

## **NOTICE OF INTENT**

### **Department of Insurance Office of the Commissioner**

#### **Regulation 114—Claims Adjuster Pre-Licensing Education Program (LAC 37:XIII.Chapter 165)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to promulgate Regulation 114—Claims Adjuster Pre-Licensing Education Program. The Department of Insurance is promulgating Regulation 114 to establish the requirements and the procedure for approving claims adjuster pre-licensing education programs, the providers and the examination of candidates for licensure by the Department of Insurance pursuant to R.S. 22:1668.

### **Title 37**

## **INSURANCE**

### **Part XIII. Regulations**

#### **Chapter 165. Regulation Number 114—Claims Adjuster Pre-Licensing Education Program**

##### **§16501. Purpose**

A. The purpose of Regulation 114 is:

1. To provide for the submission of approved programs to be listed on the web page of the Louisiana Department of Insurance.
2. To establish the requirements and set forth the procedure for approval of programs by the commissioner.
3. To establish the requirements and set forth the procedure for approval of providers of the programs by the commissioner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

##### **§16503. Applicability and Scope**

A. Regulation 114 shall apply to programs and the providers, instructors and supervisory instructors of those programs as defined herein.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

##### **§16505. Authority**

A. Regulation 114 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, 22:821, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:821, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

##### **§16507. Definitions**

A. For the purposes of Regulation 114 the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Commissioner*—the Commissioner of Insurance for the State of Louisiana.

*Candidate*—an individual seeking a claims adjuster license.

*Claims Adjuster*—an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of: (a) an adjustment bureau; (b) an association; (c) a property and casualty producer; (d) an independent contractor; (e) an insurer; or (f) a managing general agent.

*Program*—a program of education designed to instruct individuals in the duties and responsibilities of claims adjusters and the insurance laws and regulations of this state which meets the requirements of this regulation and is approved by the commissioner.

*Instructor*—a subject matter expert presenting course activities or information in a classroom setting, whether in person or via the internet.

*Supervisory Instructor*—an instructor responsible for the conduct of any other instructors or guest instructors and responsible for assuring the quality of the program.

*Person*—an individual or a business entity.

*Provider*—an entity presenting a claims adjuster pre-licensing education program.

*Self-study program*—an internet, CD-ROM, DVD or other computer-based presentation or a correspondence course.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16509. Claims Adjuster Pre-Licensing Education Program Optional**

A. Nothing in this regulation shall be construed to require participation in such program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16511. Posting of Information for Claims Adjuster Pre-Licensing Education**

A. The commissioner shall make available on the website of the Louisiana Department of Insurance the following information:

1. The name and contact information for all providers of programs approved pursuant to this regulation;
2. The line or lines for which each program is approved;
3. The annual pass/fail ratio for each approved program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16513. Program Approval Requirements**

A. An application submitted by a provider for approval of a program shall be submitted to the commissioner a minimum of 30 days prior to the actual use of the program. Each application shall be on the form and in the format required by the commissioner and shall include:

1. The full legal name and Federal Employer Identification Number (FEIN) of the provider of the program;
2. A statement designating the line or lines of insurance for which the provider is seeking approval of the program;
3. An outline of the program including a list of resource material to be used, a copy of the textbook to be used, a description of the training aids to be used, a detailed description of the program, a schedule of the program which clearly indicates the time spent on each subject and the cost of the program to each candidate;
4. A statement of the method used to determine whether there has been a positive achievement of education on the part of the candidate taking the program; such method may be a written examination, a written report by the candidate, certification by the provider of the attendance or completion of the program by the candidate, or any other method approved by the commissioner as appropriate for the subject;

5. If the program is not a self-study program, a schedule of locations (including physical address including room or suite number) where the program will be offered and a schedule of times and dates when the program will be offered; any change in the schedule of locations, dates or time of program presentation or additional presentations of the program shall be filed with the commissioner not less than three days prior to the scheduled beginning date of the program presentation; all facilities shall meet the requirements as set forth in this regulation;

6. A description of the measures used by the provider to verify the identity of the candidates;

7. If the program is a self-study program, a description of the technical support available to candidates including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

8. If the program is a self-study program, a user ID and log-in credentials to permit viewing of the program that will be presented to the candidates.

B. Any assertion for program material to be deemed confidential, proprietary or trade secrets must be made pursuant to R.S. 44:3.2.

C. In order for a program to be approved, the program content shall, at a minimum, directly correlate to the topics included in the current examination content outlines. Programs may be approved for the following lines and shall provide the indicated minimum number of credit hours for each line for which it is approved:

1. Automobile – 8 credit hours;
2. Commercial Lines – 20 credit hours;
3. Crop – 8 credit hours;
4. Personal Lines – 20 credit hours;
5. Property and Casualty – 30 credit hours;
6. Workers' Compensation – 8 credit hours.

D. A provider shall notify the commissioner of any material change in the information submitted with an application for approval a minimum of 30 days prior to the scheduled beginning date of the program presentation. A material change shall include any of the following:

1. Change(s) to the instructors or the supervisory instructor of the program;
2. Change(s) to the facility where the program will be presented;
3. Change(s) to the text books, resource material or training materials to be used in the program.

E. If a provider utilizes published program materials, including text books, outlines or other similar materials, each candidate must be provided with a complete original copy of the material as part of the fee for the course. This material shall be retained by the candidates. The provider may not require the candidates to return or resell this material to the provider. No substitute text books, outlines, summaries or copyright infringement is permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16515. Program Expiration**

A. Approval of a program shall expire three years from the date of the commissioner's initial approval. A provider may request renewal of the approval by submitting all information required by this regulation to the commissioner a minimum of 60 days prior to the expiration of the approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16517. Provider Approval Requirements**

A. A provider for a program shall be one of the following:

1. An insurance trade association;
2. An insurance company admitted to do business in Louisiana;
3. An accredited public or private college or university;
4. A person otherwise certified by the commissioner.

B. A person seeking approval as a provider for a program from the commissioner shall submit an application to the commissioner on the forms required. The application shall include:

1. The full, legal name and Federal Employer Identification number (FEIN) of the person making application;
2. The names and addresses of every officer, director, partner or member of the provider;
3. The names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider;
4. The name, address and a description of the professional qualifications of each instructor and the supervisory instructor of the provider;
5. The principal place of business of the provider;
6. Certification from the provider that all instructors and the supervisory instructor presenting the program meet the requirements as set forth in this regulation;
7. A general description of the types of programs presented by the provider;
8. A description of the qualifications and experience of the persons responsible for the creation of the programs;
9. The fee required by R.S. 22:821(29);
10. Such other information as the commissioner may require to confirm compliance with this regulation.

C. Every provider shall maintain a signed statement from each instructor and the supervisory instructor describing the basis for his/her qualification and affirmation that he/she shall comply with the requirements of this regulation.

D. Every approved provider shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include the same information as was required with the initial application. A material change shall include, but not be limited to:

1. A change of the name of the provider;
2. A change in the address of the provider;
3. A change of officer, director, partner or member of the provider;
4. The merger of the approved provider;
5. A change in ownership of 10 percent or more of the provider;
6. A change in an instructor or the supervisory instructor of the provider.

E. If the provider is a natural person, that natural person shall notify the commissioner of:

1. Any administrative action taken against the provider for insurance related practices by any regulatory or governmental agency;
2. Any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, or conviction of any misdemeanor involving moral turpitude or public corruption on the part of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16519. Provider Approval Expiration**

A. Every approval of a provider shall expire three years from the date of issuance of the commissioner's approval and may be renewed by filing a renewal application as required by the commissioner a minimum of 90 days prior to expiration.

B. Upon expiration of the commissioner's approval of a provider, the commissioner's approvals of the programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **§16521. Instructor Qualifications**

A. Every provider of a program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the program. Every supervisory instructor shall have a minimum of five years of insurance experience, and/or graduate level or professional education satisfactory to the commissioner.

B. All instructors shall meet at least one of the following criteria:

1. A minimum of three years of experience as an insurance instructor with experience in the subject area being taught;
2. Have been licensed for at least five years as a producer, claims adjuster, or insurance consultant in this state or another;
3. Hold a national designation directly related to the subject matter being taught;
4. Be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor or the supervisory instructor warrants such consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of:

1. Any administrative action taken against the instructor/supervisory instructor for insurance related practices by any regulatory or governmental agency;
2. Any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption on the part of the instructor/supervisory instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16523. Training Facilities Requirements**

A. At a minimum, all training facilities shall:

1. Provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting and proper furnishing;
2. Be easily accessible and secure for the safety of the candidates;
3. Be dedicated for the exclusive use of the program while in session;
4. Provide ready access to restrooms and other facilities of human needs to the candidates;
5. Provide a proper layout so as to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16525. Program Oversight**

A. The commissioner or his designee shall have the authority to visit a training facility for the purpose of oversight and review at any time. Oversight visits may include the review of curriculum records, review of attendance records, observation of instructional sessions in progress, and any other aspects of the program deemed necessary by the commissioner to comply with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22: 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16527. Program Completion**

A. Every provider shall submit a report to the commissioner a minimum of 30 days from the program completion date of a candidate. The report shall be in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance and successful completion information. The report shall contain the identification number assigned to the program by the commissioner, the name and such distinct information as necessary to clearly identify all candidates who successfully completed the program, and the date of completion.

B. Every provider shall present a certificate of successful completion to each candidate who successfully completes the program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the candidate, the date of completion and the identification number assigned to the program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16529. Fees**

A. All applications submitted to the commissioner seeking approval of a program or approval to become a provider shall be accompanied by the fee set forth in R.S. 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1668, 22:1678, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16531. Complaints**

A. The commissioner shall review all complaints lodged against a program, a provider, an instructor or the supervisory instructor of a program. Every provider shall respond to an inquiry from the commissioner regarding a complaint no later than 30 days from receipt of such inquiry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16533. Violations**

A. The commissioner may deny, suspend, or rescind the approval of a provider or a program should he find the program, provider, an instructor, or the supervisory instructor of the program has violated any provision of this regulation or any applicable provisions of the Louisiana Insurance Code, or that continued operation of the program is not in the best interest of the citizens of this state or the insurance buying public.

B. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678, 22:2191 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR

#### **§16535. Effective Date**

A. Regulation 114 shall become effective upon final publication in the Louisiana Register and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

### **§16537. Severability**

A. If any section or provision of Regulation 114 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Regulation 114 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Regulation 114 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

#### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.
2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.
3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.
4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.
5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.
5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.
2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.
3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.
4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than November 20, 2019, by close of business or by 4:30 p.m. and should be addressed to Zata Ard, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, or faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation 80—Commercial Lines Insurance Rate Deregulation**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rules may result in marginal expenditure increases for the LA Dept. of Insurance (LDI) that will likely be offset in whole or in part by two existing fees (see Part II) for a new, optional service provided by the department. The proposed rules establish the requirements and procedures for approving claims adjuster pre-licensing education programs, the program providers, and the examination of candidates for licensure by LDI. LDI shall make available on the LDI website the name and contact information for all providers of programs approved pursuant to this regulation; the line or lines for which each program is approved; and the annual pass/fail ratio for each approved program.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules may increase SGR collections for LDI by an indeterminable amount. As required under R.S. 22:821(29), there is a \$250 provider application fee for pre-licensing education providers and a fee of \$25 per program or course. LDI is not currently collecting these fees associated with claims adjuster pre-licensing education programs. The number of course providers and the courses/programs they will offer is presently unknown, therefore the revenue increase associated with the proposed rules is indeterminable, however any revenue raised from this source represents new SGR collections for the department.



### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules may have a cost to Claims Adjuster Pre-Licensing Education Programs that choose to register with the LDI, as they would have to provide LDI application documents and a \$250 application fee and \$25 fee per program or course. However, in registering with the LDI, they will gain benefits by being easily accessible to Claims Adjusters seeking to participate in their education programs. The proposed regulation will also benefit Claims Adjusters by gaining easy access to a list of approved pre-licensing programs on the LDI website.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may affect competition among firms providing pre-licensing education programs, as those pre-approved by the LDI may realize greater market share than those not pre-approved by LDI.