

ACT 55

S.B. NO. 1077

A Bill for an Act Relating to Continuing Education for Insurance Licensees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 431, article 9A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . CONTINUING EDUCATION COURSE PROVIDERS

§431:9A- Continuing education course provider certificate. (a) Any person seeking a continuing education course provider certificate shall submit to the commissioner at least sixty days prior to the date the course will be offered:

- (1) An application in duplicate on a form prescribed by the commissioner; and
- (2) The appropriate application fee.

(b) A continuing education provider, who is seeking renewal of the certificate, shall submit to the commissioner at least sixty days prior to the expiration of the certificate:

- (1) A renewal application in duplicate in a form prescribed by the commissioner; and
- (2) The appropriate renewal application fee.

(c) The continuing education course provider certificate:

- (1) Shall expire:
 - (A) On July 1 of the calendar year immediately following the calendar year the application for the initial certificate was received, if the application was received in the months of January through June; or
 - (B) On July 1 of the second calendar year following the calendar year the application for the initial certificate was received, if the application was received in the months of July through December; and
- (2) May thereafter be renewed by application for a period of one year beginning on July 1 and ending on July 1 of the following calendar year,

unless the certificate is earlier suspended or revoked by the commissioner.

(d) An application may be denied if the commissioner determines that the applicant or an officer, director, partner, or owner of an applicant entity:

- (1) Is not qualified to perform the duties and responsibilities listed in this chapter;
- (2) Engaged in false, fraudulent, or deceptive advertising or in making false or untruthful statements to the public or the commissioner;
- (3) Procured any past license or regulatory approval through fraud, misrepresentation, or deceit;
- (4) Aided and abetted an unlicensed person in performing, directly or indirectly, any activities requiring a license;
- (5) Failed to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;
- (6) Engaged in business under a past or present license issued pursuant to licensing laws, in a matter causing injury to one or more members of the public;
- (7) Failed to comply, observe, or adhere to any law in a manner such that the commissioner deems the applicant to be unfit for approval;
- (8) Has been refused a professional, occupational, or vocational license, has had such a license suspended, revoked, or restricted, or has been fined or placed on probation by any licensing authority; or
- (9) Has been convicted of a felony or a misdemeanor involving a fraudulent act or an act of dishonesty in the acceptance, custody, or payment of money or property.

§431:9A- Continuing education course provider additional duties. In addition to other duties and obligations imposed by law, a continuing education course provider shall be responsible for:

- (1) Ensuring that each course is taught by a qualified instructor;
- (2) Providing course schedules at least thirty days prior to the start date of each class;
- (3) Monitoring attendance by having licensees who are taking the continuing education course, sign-in at the time of entrance to the course, and sign-out upon completion of the course, for courses other than self-study courses;
- (4) Supervising and evaluating courses and instructors;
- (5) Administering examinations when applicable;
- (6) Verifying and submitting in the appropriate format, on a timely basis, course attendance and completion rosters and other information required by law;
- (7) Signing and issuing to a licensee, in a form approved by the commissioner, a certificate of completion within forty-five days of completion of a continuing education course;
- (8) Providing continuing education course application materials, including a detailed course content outline and a copy of the provider's tuition and fee refund policy, upon a licensee's request; and
- (9) Publishing and abiding by a refund policy that complies with rules adopted by the commissioner.

§431:9A- Courses. (a) A continuing education course provider shall obtain prior approval for the course from the commissioner before advertising or soliciting for a course.

(b) In determining whether to approve a course, the commissioner may consider whether the course:

- (1) Is a formal program of learning that contributes directly to the professional competence of licensees;
- (2) Will enhance and improve the knowledge of licensees with regard to the conduct of the business of insurance in the State;
- (3) Includes methods to evaluate and assess the effectiveness of the course;
- (4) Is appropriately classified as "basic", "intermediate", or "advanced"; and
- (5) Includes a bibliography of reference materials and supplemental teaching aids.

(c) The commissioner may refuse to grant continuing education credit for any course work that focuses on:

- (1) Personal development;
- (2) Motivational or public speaking;
- (3) Salesmanship;
- (4) Product presentation;
- (5) Mechanical office skills, including but not limited to typing, speed reading, use of calculators, computers, or other office machinery; or
- (6) Other subject matter not related to the business of insurance as determined by the commissioner.

(d) A continuing education course provider shall apply to the commissioner for course approval whenever changes are proposed in the course material, course hours, method of presentation, or method of examination.

(e) Continuing education credit hours shall be approved in increments of not less than one credit hour.

(f) No course shall be approved for more than twenty credit hours.

(g) The continuing education course provider certificate:

- (1) Shall expire:
 - (A) On July 1 of the calendar year immediately following the calendar year the application for the initial certificate was received, if the application was received in the months of January through June; or
 - (B) On July 1 of the second calendar year following the calendar year the application for the initial certificate was received, if the application was received in the months of July through December; and
- (2) May thereafter be renewed by application for a period of one year beginning on July 1 and ending on July 1 of the following calendar year,

unless the certificate is earlier suspended or revoked by the commissioner.

§431:9A- Self-study courses. (a) In addition to the requirements of courses generally, an approved continuing education course provider shall also require for self-study courses, including computer-based courses, a written or computer-based examination at the conclusion of the self-study course. The examination shall:

- (1) Be composed of multiple choice questions, essay questions, or both;
- (2) Have at least three different versions of itself, used on a random or rotating basis;
- (3) If composed of multiple choice questions for a course approved for up to four credit hours, include at least twenty-five multiple choice questions;
- (4) If composed of multiple choice questions for a course approved for more than four credit hours, include at least fifty multiple choice questions;
- (5) Be graded by the continuing education course provider or the continuing education course provider's agent;
- (6) If the examination is computer-based, not include prompts designed to aid the person taking the examination; and
- (7) If the course is a computer-based course with a computer-based examination, be designed to prevent the licensee from taking the examination without reviewing the course materials.

(b) To pass a multiple-choice self-study course, the licensee shall answer at least seventy per cent of the examination questions correctly.

(c) A self-study course examination shall not be administered by a person who:

- (1) Is related to, or is a business associate of, the licensee taking the examination; or
- (2) Has a financial interest in the success or failure of a licensee taking the examination.

(d) Upon receipt of the completed examination, the continuing education course provider or the continuing education course provider's agent shall grade the examination and mail the results to the licensee within thirty days for a multiple choice examination, and within forty-five days for an essay examination.

§431:9A- Carryover credits. No credit hours earned during a single renewal cycle may be carried over and counted towards satisfaction of the credit hour requirements for a following renewal cycle for the same license.

§431:9A- Course instructors. (a) The commissioner may deem a continuing education course instructor unqualified if the instructor has been subject to suspension, revocation, or other disciplinary proceeding in relation to an insurance license or other financial services license by the State or other jurisdiction.

(b) A continuing education course provider shall give the commissioner access to the employment records of any instructor employed by the provider.

(c) A provider shall require the instructor to display a photo identification to any insurance division representative who conducts an official audit during an instruction period.

§431:9A- Tuition. (a) The following are requirements that providers shall follow:

- (1) Tuition fees for courses shall be reasonable and clearly identified;
- (2) If the course is canceled for any reason, all fees shall be refunded in full unless the enrollment application contains a refund policy clause that expressly states otherwise. If the fees are refundable, the continuing education course provider shall refund the fees within forty-five days after the cancellation;
- (3) In the event a course is postponed for any reason, a licensee shall be given the choice of attending the course at a later date or having the fee refunded in full. If a licensee chooses not to attend a postponed course, the continuing education course provider shall refund the fees within forty-five days after the postponement; and
- (4) A provider may have a refund policy that addresses a licensee's cancellation or failure to complete a course, so long as that policy is clear to the licensee and in compliance with this section.

(b) A continuing education course provider may offer a continuing education course free of tuition.

§431:9A- Reporting credit hours and recordkeeping. Continuing education course providers shall:

- (1) Submit course completion information as prescribed by the commissioner to the insurance division within forty-five days after the course is completed or the competency examination is scored, whichever is later. The information shall be transmitted in an electronic form in the format prescribed by the commissioner; and
- (2) Maintain adequate records to verify the attendance and successful course completion pursuant to section 431:9A-125(b).

§431:9A- Advertising. (a) A course shall not be advertised as an approved course for continuing education credit unless the commissioner has approved the course in writing.

(b) Advertisements for an approved course shall include:

- (1) The provider's name, course title, and course number;
- (2) The statement "Approved by the Hawaii State Insurance Commissioner for continuing education credit";
- (3) The number of approved credit hours; and
- (4) The amount of tuition, fees, and all other associated expenses.

§431:9A- Advisory committee. (a) The commissioner may establish an advisory committee, which shall be composed of nine members appointed by the commissioner of which:

- (1) Eight members shall be practicing licensees with active licenses; and
- (2) One member shall be from the insurance division.

Members shall serve staggered terms of two years each so that the terms of no more than five members expire each year.

(b) The advisory committee shall assist the commissioner by:

- (1) Recommending to the commissioner policies, procedures, and administrative rules to implement this part, including:
 - (A) Additional criteria to be used in the consideration and review of course providers, courses, and course materials;
 - (B) Additional criteria to be considered in the approval or rejection of continuing education courses; and
 - (C) Courses, credit hours, and fees for applications of renewals for each approved course;
- (2) Reviewing the continuing education course requirements for this State and other states to determine whether the courses are substantially equivalent and recommending to the commissioner whether to enter into or maintain reciprocal agreements with other states;
- (3) Reviewing and critiquing proposed continuing education course materials to determine whether the course materials are appropriate for the purposes of continuing education and whether courses using these materials would comply with this part; and
- (4) Providing such other and further assistance to the commissioner as the commissioner deems appropriate.

(c) The committee members shall receive no monetary compensation for services.

(d) The commissioner may grant continuing education equivalent credit to members of the advisory committee for work completed pursuant to this section.”

SECTION 2. Section 431:9A-102, Hawaii Revised Statutes, is amended by amending the definition of “credit hour” to read as follows:

““Credit hour” means the value assigned to ~~[an hour of]~~:

- (1) Fifty minutes of classroom instruction; or
- (2) In the case of self-study courses, fifteen to twenty full pages of reading materials excluding graphics, quizzes, and illustrations, depending on content and type-face, as determined by the commissioner;

in an approved continuing education course.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 13, 2003.)