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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 24, 2010

Honorable Joel Scott Ario, Commissioner
Insurance Department
1326 Strawberry Square
Harrisburg, PA 17120

Re: Regulation #11-240 (IRRC #2812)
Insurance Department
Education and Training for Applicants and Insurance Producers

Dear Commissioner Ario:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Donald C. White, Majority Chairman, Senate Banking and Insurance Committee
Honorable Michael J. Stack, III, Minority Chairman, Senate Banking and Insurance Committee
Honorable Tony DeLuca, Majority Chairman, House Insurance Committee
Honorable Nicholas A. Micozzie, Minority Chairman, House Insurance Committee
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



Insurance Department Regulation #11-240 (IRRC #2812)

Education and Training for Applicants and Insurance Producers

February 24, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the December 26, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Insurance Department (Department) to respond to all comments received from us or any other source.

1. Differences between the existing regulation and the proposed regulation. – Determining if the regulation is in the public interest; Need.

This proposed regulatory package deletes an existing chapter of the Department's regulations entitled "Continuing Education for Insurance Agents and Brokers" and replaces it with a new chapter entitled "Education and Training for Applicants and Insurance Producers." Much of the language contained in the new proposed chapter is very similar to language contained in the existing chapter. The Preamble included with this regulatory package provides a brief summary of each section of the new proposed chapter. However, it does not explain why there are differences between the two versions of the rulemaking. For example, the new definitions section defines terms that are not in the existing regulation and does not include terms that are in the existing regulation. Another example of changes can be found in the sections pertaining to sponsors. Time frames for complying with certain provisions have been changed, but there is no explanation of why those changes were made. In order for this Commission to determine if the regulation is in the public interest, a more detailed explanation of the changes being proposed is required. In the Preamble to the final-form regulation, we ask the Department to provide a more detailed explanation of each section and why some provisions differ from the existing regulation.

2. Section 39a.9. Training requirements for insurance producers. – Reasonableness; Need; Implementation procedures; Clarity.

Subsection (b) - Long term care insurance.

Under Subsection (b)(4)(i)(A), individuals already licensed as insurance producers must complete eight hours of training in the first full two-year licensing cycle after the adoption of the rulemaking. A commentator has noted that this differs from the National Association of Insurance Commissioners (NAIC) model rule, on which this rulemaking is partially based. The model rule requires licensed producers to complete eight hours of training within one year of the effective date of the regulation. What is the reason for the difference between the proposed regulation and NAIC’s model rule?

Similarly, under Subsection (b)(4)(i)(B), why is the Department deviating from the model rule by requiring licensed producers, resident and non-resident, to complete one hour of training related to the Pennsylvania Medical Assistance Program?

Subsection (c) - Requirements for insurers.

Subsection (c)(1) requires insurers writing long-term care insurance to obtain “proof” that an insurance producer has received required training. What type of “proof” would be acceptable? We suggest that a more specific standard be included in the final-form regulation.

Subsection (c)(2) requires certain records to be maintained “in accordance with the Commonwealth’s record retention guidelines for insurers as published in the *Pennsylvania Bulletin*.” This requirement is vague. We recommend that the requirements be included in the final-form regulation. In the alternative, we suggest that the Department identify the specific guidelines that need to be followed and when those guidelines will be published in the *Pennsylvania Bulletin*.

Facsimile Cover Sheet



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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Pete Salvatore
~~Sue Worley~~ *NO LONGER HERE*
Agency: Insurance Department
Phone: (717) 787-4429
Fax: (717) 705-3873
Date: February 24, 2010
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Insurance Department's regulation #11-240 (IRRC #2812). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Pete Salvatore* **Date:** *2/24/10*