

CHAPTER 19. LICENSING AND REGULATION OF INSURANCE PROFESSIONALS

**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
[~~28 TAC §19.703~~]**

**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
[~~28 TAC §19.1019~~]**

**SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS
28 TAC §19.1304 AND §19.1308
[~~28 TAC §19.1303 AND §19.1320~~]**

**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
~~[28 TAC §19.1905]~~**

**SUBCHAPTER U. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER
WORKERS' COMPENSATION INSURANCE COVERAGE
28 TAC §19.2004**

**~~[SUBCHAPTER V. REGISTRATION OF FULL TIME HOME OFFICE SALARIED
EMPLOYEES]
[28 TAC §§19.3001–19.3005]~~**

**~~[SUBCHAPTER W. REGULATION OF NAVIGATORS FOR HEALTH BENEFIT
EXCHANGES]
[28 TAC §§19.4001–19.4017]~~**

INTRODUCTION. The Texas Department of Insurance (TDI) proposes to repeal 28 TAC §§19.703, 19.1019, 19.1303, 19.1320, 19.1905, 19.3001 - 19.3005, and 19.4001 - 19.4017.

TDI proposes to amend 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.

EXPLANATION. The proposed repeal of §19.703 implements Senate Bill 1060, 84th Legislature, 2015. The proposed repeals of §§19.1019, 19.1905, and 19.3001 - 19.3005 implement House Bill 4030, 87th Legislature, 2021. The proposed repeal of §19.1303 eliminates the forms adopted by reference in that section that are now obsolete. The proposed 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 proposed 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 proposed amendments 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, proposed amendments also include nonsubstantive changes to conform to plain-language standards and current TDI language preferences and drafting practices. Also, proposed amendments update citations to statutes and rules by inserting their titles, and update or eliminate obsolete email and mailing addresses.

The proposed amendments to the 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. The proposal replaces an obsolete mailing address with a reference to contact information on TDI's website. The proposal also replaces "subchapter" with "title."

Subchapter G. Licensing of Insurance Adjusters.

Section 19.602. Types of Adjuster's Licenses. The proposal updates an obsolete code reference and inserts the title of the provision cited; removes subsection (c), which addresses an expiration date for adjusters' licenses, to conform with Insurance Code §4003.001; redesignates 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 corrects the title of §19.801.

Subchapter H. Licensing of Public Insurance Adjusters.

Section 19.702. Types of Public Insurance Adjuster Licenses. The proposal updates an obsolete code reference and inserts the title of the provision cited; and it replaces "shall" with "will" and "pursuant to" with "under."

Section 19.704. Public Insurance Adjuster Licensing. The proposal updates obsolete code references, inserts the titles of the provisions cited, removes paragraph (5) of subsection (c), which addresses an obsolete branch office registration requirement, and renumbers the paragraphs that follow paragraph (5) as appropriate to reflect its removal. The proposal also replaces "10 percent" with "10%." Finally, the proposal replaces "shall" with more appropriate words under the context of the provision and capitalizes the word "commissioner" throughout the section.

Section 19.705. Financial Responsibility Requirement. The proposal removes subsection (b) and all references to "trainee," which are now obsolete, updates an obsolete code reference, and inserts the title of the provision cited.

Section 19.706. Demonstrating Financial Responsibility. The proposal removes a reference to "trainee" and replaces "shall" with "must."

Section 19.708. Public Insurance Adjuster Contracts. The proposal replaces an obsolete mailing address in subsection (b)(10) with the current mailing address, replaces "10 percent" with "10%," replaces "prior to" with "before," and replaces "in determining" with "to determine." The proposal also removes a reference to a former Insurance Code provision, inserts the title of another Insurance Code provision, and revises notice language to remove the use of all capital letters, to improve readability.

Section 19.709. Nonresident Applicants and License Holders. The proposal removes subsection (b), which addresses a nonresident affidavit requirement that was rendered obsolete by HB 4030 and replaces the word "shall" with "will."

Section 19.712. Advertisement. The proposal updates an obsolete code reference, inserts the title of the provision cited, replaces the phrase "internet web sites" with "websites" and replaces the words "audio visual" with "audiovisual."

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

Section 19.801. General Provisions. The proposal removes portions of the section concerning subagents and redesignates subsections as appropriate for consistency with the proposed removal of text. The proposal replaces a reference to "Texas.gov" with a reference to the department's website. The proposal also adds the titles of Administrative Code and Insurance Code provisions cited in the section.

Section 19.802. Amount of Fees. The proposal removes portions of text concerning insurance service representatives, full-time home office salaried employee registration, and life and health insurance counselors. The proposal also removes language concerning subagent appointment fees. In addition, paragraphs are renumbered as appropriate to reflect the removal of text, and the titles of cited Insurance Code provisions are added.

Section 19.805. Application for a New Individual License. The proposal inserts the titles of Insurance Code and Administrative Code provisions cited in the section, removes a paragraph concerning home office salaried employees, and it renumbers a paragraph as appropriate to reflect this change. The proposal also replaces "12 month" with "12-month," "preceding" with "before," "being" with "is," and "at the time of submitting to TDI" with "with." The proposal also deletes subsection (d), as it is now obsolete and anyone required to provide the information listed in the subsection would have done so by now. Finally, the proposal replaces a reference to §§19.1901 - 19.1910 with a reference to the subchapter.

Subchapter J. Standards of Conduct for Licensed Agents.

Section 19.902. One Agent One License. The proposal updates obsolete references to the State Board of Insurance, and it removes the branch office registration requirement. The proposal also removes a reference to an obsolete form and instead references instructions for registration of an agent's assumed name on TDI's website. The proposal also replaces the words "shall" with "must," "utilized" with "used," "thereunder" with "under it," "which" with "that," updates an obsolete code reference, and inserts the titles of a Business and Commerce Code provision and an Insurance Code provision cited in the section.

Section 19.906. Last Known Address. The proposal removes a reference to an obsolete mailing address, updates obsolete references to the State Board of Insurance, clarifies that an agent's address is presumed to be the most recent address on file with the department, and adds a reference to filing instructions on TDI's website. The proposal also replaces "shall" with "must" or "will," as appropriate.

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

Section 19.1002. Definitions. The proposal removes references to life and health insurance counselors and insurance service representatives. The proposal also corrects improper citations to §19.1009(c) and §19.1009(d) by instead citing to §19.1009(g) and §19.1009(h), respectively. The proposal also removes nine superfluous uses of the word "the" and two unnecessary uses of a comma in statutory citations, removes an instance of the word "shall," replaces "shall be" with "is," replaces the word "subchapter" with "title," replaces "as set forth in" with "under," moves the word "only" to a more grammatically appropriate place, replaces the word "which" with "that," updates obsolete code references, and inserts titles of Insurance Code provisions and other code provisions cited in the section. Finally, for clarification the proposal replaces "and" with "or" in §19.1002(b)(17)(A) and newly numbered §19.1002(b)(17)(C) and inserts the word "or" between newly numbered §19.1002(b)(17)(D) and (E).

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

Section 19.1012. Forms and Fees. The proposal amends the section to generally refer interested persons to TDI's website for information on provider registration and courses. The proposal also removes an obsolete mailing address and obsolete email address, and it replaces "shall" with "will" where appropriate.

Subchapter N. Licensing and Regulation of Risk Managers.

Section 19.1304. Last Known Address. The proposal removes a reference to an obsolete mailing address, replaces obsolete references to the State Board of

Insurance, clarifies that a risk manager's address is presumed to be the most recent address on file with the department, and removes an obsolete mailing address and instead adds a reference to filing instructions on TDI's website. The proposal also replaces "shall" with "must" or "will," as appropriate.

Section 19.1308. Application for License. The proposal replaces obsolete references to the State Board of Insurance and removes an obsolete mailing address, adding a reference to filing instructions on TDI's website instead. The proposal also replaces "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. The proposal replaces an obsolete mailing address and filing recipient with the current mailing address and recipient, capitalizes "commissioner," and replaces "shall" with "must" or "will," as appropriate.

Section 19.1407. Approval of Reinsurance Intermediary Manager's Contracts. The proposal removes an obsolete mailing address, adding a reference to filing instructions on TDI's website instead. The proposal also updates obsolete code references, inserts titles of Insurance Code provisions referenced in the section, capitalizes "commissioner," replaces "shall" with "must" or "will," as appropriate, replaces "which" with "that," and replaces "occur in the provisions set forth in" with "are made to."

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

Section 19.1604. Renewal. The proposal amends the section to provide that TDI will send renewal notices by email rather than mail. It also clarifies that a discount health care program operator's current address is presumed to be the address on file with TDI. The proposal also clarifies the renewal submission requirements by using plain

language and replacing an obsolete address with references to TDI's website. The proposal also replaces "shall" with "will" and "subchapter" and "chapter" with "title," updates the title of an Occupations Code section, and deletes five unnecessary uses of the word "the." Finally, the proposal inserts titles of Insurance Code provisions referenced in the section.

Section 19.1605. Requirements Related to Discount Health Care Program Information. The proposal clarifies filing requirements by removing an obsolete mailing address, email address, phone number, and fax number and instead referencing TDI's website. The proposal also replaces "shall" with "must," "subchapter" with "title," and deletes four unnecessary uses of the word "the." Finally, the proposal inserts 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. The proposal capitalizes "commissioner" where it appears in lowercase and replaces an obsolete mailing address with the current mailing address. The proposal also inserts titles of Insurance Code provisions referenced in the section.

Subchapter S. Forms to Request Prior Authorization.

Section 19.1810. Prior Authorization Request Form for Health Care Services, Required Acceptance, and Use. The proposal capitalizes "commissioner" where it appears in lowercase, replaces an obsolete mailing address with the current mailing address, and inserts the title of an Administrative Code section cited within the section.

Section 19.1820. Prior Authorization Request Form for Prescription Drug Benefits, Required Acceptance, and Use. The proposal capitalizes "commissioner"

where it appears in lowercase and replaces an obsolete mailing address with the current mailing address. The proposal also replaces "facsimile (fax)" with "fax."

Subchapter T. Specialty Insurance License.

Section 19.1902. Definitions. The proposal removes the defined term "Registered Location" and renumbers the following paragraph as appropriate. The proposal also updates Insurance Code citations, replaces "10 percent" with "10%," and removes "shall" as appropriate. Finally, the proposal inserts titles of Insurance Code provisions referenced in the section.

Section 19.1908. Notice to Department. The proposal removes a paragraph addressing locations from which insurance sales are conducted under a specialty license and renumbers the following paragraphs as appropriate. The proposal also replaces "shall" with "must" and inserts an "or" where appropriate.

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

Section 19.2004. Certificate or Registration of URAs. The proposal capitalizes "commissioner" where it appears in lowercase, inserts the word "and," and it replaces an obsolete mailing address with the current mailing address. The proposal also inserts titles of Insurance Code and Administrative Code provisions and referenced in the section.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Randall Evans, deputy commissioner of the Customer Operations Division, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering them, other than that imposed by statute. Mr. Evans made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and

because local governments are not involved in enforcing or complying with the proposed amendments.

Mr. Evans does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. Evans expects that administering them will have the public benefit of ensuring that TDI's rules are clearly written and conform to state law.

Mr. Evans expects that the proposed amendments will not increase the cost of compliance for those required to comply with the rules. Any costs for those required to comply with the proposed amendments are attributable to HB 4030, SB 876, and SB 1060 because the proposed amendments do not impose requirements beyond those in the statutes.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. The cost analysis in the Public Benefit and Cost Note section of this proposal, which explains that associated costs are attributable to HB 4030, SB 876, and SB 1060, and not the proposed amendments, also applies to these small and micro businesses and rural communities. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this rule proposal does not impose a possible cost on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect, the amendments:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand an existing regulation, but will limit and repeal existing regulations;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on February 12, 2023. Send your comments to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, PO Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to ChiefClerk@tdi.texas.gov or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, PO Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on February 12, 2023. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

**SUBCHAPTER B. MEDICARE ADVANTAGE PLANS, MEDICARE ADVANTAGE
PRESCRIPTION DRUG PLANS, AND MEDICARE PART D PLANS
28 TAC §19.103**

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.103 implements Insurance Code Chapter 4051 and 4054.

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 [~~subchapter~~] (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 [by first class United States mail to the Enforcement Division, Compliance Intake Unit, Mail Code 110-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104 or by other method acceptable to the department].~~

SUBCHAPTER G. LICENSING OF INSURANCE ADJUSTERS

28 TAC §19.602

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.602 implements Insurance Code Chapter 4003 as amended by SB 876.

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 ~~[Article 21.07-4]~~. The following types of adjuster's licenses are approved for insurance:

(1) - (3) (No change.)

(b) ~~Under Insurance Code Chapter 4101 [Pursuant to Insurance Code Article 21.07-4]~~, 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) - (2) (No change.)

(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, ~~[Article 21.07-4 §10(4)]~~ and §19.1006(b) of this title (relating to Course Criteria); and

(4) (No change.)

~~[(c) Each adjuster's license expires on the second anniversary of the date it was issued unless suspended or revoked by the commissioner.]~~

(c) ~~[(d)]~~ Adjusters must ~~[shall]~~ renew their licenses in the manner set forth in §19.801 of this title (relating to General Provisions ~~[Regarding Licensing Fees and License Renewal]~~).

(d) ~~[(e)]~~ 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) ~~[(f)]~~ 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. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.702 and §19.712 implement Insurance Code Chapter 4102. Section 19.704 implements Insurance Code Chapter 4001 as amended by HB 4030. Section 19.709 implements Insurance Code Chapter 4056 as amended by HB 4030. Section 19.705 and §19.706 implement Insurance Code Chapter 4102 as amended by SB 1060. Section 19.708 implements Insurance Code Chapter 4102.

TEXT.

§19.702. Type of Public Insurance Adjuster Licenses.

The department will [~~shall~~] issue a single public insurance license under [~~pursuant to~~] Insurance Code Chapter 4102, concerning Public Insurance Adjustors [~~Article 21.07-5~~] 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 [~~commissioner~~], and otherwise meet the licensing qualification

requirements of Insurance Code Chapter 4102, Subchapter B, concerning License Requirements, [~~Article 21.07-5 §§5 or 15~~] 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 [~~commissioner~~].

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

(1) (No change.)

(2) the corporation or partnership meets the definition of that entity adopted under Insurance Code §4001.003, concerning Definitions [~~Article 21.07 §1A~~];

(3) - (4) (No change.)

~~[(5) the corporation or partnership has filed a separate registration with the department for each location from which it will conduct business as a public insurance adjuster;]~~

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

(6) [~~(7)~~] 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 [~~Article 21.01-2 or 21.07-5~~].

(d) Nothing contained in this section may ~~[shall]~~ 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 ~~[shall]~~ 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 ~~[shall]~~ notify the department not later than the 30th day after the date of:

(1) (No change.)

(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) (No change.)

(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) - (3) (No change.)

(4) any additional information that the Commissioner ~~[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 [~~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 [~~commissioner~~] may require that the information required by paragraphs (1) - (4) of that subsection be provided regarding:

(1) - (2) (No change.)

(3) each person who is directly or indirectly the beneficial owner of more than 10% [~~10 percent~~] 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 [~~commissioner~~] determines that:

(1) - (3) (No change.)

(j) (No change.)

(k) The Commissioner [~~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) - (3) (No change.)

(l) If a license holder does not maintain the qualifications necessary to obtain the license, the department will [~~shall~~] 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 [~~Article 21.01-2 or 21.07-5~~].

(m) Each public insurance adjuster must ~~[shall]~~ 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 ~~[Article 21.07-5]~~.

(n) (No change.)

§19.705. Financial Responsibility Requirement.

~~[(a)]~~ Each public insurance adjuster, as a condition for being licensed, ~~[and each trainee as a condition for receiving a temporary training certificate and as a condition for continuing the license or training certificate in force,]~~ 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 ~~[Article 21.07-5 §6]~~.

~~[(b)]~~ Each public insurance adjuster and trainee must obtain separate proof of financial responsibility and may not rely on the bond of any other public insurance adjuster or trainee to demonstrate proof of financial responsibility.]

§19.706. Demonstrating Financial Responsibility.

The public insurance adjuster applicant~~[,]~~ or licensee must ~~[, or trainee shall]~~ 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) (No change.)

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

(1) - (6) (No change.)

(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." [~~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." [~~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." [~~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 [~~Article 6.13~~ ~~or~~] §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) (No change.)

(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, PO Box 12030, Austin, Texas 78711-2030. [~~PO Box 149104, Austin, Texas 78714-9104, or contact the department via Fax 512-475-1771.~~];

(B) "ADVISORIO IMPORTANTE: Puede comunicarse con el Departamento de Seguros de Texas para obtener información acerca de ajustadores públicos de seguros, sus derechos como consumidor, o información sobre cómo presentar una queja llamando 1-800-252-3439; o puede escribir al Departamento de Seguros de Texas, en MC: CO-CP, PO Box 12030, Austin, Texas 78711-2030. [~~PO Box 149104, Austin, Texas 78714-9104, o comuníquese con el departamento a través de Fax 512-475-1771.~~];

(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% [~~10 percent~~] of the amount of the insurance settlement;

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

(13) (No change.)

(c) (No change.)

(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) (No change.)

(2) a contract filed and approved by the department before ~~[prior to]~~ use.

(e) - (f) (No change.)

§19.709. Nonresident Applicants and License Holders.

~~[(a)]~~ 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 ~~[shall]~~ use the criminal history records to determine eligibility for issuance of a license in accordance with this subchapter and other laws of this state.

~~[(b) The annual nonresident affidavit required by Insurance Code Article 21.07-5 §15(d) shall be made on a form available from the department and filed one year after the date the license was issued and annually thereafter.]~~

§19.712. Advertisement.

(a) As used in Insurance Code Chapter 4102, concerning Public Insurance Adjusters, ~~[Article 21.07-5]~~, "advertisement" includes:

(1) printed and published material, audiovisual ~~[audio-visual]~~ material and descriptive literature of a public insurance adjuster used in direct mail, newspapers, magazines, radio, telephone and television scripts, websites ~~[internet web sites]~~, billboards, and similar displays;

(2) - (7) (No change.)

(b) (No change.)

SUBCHAPTER H. LICENSING OF PUBLIC INSURANCE ADJUSTERS REPEAL OF 28 TAC §19.703

STATUTORY AUTHORITY. TDI proposes to repeal §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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The repeal of §19.703 implements Insurance Code Chapter 4102 as amended by SB 1060.

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. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.801 implements Insurance Code Chapters 443, 1131, 4001, and 4051 as amended by HB 4030. Section 19.802 implements Insurance Code Chapters 521, 541, 544, 4001, 4002, and 4004 as amended by HB 4030. Section 19.805 implements Insurance Code Chapter 4001 as amended by HB 4030.

TEXT.

§19.801. General Provisions.

(a) (No change.)

(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) (No change.)

(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) [§§19.705–19.711 of this title].

(2) (No change.)

(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 [~~, or as a subagent by a general lines agent, personal lines property and casualty agent, or life agent~~].

(2) (No change.)

~~[(3) Subagent appointments must comply with Insurance Code §4001.205, including the following requirements:]~~

~~[(A) only general lines agents, personal lines property and casualty agents, or life agents may appoint subagents;]~~

~~[(B) only general lines agents, personal lines property and casualty agents, or life agents may be appointed as subagents may be appointed as subagents;]~~

~~[(C) the appointing agent must have a direct appointment from the insurer that the subagent is being appointed to represent and act for as an agent; and]~~

~~[(D) general lines agents, personal lines property and casualty agents, and life agents may simultaneously have multiple subagent and insurance company appointments.]~~

~~[(d) Subagents.]~~

~~[(1) As provided in Insurance Code §4001.109, a subagent must be licensed to write each line of insurance that the subagent is employed to write, but is not required to hold each type of license issued to the agent for whom the subagent acts; and]~~

~~[(2) an agent may not allow a subagent to write a line of business that the agent is not licensed to write or that the subagent is not licensed to write.]~~

(d) ~~[(e)]~~ Submission of fees. All fees must be submitted as directed by:

(1) - (3) (No change.)

(4) using the instructions provided on the department's website [Texas.gov];

or

(5) (No change.)

(e) ~~[(f)]~~ 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) ~~[(g)]~~ Examination and examination fees.

(1) (No change.)

(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) (No change.)

(b) The amounts of fees are as follows:

(1) - (4) (No change.)

(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) Full-time home office salaried employee registration: original application--\$50.]~~

~~[(7) Insurance service representative:]~~

~~[(A) original application--\$50;]~~

~~[(B) renewal--\$50;]~~

~~[(C) qualifying examination--\$50;]~~

~~[(D) appointment of a currently licensed insurance service representative--\$10.]~~

(6) ~~[(8)]~~ Managing general agent:

(A) - (E) (No change.)

(7) ~~[(9)]~~ 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) - (D) (No change.)

(8) ~~[(10)]~~ Surplus lines agent:

(A) - (C) (No change.)

(9) ~~[(11)]~~ Specialty insurance agent:

(A) - (C) (No change.)

(10) ~~[(12)]~~ Title attorney:

(A) - (B) (No change.)

(11) ~~[(13)]~~ Life insurance not exceeding \$15,000:

(A) - (C) (No change.)

(12) ~~[(14)]~~ Risk manager:

(A) - (C) (No change.)

~~[(15) Life and health insurance counselor]~~

~~[(A) original application--\$50.]~~

~~[(B) renewal--\$50.]~~

~~[(C) qualifying examination--\$50.]~~

(13) ~~[(16)]~~ Funeral prearrangement life insurance agent:

(A) - (C) (No change.)

(14) ~~[(17)]~~ Reinsurance intermediary:

(A) - (B) (No change.)

(15) ~~[(18)]~~ 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) ~~[(19)]~~ Utilization review agent:

(A) - (B) (No change.)

(17) ~~[(20)]~~ Public insurance adjuster:

(A) - (C) (No change.)

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

(19) ~~[(22)]~~ Life agent:

(A) - (D) (No change.)

(20) ~~[(23)]~~ Personal lines property and casualty agent:

(A) - (D) (No change.)

(21) ~~[(24)]~~ Discount health care program operator:

(A) - (B) (No change.)

(c) The limited lines agent license is a single license type that is authorized under Insurance Code Chapter ~~[Chapters]~~ 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) A general agent, personal lines property and casualty agent, or life agent appointed as subagent by another general agent, personal lines property and casualty agent, or life agent is not a separate license type. All fees are the same for a general agent, personal lines property and casualty agent, or life agent appointed as subagents, as are the fees for a general agent, personal lines property and casualty agent, or life agent appointed by insurance companies.]~~

(d) ~~[(e)]~~ 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) (No change.)

(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) home office salaried employees operating under Insurance Code Chapter 4051, Subchapter G, and §§19.3001 – 19.3005 of this title; or]~~

(3) [(4)] 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). [§§19.1901 – 19.1910 of this title.]

(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) (No change.)

(B) TDI must receive the score report from TDI's designated testing service showing successful completion of the applicable examination within the 12-month ~~[12-month]~~ period before ~~[preceding]~~ the completed application is ~~[being]~~ 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; [or] Chapter 4054, Subchapter D, concerning Funeral Prearrangement Life Insurance; or Chapter 4054, Subchapter ~~[Subchapters D or]~~ E, concerning Life Insurance Not Exceeding \$25,000, must submit to TDI:

(A) (No change.)

(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 ~~[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 ~~[at the time of submitting to TDI]~~ a completed original application.

~~[(d) Continuing education requirement. On and after June 1, 2018, an applicant for a new license who previously held a license under Insurance Code Title 13 that was issued or renewed on or after November 1, 2015, must provide to TDI evidence of completion of the prior license continuing education requirements or payment of the applicable fines for failure to complete the continuing education, as required under Insurance Code §4004.055 and §19.810 of this title.]~~

SUBCHAPTER J. STANDARDS OF CONDUCT FOR LICENSED AGENTS **28 TAC §19.902 and §19.906**

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.902 implements Insurance Code Chapter 4001 as amended by HB 4030. Section 19.906 implements Insurance Code Chapter 4001.

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 ~~[shall]~~ 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 ~~[State Board]~~ of Insurance with a certification ~~[identifying any and all offices from which the agent will conduct an insurance agency business, and]~~ showing any and all assumed names that ~~[which]~~ the agent will use ~~[utilize in doing an insurance agency business at each of those offices]~~. 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 ~~[, §36.01, et seq.]~~), or any similar statute, the agent must ~~[shall]~~ provide the Texas Department ~~[State Board]~~ of Insurance with a copy of the valid assumed name certificate reflecting proper registration of each assumed name used ~~[utilized]~~ by the agent.

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

(1) - (4) (No change.)

(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 [~~thereunder~~]; provided, however, that any such action by the department must be conducted in accordance with the Insurance Code.

(c) [~~The State Board of Insurance adopts by reference Form LDTL in effect on October 1, 1987. In order to comply with the requirements of this section, an~~] An agent must register any assumed name using instructions provided on the department's website. [~~or additional office by filing with the Agents License Division of the State Board of Insurance a completed Form LDTL together with the required fee. Any such filing of a Form LDTL shall be treated as an application for expansion of an agent's license authority, and, therefore, a fee equal to the highest license fee established by the State Board of Insurance for any license currently held by the agent shall be paid in support of such filings. Copies of Form LDTL for use under this subsection are available from the Agents License Division, Mail Code 014-3, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.~~]

§19.906. Last Known Address

Each agent must [~~shall~~] at all times keep the Texas Department [~~State Board~~] of Insurance informed of the agent's current address. Such address must [~~shall~~] 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. [~~address on the most recent license renewal or license application form, whichever is latest.~~] Such address will [~~shall~~] be considered the agent's last known address for the purposes of notice to the agent by mail [~~the board~~]. Any request for a change of address must [~~shall~~] be made using the instructions provided

~~on the department's website. [addressed to Agents License Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]~~

**SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING
EDUCATION PROGRAMS, AND CERTIFICATION COURSES
28 TAC 28 TAC §§19.1002, 19.1003, and 19.1012**

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1002 and §19.1003 implement Insurance Code Chapter 4004 as amended by HB 4030. Section 19.1012 implements Insurance Code Chapter 4004.

TEXT.

§19.1002. Definitions.

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

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

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

(2) (No change.)

(3) Assignee--Any provider that ~~[which]~~ is authorized under ~~[as set forth in]~~ §19.1008(f) of this title (relating to Certified Course Advertising, Modification, and Assignment).

(4) (No change.)

(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) ~~[§19.1009(e)]~~ of this title (relating to Types of Courses).

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

(8) (No change.)

(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 ~~[the]~~ Insurance Code Chapter 1651, Subchapter C, concerning Partnership for Long-Term Care Program and ~~[the]~~ Human Resources Code Chapter 32, Subchapter F, concerning Partnership for Long-Term Care Program [C]; the Medicare-Related Product Certification required by ~~[the]~~ Insurance Code Chapter 4004, Subchapter D, concerning Agent Education Programs; the Small Employer Health Benefit Plan Specialty Certification required by ~~[the]~~ Insurance Code Chapter 4054, Subchapter H, concerning Specialty Certification for Agents Serving Certain Employer Groups; and the

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

(10) - (16) (No change.)

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

(A) Chapter 4051, Subchapter ~~[Subchapters]~~ B, concerning General Property and Casualty License; Subchapter C, concerning Limited Property and Casualty License; ~~[D,]~~ Subchapter E, concerning County Mutual Agent License; or Subchapter ~~[and]~~ I concerning Personal Lines Property and Casualty Agent ~~[(general property and casualty agent, limited lines agent, insurance service representative, county mutual agent, and personal lines property and casualty agent)];~~

~~[(B) Chapter 4052 (life and health insurance counselor)];~~

(B) ~~[(C)]~~ Chapter 4053, concerning Managing General Agents ~~[(managing general agent)];~~

(C) ~~[(D)]~~ Chapter 4054, Subchapter ~~[Subchapters]~~ 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 ~~[and]~~ G, concerning Life Agent ~~[(general lines—life, accident, and health agent, limited lines agent, life insurance not exceeding \$25,000 agent, and life agent)];~~

(D) ~~[(E)]~~ Chapter 4101, concerning Insurance Adjusters ~~[(adjuster)]; or~~

(E) ~~[(F)]~~ Chapter 4102, concerning Public Insurance Adjusters ~~[(public insurance adjuster)].~~

(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 ~~[subchapter only,]~~ (relating to ~~[Long-Term Care Partnership Certification Course~~

~~and~~ Long-Term Care Partnership Continuing Education) only, a policy established under ~~the~~ Human Resources Code~~[,]~~ Chapter 32, Subchapter ~~F~~ ~~[C]~~, and ~~the~~ Insurance Code~~[,]~~ Chapter 1651, Subchapter C.

(19) National designation certification--A professional designation that ~~which~~ 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) (No change.)

(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 ~~the~~ 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) - (25) (No change.)

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

(27) - (29) (No change.)

§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, Life, Accident and Health License; or Chapter 4054, Subchapter E, concerning Life Insurance not Exceeding \$25,000 [~~§4051.101 and Insurance Code §4051.102 (limited lines agent); §§4051.201–4051.206 (county mutual agent); §§4054.101–4054.103 (limited lines agent); and §§4054.201–4054.208 (life insurance not exceeding \$25,000 agent)~~] must complete 10 hours of continuing education. The following requirements apply:

(1) licensees must:

(A) - (B) (No change.)

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

(D) (No change.)

(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) (No change.)

(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 [~~two~~] 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), [~~§§19.1022 – 19.1029 of this title,~~] 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 [~~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 [~~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	<u>0</u>
6 months up to and including 7 months	2	<u>3</u> [2]
8 months up to and including 9 months	3	<u>3</u> [2]
10 months up to and including 11 months	4	<u>3</u> [2]
12 months up to and including 14 months	5	<u>3</u> [2]
15 months up to and including 16 months	6	<u>3</u> [2]
17 months up to and including 19 months	7	<u>3</u> [2]
20 months up to and including 21 months	8	<u>3</u> [2]
22 months up to and including 23 months	9	<u>3</u> [2]

(3) (No change.)

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

(e) (No change.)

§19.1012. Forms and Fees

(a) Information on ~~[Application forms for]~~ provider registration, course registration, sample certificates of completion, and the list of courses can be obtained from ~~[the Texas Department of Insurance, Education Coordinator, Licensing Division, 333 Guadalupe, MC-107-1A, P.O. Box 149104, Austin, Texas 78714-9104, the department's designee, or when available,]~~ the department's website ~~[Web site at www.tdi.state.tx.us].~~

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

(1) - (3) (No change.)

SUBCHAPTER K. CONTINUING EDUCATION, ADJUSTER PRELICENSING EDUCATION PROGRAMS, AND CERTIFICATION COURSES REPEAL OF 28 TAC §19.1019

STATUTORY AUTHORITY. TDI proposes to repeal §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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The repeal of §19.1019 implements Insurance Code Chapter 4001 as amended by HB 4030.

TEXT.

§19.1019. Full-Time Home Office Salaried Employees.

**SUBCHAPTER N. LICENSING AND REGULATION OF RISK MANAGERS
28 TAC §19.1304 and §19.1308**

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1304 and §19.1308 implement Insurance Code Chapter 4153.

TEXT.

§19.1304. Last Known Address.

Each risk manager must ~~[shall]~~ at all times keep the Texas Department of Insurance ~~[State Board of Insurance]~~ informed of the risk manager's address. Such address must ~~[shall]~~ 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 ~~[the most recent license renewal or license application form, whichever is latest]~~. Such address will ~~[shall]~~ be considered the risk manager's last known address for the purpose of notice to the agent by the department ~~[board]~~. Any request for a change of address must ~~[shall]~~ be made using the instructions provided on the department's website. ~~[addressed to Risk Manager's Licensing, Licensing Group, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]~~

§19.1308. Application for License.

Using the forms prescribed and furnished by the Texas Department of Insurance ~~[board]~~, 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. ~~[to Risk Manager's Licensing, Licensing Group, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.]~~ The license fee is payable at the time of application. As part of the application, the applicant must ~~[shall]~~ furnish to the department ~~[board]~~ any information relating to the applicant's identity, personal history, experience, business record, or other items as the department ~~[board]~~ 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 ~~[board]~~.

SUBCHAPTER N. LICENSING OF PUBLIC INSURANCE ADJUSTERS REPEAL OF 28 TAC §19.1303 and §19.1320

STATUTORY AUTHORITY. TDI proposes to repeal §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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The repeal of §19.1303 and §19.1320 implements Insurance Code Chapter 4153.

TEXT.

§19.1303. Forms Adopted by Reference.

§19.1320. Distribution of Rules and Attachments.

**SUBCHAPTER O. PROCEDURES AND REQUIREMENTS FOR REINSURANCE
INTERMEDIARIES (BROKERS AND MANAGERS)
28 TAC §19.1403 AND §19.1407**

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1403 and §19.1407 implement Insurance Code Chapter 4152.

TEXT.

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

Any reinsurance intermediary must file and maintain a bond with the Commissioner [~~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 [~~shall~~] be mailed to Agent and Adjuster Licensing Office [~~the Deputy Commissioner for Licensing~~], Texas Department of Insurance, MC: CO-AAL, PO Box 12030, Austin, Texas 78711-2030. [~~Mail Code 105-5A, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.~~] The executed bond must be furnished to the Texas Department of Insurance.

(2) The errors and omissions policy must [~~shall~~] be in a form acceptable to the Texas Department of Insurance, and must [~~shall~~] be filed with Agent and Adjuster Licensing Office [~~the deputy commissioner for licensing of the department~~] at the address listed in paragraph (1) of this section. The policy must provide that the Texas Department of Insurance will [~~shall~~] be a certificate holder and will [~~shall~~] receive a copy of any cancellation or nonrenewal notice, which must [~~shall~~] be mailed to the deputy commissioner for licensing at the address listed in paragraph (1) of this section. The errors

and omissions policy must ~~[shall]~~ cover all negligent acts or omissions of the reinsurance intermediary and any person acting on its behalf and must ~~[shall]~~ provide coverage of at least \$100,000 for each occurrence for brokers and must ~~[shall]~~ provide coverage of at least \$250,000 for each occurrence for managers.

(3) The Commissioner ~~[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 ~~[shall]~~ 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 ~~[shall]~~ be filed by the manager with the Commissioner ~~[commissioner]~~ for approval at least 30 days before the insurer assumes or cedes any business through the manager.

(c) The contract must ~~[shall]~~ include the minimum requirements specified in ~~[the Texas]~~ Insurance Code §4152.201, concerning Contract Between Manager and Insurer ~~[, Article 21.07-7, §6]~~. A contract that ~~[which]~~ does not comply with the minimum requirements of the ~~[Texas]~~ Insurance Code or this section will ~~[shall]~~ not be considered to have been filed with the Commissioner ~~[commissioner]~~ for approval. The contract will ~~[shall]~~ 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 ~~[commissioner]~~ under ~~[the Texas]~~ Insurance Code §4152.201 ~~[, Article 21.07-7, §6]~~.

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

(f) If any material changes are made to [~~occur in the provisions set forth in~~] the contract filed with the Commissioner [~~commissioner~~], an amended contract setting forth such changes must [~~shall~~] be filed with the Commissioner [~~commissioner~~] for approval as if it were a new contract.

(g) Contracts subject to this section and [~~the~~] Insurance Code §4152.201 [~~, Article 21.07-7, §6~~], must [~~shall~~] be filed using the method described on the department's website [~~with the Reinsurance Activity Mail Code 303-2A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104,~~] for the purpose of determining compliance with this section. Telephonic or fax transmissions will [~~shall~~] not constitute proper filing under this section.

(h) This section will [~~shall~~] be cumulative of and in addition to the requirements of [~~the Texas~~] Insurance Code Chapter 4053, concerning Managing General Agents; Chapter 4152, concerning Reinsurance Intermediaries; and Chapter 823, concerning Insurance Holding Company Systems [~~, Article 21.07-3, Article 21.07-7, and Article 21.49-1~~], 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. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1604 and §19.605 implement Insurance Code Chapter 7001.

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 ~~[shall]~~ send a written registration renewal notice to the email address designated for such communications by the regulated person. ~~[to the discount health care program operator's last known mailing address according to the department's records.]~~

(b) In the absence of the submission of a written request to change the ~~[mailing]~~ address of a registered discount health care program operator as required by ~~[the]~~ Insurance Code §7001.005(a)(1), concerning Application for Registration and Renewal of Registration, and §19.1605 of this title ~~[subchapter]~~ (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. ~~[provided on the most recent registration application or renewal of registration application.]~~ Such address will ~~[shall]~~ be considered the discount health care program operator's last known ~~[mailing]~~ 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 [~~returning the payment coupon attached to the registration renewal notice sent by the department to the discount health care program operator with a check made payable to the department in the amount of \$500~~] as required by [~~the~~] Insurance Code §7001.006, concerning Fees, and §19.802 of this title [~~chapter~~] (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; [~~Licensing Division, MC-9999, P.O. Box 149104, Austin, Texas 78714-9104;~~] and

(2) (No change.)

(d) A discount health care program operator renewing a registration must [~~shall~~] 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 [~~the~~] Insurance Code §7001.005(a) and §19.1605 of this title [~~subchapter~~].

(e) (No change.)

(f) Except as provided by [~~the~~] Occupations Code §55.003, concerning [~~(relating to)~~] Extension of Certain Deadlines for [~~Active-Duty~~] Military Service Members [~~Personnel~~], 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 [~~the~~] Insurance Code §7001.005(a) and §19.1602 of this title [~~subchapter~~] (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 [~~the~~] 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 ~~the~~ Insurance Code §7001.005(a) and this section must ~~shall~~ 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. ~~[by:]~~

~~[(1) mail, to the Texas Department of Insurance, Licensing Division, MC-107-1A, P.O. Box 149104, Austin, Texas 78714-9104;]~~

~~[(2) fax, to (512) 490-1052;]~~

~~[(3) e-mail, to TDI-DiscountHealth@tdi.state.tx.us; or]~~

~~[(4) in other formats that are acceptable to the department including an electronic format].~~

(b) After the initial registration, if the form of a contract described by ~~the~~ Insurance Code §7001.005(a)(5) and §19.1602(a)(2)(C) of this title ~~subchapter~~ (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 ~~shall~~ comply with the requirements of ~~the~~ 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) - (2) (No change.)

(d) A discount health care program operator must ~~shall~~ submit the quarterly list of the marketers using instructions provided on the department's website. ~~[to TDI-DiscountHealth@tdi.state.tx.us.]~~

(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 Licensing Division~~

~~Customer Service phone line at (512) 322-3503, email address at License@tdi.state.tx.us, and] the department's website. [~~web site at www.tdi.state.tx.us.]~~~~

SUBCHAPTER R. UTILIZATION REVIEWS FOR HEALTH CARE PROVIDED UNDER A HEALTH BENEFIT PLAN OR HEALTH INSURANCE POLICY
28 TAC §19.1704

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1704 implements Insurance Code Chapter 4201.

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, [~~§§4201.057, 4201.058, 4201.101,~~] and this subchapter.

(1) – (2) (No change.)

(b) Application form. The Commissioner [~~commissioner~~] adopts by reference the:

(1) - (2) (No change.)

(c) (No change.)

(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, PO Box 12030, Austin, Texas, 78711-2030. [~~Mail Code 103-6A, P.O. Box 149104, Austin, Texas 78714-9104.~~]

(e) - (f) (No change.)

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

(h) - (j) (No change.)

SUBCHAPTER 5. FORMS TO REQUEST PRIOR AUTHORIZATION
DIVISION 2. TEXAS STANDARDIZED PRIOR AUTHORIZATION REQUEST FORM FOR
HEALTH CARE SERVICES
28 TAC §19.1810

DIVISION 3. TEXAS STANDARDIZED PRIOR AUTHORIZATION REQUEST FORM FOR
PRESCRIPTION DRUG BENEFITS
28 TAC §19.1820

STATUTORY AUTHORITY. TDI proposes amendments to §19.1810 under Insurance Code §1217.004(a)(1) and §36.001. TDI proposes amendments to §19.1820 under Insurance Code §1369.304(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 §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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1810 implements Insurance Code Chapter 1217. Section 19.1820 implements Insurance Code Chapter 1369.

TEXT.

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

(a) Form requirements. The Commissioner [~~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, PO Box 12030, Austin, Texas 78711-2030. [~~Mail Code 106-1E, P.O. Box 149104, Austin, Texas 78714-9104.~~] The form must be reproduced without changes. The form provides space for the following information:

(1) - (15) (No change.)

(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 ~~[28-TAC]~~ §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) - (d) (No change.)

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

(a) Form requirements. The Commissioner [~~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. [~~Mail Code 106-1E P.O. Box 149104, Austin, Texas 78714-9104.~~] 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 [~~facsimile (fax)~~] number;

(2) - (13) (No change.)

(b) - (d) (No change.)

**SUBCHAPTER T. SPECIALTY INSURANCE LICENSE
28 TAC §19.1902 and §19.1908**

STATUTORY AUTHORITY. TDI proposes 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Section 19.1902 and §19.1908 implement Insurance Code Chapter 4001 as amended by HB 4030.

TEXT.

§19.1902. Definitions.

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

(1) (No change.)

(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% ~~[10 percent]~~ of the voting stock or voting rights of the corporate specialty license holder; or

(B) (No change.)

(3) (No change.)

(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 [~~Article 3.53~~].

(5) Credit involuntary unemployment insurance--A type of insurance as set out in Insurance Code Chapter 3501, concerning Credit Involuntary Unemployment Insurance [~~Article 21.79E~~].

(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 [~~Article 3.53~~].

(7) - (14) (No change.)

(15) Specialty insurance product--Any of the types of insurance set out in Insurance Code Chapter 4055, concerning Specialty Agents [~~Article 21.09~~].

(16) Specialty license holder or specialty licensee--A person who holds a license under Insurance Code Chapter 4055 [~~Article 21.09~~].

~~[(17) Registered Location--A location that has been identified by an applicant or specialty license holder to the department as a place at which the applicant's or specialty license holder's associated consumer transactions occur and insurance sales will be conducted under the specialty license and for which all applicable registration fees have been paid.]~~

(17) ~~[(18)]~~ 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 ~~[shall]~~ notify the department within 30 days of the occurrence of the following:

(1) - (2) (No change.)

~~[(3) the addition or removal of a location or office from which insurance sales are conducted under the specialty license;]~~

(3) ~~[(4)]~~ a felony conviction of the specialty license holder or any individual who exercises control of the specialty license holder; or

(4) ~~[(5)]~~ 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. TDI proposes to repeal §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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The repeal of §19.1905 implements Insurance Code Chapter 4001 as amended by HB 4030.

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. TDI proposes 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 Chapter 4201.

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

CROSS-REFERENCE TO STATUTE. Section 19.2004 implements Insurance Code Chapter 4201.

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, [~~§§4201.057, 4201.058, 4201.101,~~] and this subchapter.

(1) - (2) (No change.)

(b) Application form. The Commissioner [~~commissioner~~] adopts by reference the:

(1) - (2) (No change.)

(c) (No change.)

(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-MCOA, PO Box 12030, Austin, Texas 78711-2030. [~~Mail Code 103-6A, P.O. Box 149104, Austin, Texas 78714-9104.~~]

(e) - (f) (No change.)

(g) Certification and registration expiration. Each URA registration or certification issued by TDI and not suspended or revoked by the Commissioner [~~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) - (3) (No change.)

(i) - (j) (No change.)

**SUBCHAPTER V. REGISTRATION OF FULL TIME HOME OFFICE SALARIED
EMPLOYEES
REPEAL OF 28 TAC §§19.3001 - 19.3005**

STATUTORY AUTHORITY. TDI proposes to repeal Subchapter V of Chapter 19, consisting of §§19.3001 - 19.3005, 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The repeal of Subchapter V, consisting of §§19.3001 - 19.3005, implements Insurance Code Chapter 4001 as amended by HB 4030.

TEXT.

§19.3001. Purpose and Scope.

§19.3002. Definitions.

§19.3003. Registration Requirements.

§19.3004. When Registration Is Required.

§19.3005. General Plan of Operation Requirements.

**SUBCHAPTER W. REGULATION OF NAVIGATORS FOR HEALTH BENEFIT
EXCHANGES
REPEAL OF 28 TAC §§19.4001 - 19.4017**

STATUTORY AUTHORITY. TDI proposes to repeal Subchapter W, consisting of §§19.4001 - 19.4017, 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 TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The repeal of Subchapter W, consisting of §§19.4001 - 19.4017, reflects that the expiration date implemented by SB 1795, 83rd Legislature, 2013, has passed.

TEXT.

§19.4001. Purpose.

§19.4002. Definitions.

§19.4003. Applicability.

§19.4004. Registration Required.

§19.4005. Registration Eligibility.

§19.4006. Application for Registration.

§19.4007. Renewal of Registration as a Navigator Entity or Individual Navigator.

§19.4008. Navigator Education and Examination Requirements.

§19.4009. Course Providers.

§19.4010. Financial Responsibility.

§19.4011. Navigator Identification.

§19.4012. Privacy of Nonpublic Information.

§19.4013. Prohibitions.

§19.4014 Limits on Use of Term "Navigator."

§19.4015. Administrative Violations.

§19.4016. Severability Clause.

§19.4017. Expiration.

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on _____.

DocuSigned by:

D03DCB0BCCB94B6... _____

Allison Eberhart, Deputy General Counsel
Texas Department of Insurance