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Brad Henry, Governor
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Secretary of State
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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 410. WIC

[OAR Docket #07-1377]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Vendor Management

Part 1. General Provisions

310:410-3-2 [AMENDED]

310:410-3-3 [AMENDED]

Part 3. WIC Vendor Application and Authorization Process

310:410-3-10 [AMENDED]

310:410-3-12 [AMENDED]

310:410-3-13 [AMENDED]

310:410-3-14 [AMENDED]

Part 7. WIC Vendor Authorization and Responsibilities

310:410-3-33 [AMENDED]

310:410-3-34 [AMENDED]

Part 9. WIC Vendor Compliance and Sanctions

310:410-3-52 [AMENDED]

SUMMARY:

The proposal continues to clarify and simplify the existing rules as they pertain to retail vendors in the WIC program. The Proposal also updates the existing rules to comply with the new Federal Rules and Regulations pertaining to Cost Containment.

AUTHORITY:

Oklahoma State Board of Health; 62 O.S. 2001, Sections 41.16A

COMMENT PERIOD:

October 1, 2007 through November 8, 2007. Interested persons may discuss informally the proposed rules with WIC Service Staff; or may before November 8, 2007, submit written comment to Terry Bryce, Chief, WIC Service, Oklahoma State Department of Health, 2401 NW 23rd Street, Suite 70, Oklahoma City, OK 73107; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, November 8, 2007, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar

amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before November 8, 2007 to Terry Bryce, Chief, WIC Service, Oklahoma State Department of Health, 2401 NW 23rd Street, Suite 70, Oklahoma City, OK 73107, or by e-mail to TerryB@Health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the WIC Service, Oklahoma State Department of Health, 2401 NW 23rd Street, Suite 70, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Terry Bryce, Chief, WIC Service, (405) 271-4676

[OAR Docket #07-1377; filed 9-6-07]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #07-1379]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

The rules and regulations are necessary to promote and enhance effective operation of the State and Education Employees Group Insurance Program. It is proposed that the rules and regulations be amended. The effect of the amended rules is to provide for the continued efficiency and responsiveness of the insurance program, to conform to certain legislation, and to reflect changes in benefit plans.

AUTHORITY:

74 O.S. Section 1304; 74 O.S. Section 1306. State and Education Employees Group Insurance Board

COMMENT PERIOD:

Written comments may be made from this date until November 2, 2007. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and

Notices of Rulemaking Intent

Education Employees Group Insurance Board, located at 3545 NW 58th Street, Suite 1000, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

10:00 am, November 2, 2007, in the 5th Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58th Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Gary Goff, Attorney, Assistant Administrator
State and Education Employees Group Insurance Board
3545 NW 58th Street, Suite 1000
Oklahoma City, OK 73112

RULE IMPACT STATEMENT:

This agency has issued a Rule Impact Statement which may be obtained for review by contacting Gary Goff of the State and Education Employees Group Insurance Board.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

[OAR Docket #07-1379; filed 9-7-07]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 10. STATE AND EDUCATION
EMPLOYEES HEALTH, LIFE, AND DENTAL,
VISION AND LIFE PLANS**

[OAR Docket #07-1380]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. State and Education Employees Health, Dental, Vision and Life Plans [AMENDED]

SUMMARY:

The rules and regulations are necessary to promote and enhance effective operation of the State and Education Employees Group Insurance Program. It is proposed that the rules and regulations be amended. The effect of the amended rules is to provide for the continued efficiency and responsiveness of the insurance program, to conform to certain legislation, and to reflect changes in benefit plans.

AUTHORITY:

74 O.S. Section 1304; 74 O.S. Section 1306. State and Education Employees Group Insurance Board

COMMENT PERIOD:

Written comments may be made from this date until November 2, 2007. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and

Education Employees Group Insurance Board, located at 3545 NW 58th Street, Suite 1000, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

10:00 am, November 2, 2007, in the 5th Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58th Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Gary Goff, Attorney, Assistant Administrator
State and Education Employees Group Insurance Board
3545 NW 58th Street, Suite 1000
Oklahoma City, OK 73112

RULE IMPACT STATEMENT:

This agency has issued a Rule Impact Statement which may be obtained for review by contacting Gary Goff of the State and Education Employees Group Insurance Board.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

[OAR Docket #07-1380; filed 9-7-07]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 15. THE DISABILITY PROGRAM**

[OAR Docket #07-1381]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. The Disability Program [AMENDED]

SUMMARY:

The rules and regulations are necessary to promote and enhance effective operation of the State and Education Employees Group Insurance Program. It is proposed that the rules and regulations be amended. The effect of the amended rules is to provide for the continued efficiency and responsiveness of the insurance program, to conform to certain legislation, and to reflect changes in benefit plans.

AUTHORITY:

74 O.S. Section 1304; 74 O.S. Section 1306; 74 O.S. Section 1332 State and Education Employees Group Insurance Board

COMMENT PERIOD:

Written comments may be made from this date until November 2, 2007. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58th Street, Suite 1000, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

10:00 am, November 2, 2007, in the 5th Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58th Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Gary Goff, Attorney, Assistant Administrator
State and Education Employees Group Insurance Board

3545 NW 58th Street, Suite 1000
Oklahoma City, OK 73112

RULE IMPACT STATEMENT:

This agency has issued a Rule Impact Statement which may be obtained for review by contacting Gary Goff of the State and Education Employees Group Insurance Board.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405)
717-8744

[OAR Docket #07-1381; filed 9-7-07]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 110. OKLAHOMA SPECIALIZED QUALITY INVESTMENT ACT

[OAR Docket #07-1378]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

150:110-1-1 [AMENDED]

150:110-1-2 [AMENDED]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and Section 1 of House Bill 1619 of the 2nd Session of the 50th Oklahoma Legislature, executed by the Governor on February 21, 2006, effective July 1, 2007.

DATES:

Adoption:

July 24, 2007

Approved by Governor:

September 1, 2007

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

House Bill 1169 of House Bill 1619 of the 2nd Session of the 50th Oklahoma Legislature, executed by the Governor on February 21, 2006, is effective July 1, 2007. To avoid confusion, it is necessary to amend the above referenced rules, so the terminology in the rules is consistent with the underlying statutory text.

ANALYSIS:

The Emergency Rules provide a systematic, equitable method for making application under the Oklahoma Specialized Quality Investment Act.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

150:110-1-1. Purpose and scope

The purpose of these rules is to implement the Oklahoma Specialized Quality Investment Act at the Oklahoma Department of Commerce.

150:110-1-2. Definitions

For purposes of the Oklahoma Specialized Quality Investment Act:

"Capital costs" means costs for land, buildings, improvements to buildings, fixtures and for machinery, equipment and other personal property used in and for the manufacturing process incurred by a qualified establishment, on or after the effective date of this act, with respect to the manufacturing site located in this state and specified in a quality investment agreement;

"Commission" means the Oklahoma Tax Commission established pursuant to 68 O.S. Section 102, and any successor agencies thereto.

"Department" means the Oklahoma Department of Commerce;

"Director" means the duly appointed and acting Director of the Department or during any period of time that the position of Director is vacant; such term shall refer to the person serving as the acting director.

"Fiscal year" means the state fiscal year, which shall begin on July 1 of a calendar year and end on June 30 of the next calendar year;

"Qualified establishment" means a business entity engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification manual, latest revision. No establishment that has been certified as eligible to participate in the Oklahoma Quality Jobs Incentive Leverage Act incentive program shall be eligible for any investment payment pursuant to the Oklahoma Specialized Quality Investment Act. A qualified establishment shall enter into a quality investment agreement pertaining to a single manufacturing site as that term is defined in Section 1352 of Title 68 of the Oklahoma Statutes. No combination of other locations of an establishment or any related entities of an establishment shall be included in a quality investment agreement. An establishment may enter into additional quality investment agreements for additional sites;

"Quality investment agreement" means an agreement with duration, for purposes of computing the total incentive

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payment amount, of not more than five (5) years entered into between a qualified establishment and the Department; and "Start date" means the date on which a qualified establishment begins accruing benefits because of investment of new capital costs in a manufacturing site that is designated in a quality investment agreement with the Oklahoma Department of Commerce. [68 O.S. § 4103]

[OAR Docket #07-1378; filed 9-7-07]

TITLE 318. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD CHAPTER 10. EXAMINATION AND CERTIFICATION

[OAR Docket #07-1374]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

318:10-1-1. Purpose [AMENDED]

318:10-1-3.1. Training of Personnel Not Seeking Certification [NEW]

AUTHORITY:

Highway Construction Materials Technician Certification Board; 69 o.s. Section 1954

DATES:

Adoption:

July 11, 2007

Approved by Governor:

August 16, 2007

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The impact of delaying implementation of the proposed rule change would be neither immediate nor dramatic. However, considering the obvious benefit and lack of opposition, delay would be inexcusable.

ANALYSIS:

The original Act (69 o.s. 2001, Section 1954) authorized the Board to promulgate rules governing the training, examination and registration of highway construction materials technicians. Senate Bill No. 140, approved by the Governor on April 18, 2007, amended the Act to authorize the Board to also govern the training (but not examination and registration) of construction inspectors, first line construction supervisors and others not seeking registration as a materials technician. The proposed rule changes are in response to the new authorization. Neither the amended Act nor the proposed rule changes require anyone to be trained by the Board. However, many public and some private entities involved in highway construction will require such training.

CONTACT PERSONS:

Weldon (Bill) Gamel (405) 522-4918 (office) or (918) 298-8260 (home); Reynolds Toney, Chair or Scott Seiter, Vice Chair at (405) 521-2677.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

318:10-1-1. Purpose

The Rules in this Chapter set forth the training examination and certification procedures governing highway construction materials technician training and certification and training of others in Oklahoma as authorized by the Act.

318:10-1-3.1. Training of Personnel Not Seeking Certification

Construction inspectors, first line construction supervisors, and others not seeking certification as a materials technician may apply for training only in various areas of construction. Fees for such training shall be determined in accordance with the same procedures as those for training of materials technicians.

[OAR Docket #07-1374; filed 8-28-07]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE SETTLEMENTS PROVIDERS AND BROKERS

[OAR Docket #07-1375]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 27. Military Sales Practices Regulation [NEW]

365:25-27-1. Purpose [NEW]

365:25-27-2. Scope [NEW]

365:25-27-3. Authority [NEW]

365:25-27-4. Exemptions [NEW]

365:25-27-5. Definitions [NEW]

365:25-27-6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation [NEW]

365:25-27-7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location [NEW]

365:25-27-8. Severability [NEW]

365:25-27-9. Effective Date [NEW]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1 and 1201, et seq.

DATES:

Adoption:

August 2, 2007

Approved by Governor:

August 13, 2007

Effective:

Immediately upon approval by the Governor

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY RULES:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

An imminent peril exists to the preservation of the public health, safety, and welfare, and a compelling public interest requires an emergency rule due to the necessity of providing protections for members of the United States Armed Forces in this state induced to purchase insurance and federal mandates to provide for such protections pursuant to the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290 (2006).

ANALYSIS:

The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

CONTACT PERSON:

Karl Kramer, Oklahoma Insurance Department, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(D):

SUBCHAPTER 27. MILITARY SALES PRACTICES REGULATION

365:25-27-1. Purpose

(a) The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

(b) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

365:25-27-2. Scope

This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

365:25-27-3. Authority

This regulation is issued under the authority of the Oklahoma Unfair Trade Practices Act, 36 O.S. § 1201, et seq.

365:25-27-4. Exemptions

(a) This regulation shall not apply to solicitations or sales involving:

- (1) Credit insurance;
- (2) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;
- (3) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;
- (4) Individual stand-alone health policies, including disability income policies;
- (5) Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965, et seq.;

(6) State Sponsored Life Insurance (SSLI) provided by a State or through a State National Guard Association pursuant to 37 U.S.C. Section 707(a);

(7) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(8) Contracts used to fund:

(A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(B) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;

(C) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

(D) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(E) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(F) Prearranged funeral contracts.

(b) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 - Personal Commercial Solicitation on DoD Installations or successor directive.

(c) For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

365:25-27-5. Definitions

The following words and terms, when used in this Subchapter shall have the following meaning, unless the context clearly indicates otherwise:

"Active Duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

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"Department of Defense (DoD) Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

"Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

"General Advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

"Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

"Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

"Known" or "Knowingly" means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

- (A) is a service member; or
- (B) is a service member with a pay grade of E-4 or below.

"Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

"Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

"MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

"Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

"Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

- (A) accumulated value or cash value or secondary guarantees provided by a universal life policy;
- (B) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or
- (C) a premium deposit fund which:
 - (i) contains only premiums paid in advance which accumulate at interest;
 - (ii) imposes no penalty for withdrawal;

(iii) does not permit funding beyond future required premiums;

(iv) is not marketed or intended as an investment; and

(v) does not carry a commission, either paid or calculated.

"Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

"United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

365:25-27-6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation

(a) The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

(1) Knowingly soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.

(2) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.

(3) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

(4) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

(5) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(6) Posting unauthorized bulletins, notices or advertisements.

(7) Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.

(8) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

(b) The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

(1) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity

with or without compensation with respect to the solicitation or sale of life insurance to service members.

(2) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

365:25-27-7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location

(a) The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

(1) Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(2) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

(A) provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and the regulations promulgated thereunder; and

(B) permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(3) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in Paragraph (a)(2) of this Section.

(4) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(5) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

(6) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance

in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

(7) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

(8) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(b) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

(1) Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(2) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

(c) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

(1) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(2) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

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(d) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

- (1) Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.
- (2) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.
- (3) Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(e) The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

- (1) Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.
- (2) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.
- (3) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.
- (4) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16.
- (5) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:
 - (A) an explanation of any free look period with instructions on how to cancel if a policy is issued; and
 - (B) either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of the Oklahoma Life Insurance Illustration Regulation, Section 365:10-3-50, et seq., shall be deemed sufficient to meet this requirement for a written disclosure.

(f) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

- (1) Excluding individually issued annuities, recommending the purchase of any life insurance product which

includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(2) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

(A) "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

(B) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(3) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

(A) unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(B) unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

(C) which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

(4) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

365:25-27-8. Severability

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

365:25-27-9. Effective Date

This regulation shall become effective upon approval by the Governor and shall apply to acts or practices committed on or after the effective date.

[OAR Docket #07-1375; filed 8-29-07]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2007-36A.

AMENDED EXECUTIVE ORDER 2007-36

Of August 20, 2007

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Tornadoes, severe storms and flooding beginning August 18, 2007, and continuing, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this State.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms, and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Blaine, Caddo, Canadian, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garvin, Grady, Jefferson, Kingfisher, Kiowa, Lincoln, Logan, McClain, Muskogee, Okfuskee, Oklahoma, Okmulgee, Payne, Pontotoc, Pottawatomie, Seminole, Stephens, and Washita.

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

6. This Executive Order amends Executive Order 2007-36 to add Ellis, Garvin and Payne counties. The Executive Order shall terminate at the end of thirty (30) days after the filing of this Amended Executive Order.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 11th day of September, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Michelle Waddell
Acting Assistant Secretary of State

[OAR Docket #07-1385; filed 9-13-07]

1:2007-37.

EXECUTIVE ORDER 2007-37

I, Brad Henry, Governor of the State of Oklahoma, in honor and tribute to the memory of United States Representative Paul Gillmor, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff on Thursday, September 6, 2007.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

Executive Orders

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 6th day of September, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

[OAR Docket #07-1382; filed 9-7-07]

1:2007-38.

EXECUTIVE ORDER 2007-38

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Patriot Day, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, September 11, 2007, to honor the many innocent people who perished on September 11, 2001.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 7th day of September, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1384; filed 9-10-07]

1:2007-39.

EXECUTIVE ORDER 2007-39

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Thursday, September 13, 2007, to honor Marine Corporal Bryan Joseph Scripsick, an Oklahoma resident, who died on Thursday, September 6, 2007 at age 22. He was killed while serving in Iraq.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 11th day of September, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #07-1386; filed 9-13-07]
