioners why we have Continuing Education. This reminder can be placed in another section and they should be retained.

The proposed change to **Section 35.382(b)** should reference a deadline date of February 15 not March 31st. A March 31st date will overwhelm the Commission for the April and May meetings. Another 45 days will benefit both the licensees and the Commission.

Prior to May 30, 2002 the Commission elected to not enforce parts of **Section 35.384(a) and (b)**. The first part of that change created the possibility to have four 3 1/2-hour elective courses. That change has proven to be effective and should be codified as the Commission proposes. During the spring of 2002 the Commission also elected to waive the 5 to 9 hour Required portion of continuing education in **Section 35.384(b)**. Hindsight on this change is still open to debate, since existing licensees will not be required to be refreshed with current provisions of the license law and supporting rules. Many licensees will support the no required hours change but at the same time miss the opportunity to be reminded that their real estate license is an earned privilege to protect PA consumers of real estate services. Yes, in the proposed rules the Commission offers the return of required topic(s) on a biennial basis if the Commission elects to have a required topic(s). If this proposed rule is to remain, a mandated notice to education providers and licensees should be codified with a specific date in the renewal year. That specified date should be January 1st of the renewal year. Any time period less than January 1st would not give the education providers sufficient time to create the appropriate curriculum. In truth the education providers need the adequate notice more than the licensees.

Proposed **Section 35.384(d)** references unacceptable elective topics and includes “**and office management and related internal operations procedures that do not have a bearing on the public interest**”. Yet, in **Section 35.384(c)(19)** the Commission proposes to permit elective topics in the “**Management of real estate brokerage operations**”. There is an inconsistency within this section. I suggest that the Commission remove the first one as an unacceptable topic. If the proposed changes remain as is, the Commission will have a difficult time explaining the difference between the two items.

In proposed **Section 35.385** continuing education providers are noted in subsection (1) through (4). No reference is made in any other section for out of state education providers. Does this mean that out of state education providers are limited to continuing education? I have no knowledge of any provision that allows an out of state provider (using their own state regulatory agency for approval authority) to deliver any pre-license courses (broker or sales) outside of PA or with in PA nor using distance education to provide those prelicense courses without initially going through the full education provider process that in state providers must follow.

As a general comment, the Commission has proposed major changes to expand the number education providers available for delivering continuing education courses to PA licensees. If these rules are approved as proposed, how does the Commission plan to handle the major increase in provider and course applications? There is a very limited staff currently to meet the course approval process. Will the in state providers be given a priority position on the waiting list for approvals? Commission course content approval will become a major obstacle unless a more efficient course content approval process is initiated. To meet the additional course processing requests, there will be additional costs that are not addressed in the proposed rule changes. The Commission needs to address these issues.

Thank you for the opportunity to offer my comments about the proposed rule changes.

Hugo C. A. Weber, Jr.
Director Education for Polley Associates



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"Serving your Real Estate Education needs for more than 25 years."

To : Judith Pachter Schulder
Counsel, State Real Estate Commission

From : P. Timothy Quintrell, Owner / Director Schlicher Kratz Institute

1. Comments pertaining to proposed rulemaking printed P. Bulletin, September 13, 2003
2. I strongly disagree with the premise in the beginning comments under (iii) continuing education paragraph 3.

In addition, the Commission proposes to eliminate the mandatory course requirement in 35.384 (b) in all but pre-notified instances and replace it with all elective courses. Except for instances where the RELRA or the regulations have been substantively modified or where, in the Commission's view, licensees should be able to take continuing education in subjects that directly benefit their practice or interest.

I do not feel that continuing education should be in subjects that directly benefit licensees practice or interest. It should be in subjects to protect the consumer and their interests.

3. Section 35.358 (4) (b) (2) A prelicensure course shall be graded by written examination. This does not say a proctored written exam. How will we insure that the correct person completed the exam? The verification process has been the major problem of distance learning.
4. Section 35.384 (a) (1) Removing the required portion of Continuing education is a huge mistake. Most of our students (licensees) only exposure to Licensing law and Fair Housing is during the required portion of continuing education. I feel it is more important to instruct these topics then to liberalize the topics. Consumers will be better protected when licensees are instructed and reminded of Licensing law and Fair Housing topics. It is up to the education provider to make sure these topics are current and interesting. It is my experience that licensees claim that they understand Licensing Law and Fair Housing but most do not.
5. Section 35.384 (B) (24)(25) Do Marketing Sales and technology courses benefit consumers or benefit licensees businesses? Consumers protection should be foremost.

Mace, Audrey

From: Schulder, Judith
Sent: Tuesday, October 14, 2003 09:01 AM
To: Mace, Audrey
Subject: FW: Comments to proposed last one.

Judy

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-----Original Message-----

From: James Skindzier [mailto:jskinzer@pgh.net]
Sent: Monday, October 13, 2003 4:38 PM
To: Schulder, Judith
Subject: Comments to proposed rulemaking

October 13, 2003

Judy,

This e-mail is in response to the proposed rulemaking published in the Pennsylvania Bulletin September 13, 2003. I have several concerns about certain proposed changes, some of which seem to conflict with language published in the rationale preceding the proposed rules language. For example, in (c) Purpose and Background the statement is made that the "Commission proposes liberalizing the delivery system for real estate precicensure and continuing education courses". If this statement is indeed accurate, some proposed rules need to be reconsidered. I'll focus on those issues in this e-mail.

Section 35.352 (Location and Facilities). How does the proposed language in 35.352 (b)(2) liberalize the delivery system? The language is **restrictive, discriminatory and unnecessary**. Real estate franchises, networks and organizations typically invest significant resources in the development of superior educational and training facilities. To preclude the use of these facilities by education providers is to do a real disservice to potential students. It appears to be written as protectionist language designed solely to protect the smaller "mom and pop" brokerage houses. The large brokerage operations, franchises and networks typically recruit, hire and license the greatest percentage of licensees in any market so the language not only restricts the choices of students but penalizes the population most in need of access to educational opportunities. Furthermore, the last sentence of proposed 35.352 (b)(2) is clearly discriminatory. To create a specific exemption to a "real estate trade association" is to disadvantage other educational providers in the marketplace. Professional or trade associations that choose to operate as education providers should be held to the **same standards** as other providers. To allow the state association of Realtors or a local association of Realtors to be held to a different standard certainly implies that the Commission is granting preferential treatment which is not in keeping with the Commission's mission of protecting and serving the consumer in the Commonwealth of Pennsylvania. It is in fact an implicit endorsement of the trade association by the body charged with regulating activities of members of that association. There is **NO ACCEPTABLE RATIONALE** for inclusion of this language.

10/14/2003

I would recommend elimination of 35.352 (b)(2) totally and let the consumer of educational services determine where they wish to take those courses.

With regard to 35.353 (a)(2) which addresses the issue of qualification of instructors, the proposed language stipulates that the candidate have 3 years of practical or teaching experience in a profession, trade or occupation directly related to the subject matter of the course to be taught. Virtually all other language currently in place is to be eliminated. In essence, almost **anyone** will be able to be hired as an instructor. How does this protect the public? Experience in an occupation in no way indicates that the candidate has the ability to teach.

Adult education is a specialized field and to assume that anyone can do it is incorrect. Real estate instructors should certainly be required to demonstrate that they have the ability to teach or train in an adult education environment. This is especially important when you consider new and developing educational technologies.

Rather than "practical or teaching experience" as the proposed language stipulates, a candidate should have a minimum of 3 years of "practical and teaching experience".

I would like to see the Commission consider going further in this regard by considering a regulation which would require all approved instructors to complete a regular training/update program conducted by the Commission at least once every two years. A 1-1/2 to 2 day program is required by many states who are in fact serious about who is permitted to teach real estate programs in their state. Rather than progressing, it appears we are regressing in the area of instructor credentials. The public will suffer as a result of this change.

Regarding 35.61 (Display of Documents and Approved Name) In an earlier section (35.354 (b)) the Commission proposes to remove the requirement concerning a sign regarding recruiting for employment. The logic for this recommendation is that "the Commission understands that instruction often occurs in multiple locations." Why doesn't this logic apply to 35.361 (a) and 35.361 (c)? Section 35.361 (a) requires a copy of the education provider's certificate of approval to be displayed prominently at each satellite location. I'm not sure what purpose this proposed rule serves. I believe the certificate should be displayed at the main location only. Similarly 35.361 (c) requires a copy of the education provider's letter of approval to be prominently displayed at both the main location as well as each satellite location. This is not only unnecessary duplication, it serves no purpose. An education provider cannot be issued a certificate of approval until a letter of approval has been issued. If the Commission understands that instruction often occurs in multiple locations, I would recommend elimination of 35.361 (c) entirely and require 35.361 (a) to apply only to a provider's main location.

Finally, regarding Subchapter H (Continuing Education) By removing sections 35.387, 35.388, 35.389, 35.390, 35.391 and 35.392 it appears that the Commission intends to abdicate its responsibility for oversight of the program for mandatory continuing education in Pennsylvania. I believe this will be a disservice to the licensee population and ultimately cause egregious harm to the public. I would respectfully recommend that the proposal to eliminate the above sections be revisited with the objective of modifying rather than eliminating requirements laid out in 35.387, 35.388, 35.389 and 35.390. Some modification should be made to allow for distance learning and independent learning but I don't believe the sections should be dismissed outright.

Thank you for the opportunity to comment on these proposed regulations. As a real estate educator with over 30 years of front line experience in education and training I would like to commend the Commission for their attempt at updating regulations concerning education providers. But I also feel compelled to remind the Commission that their ultimate responsibility is not to the licensee population or any particular organization or association but to the public. The public will benefit only if Pennsylvania establishes and maintains the highest standards in the delivery of educational programs and services.

Sincerely,
Jim Skindzier, DREI

10/14/2003