



BUREAU OF INSURANCE

July 15, 1998

Administrative Letter 1998-8

TO: ALL ENTITIES WITH AUTHORITY TO APPOINT AGENTS IN VIRGINIA, AND OTHER INTERESTED PARTIES

RE: PROCEDURAL CHANGES, ADMINISTRATIVE CHANGES AND CLARIFICATIONS REGARDING AGENT LICENSING AND THE BUREAU'S AGENTS LICENSING SECTION

The purpose of this Administrative Letter is to provide information concerning a number of procedural and administrative changes in the area of insurance agent licensing and the Bureau's Agents Licensing Section. For ease of reference, this Administrative Letter addresses the following:

1. Changes to the license application and application process – Federal Violent Crime Control and Law Enforcement Act of 1994 and the requirement to provide either a social security number or control number issued by Virginia Department of Motor Vehicles
2. New licenses created by the 1998 Virginia General Assembly
3. The "Health agent" license, and who may utilize it
4. Discussion of agents holding "certificates of partial qualification" and responsibilities of appointing insurers in doing business with such agents
5. Implementation of the Bureau's new Interactive Voice Response (IVR) and Automated Caller Distribution (ACD) telephone systems
6. Revised application forms and form numbers; permission to reproduce forms on white paper
7. New procedures for Authorized Signatures
8. Availability of new Continuing Education Handbook
9. A preview of some future enhancements and changes

CHANGES TO THE LICENSE APPLICATION PROCESS

Criminal History Record Report

Virginia law has long provided the Bureau with general standards regarding eligibility for obtaining a license as an insurance agent. Section 38.2-1820 of the Code of Virginia

specifies that each applicant who is at least eighteen years of age and who has satisfied the Commission that he is of good character, has a good reputation for honesty, and has complied with the other requirements of Virginia law is entitled to and shall receive a license in the form the Commission prescribes. Section 38.2-1831 specifies that the Commission has the right to refuse to issue an agent's license to any person and may suspend or revoke the license of any licensee whenever it finds that the applicant or licensee has been convicted of a felony. More recently, however, additional requirements have been placed upon insurance regulators by the federal government. The Federal Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. § 1033(e)) provides, in part, that a person who has been convicted of any criminal felony involving dishonesty or a breach of trust may engage in the business of insurance or participate in such business only if such person has the written consent of the appropriate insurance regulatory official. Recent actions in other states, initiated by the federal government, indicate that states are expected to take the initiative in this area, and that failure to do so may result in federal sanctions against the states. As a result, the Bureau will be implementing some changes in the license application process.

Commencing with license applications received on or after September 1, 1998, the Bureau will not process any type of agent license application unless it is accompanied by a current (no more than 90 days old) **criminal history record report (CCRE)**. The applicant can obtain a CCRE by contacting the state law enforcement agency (for Virginia residents, the Virginia State Police) in his or her area and requesting the information. This requirement will apply both to **resident and nonresident** applicants. The Bureau will not issue a license to any applicant who fails to provide the required CCRE.

We understand that this new requirement could cause delays in the licensing process, as we are informed that obtaining a CCRE in some jurisdictions may take a few weeks. For this reason, we urge insurers, prelicensing course providers, and others who have contact with prospective agents early in the process to impress upon the prospective agents the need to apply as early as possible for the CCRE (subject to the requirement that it be no more than 90 days old when submitted to the Bureau). If the applicant takes the appropriate steps to obtain the CCRE early in the process, there should be minimal, if any, delays in accumulating all of the necessary documentation for filing a license application.

Requirement to furnish Social Security number or DMV control number

Recent amendments to the Social Security Act (42 U.S.C. 666 (a) (13)) provide, in part, that the initial application for or application for renewal of a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by a state licensing authority shall provide the applicant's social security number or another number permitted under state law. Thus it is no longer prohibited for us to require an applicant to furnish a Social Security number. In furtherance of the federal requirement, Virginia law (§ 63.1-263.1 of the Code of Virginia) now requires each applicant for a license

to provide his or her Social Security number or a control number issued by the Virginia Department of Motor Vehicles (DMV) pursuant to §46.2-342.

Effective immediately, the Bureau will require each applicant to provide his or her Social Security number when submitting an application for a license. While we are working diligently to modify our computer system to accept the DMV-generated number, we do not expect this capability to be available for a few months. Meanwhile, we will require the Social Security number, with the understanding that the licensee may choose to contact us later this year and ask that his record be changed to reflect the DMV-generated number instead of the Social Security number. Once our computer system modifications have become operational, Virginia residents applying for licensing will be permitted to provide either of these identification numbers. Nonresidents of Virginia, however, since they are ineligible to obtain a control number from the Virginia Department of Motor Vehicles, **MUST** provide their Social Security number in order to apply for and obtain an insurance agent license in Virginia.

NEW LICENSE TYPES

The 1998 Session of the Virginia General Assembly created three (3) new restricted license types that can be issued in Virginia, commencing July 1, 1998. Because these are categorized as "restricted" licenses, those applying for such licenses are not subject to prelicensing study course or examination requirements, and those holding such licenses are not subject to continuing education requirements. Each of the new license types is described below:

1. **Motor Vehicle Rental Contract (Type 24)** -- This license type is for a person who (i) is a selling agent of a motor vehicle rental company that is in the business of providing primarily private passenger motor vehicles to the public under a rental agreement for a period of less than six months and (ii) is licensed in the Commonwealth as an agent to solicit, negotiate, procure, or effect insurance coverage solely in connection with and incidental to the rental car contract. The types of coverage specified in the statute include:
 - Personal accident insurance which provides benefits in the event of accidental death or injury occurring during the rental period;
 - Liability coverage sold to the renter in excess of the rental company's obligations under §§ 38.2-2204, 38.2-2205, or Title 46.2, as applicable;
 - Personal effects insurance which provides coverage for the loss of or damage to the personal effects of the renter and other vehicle occupants while such personal effects are in or upon the rental vehicle during the rental period;
 - Roadside assistance and emergency sickness protection programs; and
 - Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company offers in connection with and incidental to the rental of vehicles.

The 1998 legislation amends §§ 38.2-1814 and 38.2-1815 to establish a new type of restricted agent's license (defined in § 38.2-1800) to be known as a "motor vehicle rental contract insurance agent," and it also amends § 38.2-1824 by adding the term "motor vehicle rental contract insurance" to the kinds of agents' licenses the Commission may issue. The new law also requires that a written disclosure be given by the agent to the prospective renter which summarizes the coverage being offered, advises the renter that he may be purchasing duplicate coverage, and states that the coverage is not required to be purchased in order to rent the vehicle.

It should be noted that because this new license permits the licensee to solicit, negotiate, procure and effect forms of both Life & Health and Property & Casualty insurance, the licensee may be required to hold separate L&H and P&C appointments, depending upon the specific types of insurance being sold. Agents already holding Type 30 (Property & Casualty) and Type 01 (Life & Health) licenses will not be issued a Type 24 license.

It should also be noted that the motor vehicle rental company itself, if it is to receive commissions on business written by its rental counter agents, must obtain agency licenses as a Property & Casualty agency and as a Life & Health agency.

2. **Pet Accident, Sickness and Hospitalization (Type 25)** – This license authorizes the licensee to solicit, negotiate, procure or effect pet accident, sickness and hospitalization insurance in Virginia. Note that this type of insurance is considered to be property and casualty insurance, and can also be sold by a licensee holding a full P&C (Type 30) license. Agents already holding a Type 30 (Property & Casualty) license will not be issued a Type 25 license.
3. **Automobile Club (Type 70)** – This license type is for a person selling automobile club contracts on behalf of automobile clubs licensed under Chapter 3.1 of Title 13.1 of the Code of Virginia. License requirements and procedures for those acting as agents of Automobile Clubs have been modified to conform them to the requirements for other restricted licenses. This means that the applicant must obtain a license and be appointed by an Automobile Club before beginning to do business. Note that this type of insurance is considered to be property and casualty insurance, and can also be sold by a licensee holding a full P&C (Type 30) license. Agents already holding a Type 30 license will not be issued a Type 70 license.

Automobile Clubs will be required to appoint agents in the same manner as other insurers, and the fees and billing and renewal procedures will be the same as for other insurers. A separate communication will be sent to licensed Automobile Clubs providing more detailed information regarding renewal of their Certificates of Authority and the licensing and appointment of their agents.

Beginning July 1, 1998, a person applying for any of the above licenses must submit a PIN 4051 (Application For A License When No Examination Is Required) Form and a \$15 fee

(and, on and after September 1, 1998, a criminal history record report). Once the license has been issued, a company appointment must be in effect under the license within a six-month period or the Bureau will, by operation of law, administratively terminate the license. Entities wishing to become licensed as AGENCIES must apply for and obtain a Property & Casualty (Type 30) license (for Pet Accident, Sickness and Hospitalization or for Automobile Club), or both a Type 30 and a Life & Health (Type 01) license (for Motor Vehicle Rental Contract).

THE "HEALTH AGENT" LICENSE

Section 38.2-1800 defines a "health agent" as:

...an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect applications and coverage on behalf of corporations licensed in this Commonwealth under Chapter 42 (§ 38.2-4200 et seq.) of this title or for health maintenance organizations licensed in this Commonwealth under Chapter 43 (§ 38.2-4300 et seq.) of this title.

This means that only a "health services plan" licensed under Chapter 42 or an HMO licensed under Chapter 43 is authorized to appoint an agent holding a "health agent" (Type 40) license, and a licensee holding such a license is authorized only to solicit, negotiate, procure or effect applications and coverage on behalf of a "health services plan" or HMO. Insurers licensed as life and/or health insurance companies, and those P&C companies holding accident and sickness authority are NOT permitted to do business with agents holding a Type 40 license. Please do not confuse this license with what, in other jurisdictions, may be a "general" license to sell all types of health insurance. In Virginia, only the "Life & Health" (Type 01) license provides such authority. It is the insurer's responsibility to verify the license authority of an agent before processing an appointment, and insurers failing to do so will be subject to potential disciplinary action.

The Bureau has advised companies on a number of occasions to take the time to verify proper licensure of agents before appointing them. There are 2 ways to accomplish this:

- The **best and fastest way** is to use the Bureau's new Interactive Voice Response (IVR) system, described in more detail later in this administrative letter, to obtain immediate verification of the type(s) of license(s) held by the agent. Information is available via the IVR system for both resident and nonresident agents; or
- Alternatively, the appointing insurer can require the agent to provide a recent Letter of Certification from the Bureau. Unlike a copy of the original license (which proves only what the agent held on the original license date), a Letter of Certification provides information on the agent's current status, and lists all of the

authority held by the agent. While we hope to be able to do so within the next few months, Letters of Certification are not currently available for nonresident licensees. Companies should, in the interim, require a nonresident licensee to furnish a current copy of his or her Virginia license.

AGENTS HOLDING "CERTIFICATES OF PARTIAL QUALIFICATION"

Until the mid-1970s, the Bureau issued certain licenses (then called "certificates of qualification") that were narrower in scope than the full L&H and P&C licenses issued today. These license types were:

- "Life and Annuities" (Type 07)
- "Accident and Sickness" (Type 08)
- "Automobile" (Type 52)
- "Casualty" (Type 53)
- "Fire" (Type 54)
- "Fidelity and Surety" (Type 55)

These licenses are NOT equivalent to full L&H or full P&C authority, as evidenced by the fact that these licenses are not subject to continuing education requirements. Agents holding these "partial qualification" licenses are not permitted to sell an insurer's full range of products. The Bureau has, over a period of time, communicated with insurance companies, insurance trade associations and national agents' associations regarding individuals that hold these "partial qualifications" in an attempt to clarify the apparent confusion. We are continuing to find that insurers and agents do not appear to understand the limitations of these licenses or their own obligations to verify proper licensure before doing business with an agent.

Section 38.2-1827 states that an insurer's appointment of an agent

*...authorizes that person, **if qualified**, to solicit, negotiate, procure or effect any one or more of the classes of insurance (i) for which the agent is licensed in this Commonwealth and (ii) for which the appointing insurer is also licensed in this Commonwealth. (Emphasis added)*

Section 38.2-1812 A of the Code of Virginia states, in part:

No insurer shall pay directly or indirectly any commission or other valuable consideration to any person for services as an agent... within this Commonwealth unless the person is then a duly appointed agent of such insurer and, at the time of the transaction out of which arose the right to

such commission or other valuable consideration, held a valid license as an agent...for the class of insurance involved. (Emphasis added)

Clearly, then, any business that an insurer has accepted from an agent without the proper license authority has been accepted in violation of Virginia law, and any commission paid to such agent has been paid in violation of Virginia law.

For example:

- An agent holding a Life and Annuities (Type 07) License can only sell life insurance and annuities (not including Variable annuities), even though the appointment may be designated a "L&H" appointment. The agent is NOT permitted to sell any form of health insurance.
- An agent holding a Fire (Type 54) License can only sell fire insurance, and is not permitted to write homeowners coverage, even if the appointing insurer is authorized to underwrite both, and even though the appointment may be designated a "P&C" appointment.

It is the responsibility of the appointing insurer to determine that the agent to be appointed holds the appropriate license authority before appointing the agent. There are 2 recommended ways to accomplish this:

- The **best and fastest way** is to use the Bureau's new Interactive Voice Response (IVR) system, described in more detail later in this administrative letter, to obtain immediate verification of the type(s) of license(s) held by the agent. Information is available via the IVR system for both resident and nonresident agents; or
- Alternatively, the appointing insurer can require the agent to provide a recent Letter of Certification from the Bureau. Unlike a copy of the original license (which proves only what the agent held on the original license date), a Letter of Certification provides information on the agent's current status, and lists all of the authority held by the agent. While we hope to be able to do so within the next few months, Letters of Certification are not currently available for nonresident licensees. Companies should, in the interim, require a nonresident licensee to furnish a current copy of his or her Virginia license.

INTERACTIVE VOICE RESPONSE AND AUTOMATED CALLER DISTRIBUTION

The Bureau has recently installed an Interactive Voice Response (IVR) system and an Automated Caller Distribution (ACD) system in the Agents Licensing Section. All calls coming in through the Commission's in-state only toll free number (800-552-7945), the Bureau's main number (804-371-9741), or directly to the Agents Licensing Section main line

(804-371-9631) are routed first through the IVR system. The purpose of the IVR system is to handle as many calls as possible without the caller needing to speak to a representative. The caller is given a number of options to pick from, some of which result in the call accessing the Bureau's mainframe agent licensing system and retrieving specific information about an insurance agent, and some of which permit information to be provided directly to the caller via telefax. Callers may conduct multiple inquiries and transactions during the course of one telephone call. Some of the information available includes:

- Confirmation of an individual's or an agency's license status and, for individuals, whether the Bureau's records indicate the agent to be in compliance with Virginia's continuing education requirements;
Note: Have each agent's identification number (usually Social Security number for individuals and FEIN for agencies) available when you call
- Confirmation as to whether an agent or an agency has been appointed to represent particular insurance company or companies;
Note: In addition to agent/agency identification number, have the NAIC number available for each company for which you wish to verify appointment status
- Approximately 30 different procedures for various licensing and other requirements, any of which the caller may select and listen to or obtain a copy of via telefax, and a direct link (by selecting the appropriate option) that transfers callers seeking continuing education information directly to the toll-free continuing education line at Insurance Testing Corporation;
- A list of forms available and the ability to obtain copies of such forms via telefax; and
- Information regarding how to contact the Bureau in writing.

The IVR system allows the caller to "opt out" at any time and speak to a representative, and, unfortunately, more than half the callers do so, even where they would be better and more quickly served by utilizing the IVR system. Those who have been using the IVR system regularly have reported that it saves them a great deal of time, and we urge you to utilize it whenever possible. It is available, with certain exceptions, seven days per week and around the clock. After normal working hours, access is available only via the Licensing Section's direct line (804-371-9631).

When the caller chooses to opt out of the IVR system, the call is routed through our new ACD system where it is placed in a queue until it can be answered by a member of the Agents Licensing Section staff. The primary purposes of the ACD system are to eliminate as many busy signals as possible, to assist the caller as quickly as possible, and to permit us to track the number of calls and detailed statistical information regarding such calls. Since the implementation of the ACD system, callers should no longer be getting the busy signals that were so commonplace previously.

**REVISED APPLICATION FORMS;
 ELIMINATION OF REQUIREMENT FOR COLORED PAPER**

We are pleased to announce that we have eliminated the requirement that application forms, appointment forms, and appointment cancellation forms be reproduced on different colors of paper. With the availability of our forms via "FAXBACK" through our IVR telephone system, and the availability of some of our forms through the Internet, it is no longer feasible to utilize colored paper. Commencing immediately, then, insurers and applicants are permitted to submit all applications, appointment forms, and appointment cancellation forms on white 8½" x 11" paper.

We have also created a new set of forms, reducing the number of different forms by combining some forms. We ask that you begin to use these forms as soon as possible. Since they are so readily available via "FAXBACK" and since they are now permitted to be reproduced on white paper, there should be no reason for lengthy delays in insurers and applicants beginning to submit the new forms. For your information and records, the new forms, new form numbers, and descriptions of the forms appear in the following chart:

OLD FORM #	DESCRIPTION	NEW FORM #
PIN 300 A	Application for Life & Health, Health Only, Property & Casualty, or Title License (Individual)	PIN 3001
PIN 405 B	Application for Life & Health, Health Only, Property & Casualty, or Title License (Agency)	PIN 4052
PIN 405 A	Application for Limited/Restricted License (Individual – Not available for agencies)	PIN 4051
PIN 415 A	Appointment Form – (Individual)	PIN 4151
PIN 415 B	Appointment Form – (Agency)	PIN 4151
PIN 492 A	Appointment Cancellation Form	PIN 4921
PIN 200 A	Managing General Agent Application Form	PIN 2001
PIN 200 B	Managing General Agent Appointment Form	PIN 4151
PIN 250 A	Viatical Settlement Broker (Individual) Application	PIN 3701
PIN 250 B	Viatical Settlement Broker (Agency) Application	PIN 3702
PIN 320 A	Automobile Club Agent License & Appointment	PIN 4051

PIN 370 A	Insurance Consultant Application (Individual)	PIN 3701
PIN 370 B	Insurance Consultant Application (Agency)	PIN 3702
NONE	Authorized Signature Form	PIN 1100

NEW PROCEDURES FOR PROVIDING THE NAMES OF THOSE AUTHORIZED TO APPOINT AGENTS ON BEHALF OF THE APPOINTING COMPANY; AUTHORIZED SIGNATURE SUBMISSION FORM (ATTACHED)

We are requesting a new list of those authorized to sign appointment forms and appointment cancellation forms on behalf of appointing companies. A copy of new form PIN 1100 is attached to this administrative letter, and recipients are requested to complete the form and submit it to the Bureau at the address shown on the form by no later than August 1, 1998. Please make note of the following when completing and submitting the form:

- One of the major differences in our new procedure is that, when dealing with appointing insurers that are part of a group of insurers (i.e. have an NAIC Group Code number), those listed on the form will automatically be authorized for all Virginia licensed companies in the group. Companies do not have the ability, from this point forward, to designate a person as authorized to sign only on behalf of selected companies in the group. The attached form provides a space for 1 NAIC Company Code number. Upon receipt of the form, the Bureau's computer system will automatically link that number with all other authorized companies within the same group, and will add the name(s) as authorized for each company in the group. A separate form does NOT have to be submitted for each company in the group.
- Appointing companies that are not members of a group of insurers should simply provide their own NAIC Company Code number.
- The form must be signed by an officer or principal of the appointing insurer.
- The FULL name of each authorized individual should be provided, either printed or typewritten, in the spaces indicated on the form.
- Once processed the names on the new form will supercede any names currently in our records, and will be the ONLY names that will be acceptable unless the company files an updated form. Each updated form should repeat the names of those already authorized (and who the company wishes to remain authorized), specify the names to be deleted, and provide the names to be added, using the codes provided on the form. Each time a new form is received, it will supercede previous filings.

NEW EDITION OF THE CONTINUING EDUCATION HANDBOOK

In early June, the Virginia Insurance Continuing Education Board (Board), and its contracted administrator, Insurance Testing Corporation (ITC), published a new edition of the Virginia Insurance Continuing Education Information Handbook. A copy of the Handbook, which is valid for the current (1997-1998) biennium, was sent to the residence address of record of every licensed resident and nonresident agent holding a license subject to continuing education requirements in Virginia. In addition, the Board is sending a "6 month warning" letter to each agent who has not complied with Virginia's continuing education requirements by mid-June, reminding the agent of the deadline for compliance and of the penalties for noncompliance. Approximately 45-60 days before the end of the current biennium, the Board will send yet another warning to those agents who have not complied by that time. Copies of the Handbook are available by calling ITC at 800-482-2366 or may be viewed and downloaded from ITC's web site at <http://www.i-t-c.com>.

ADDITIONAL CHANGES AND ENHANCEMENTS THAT WILL BE IMPLEMENTED BEFORE THE END OF 1998

We are in the process of developing a number of major enhancements to our automated systems, particularly those dealing with the agent licensing and appointment processes. We expect these enhancements to be implemented by the end of this year. Many of the changes are being made in an effort to make the licensing and appointment process easier for both appointing companies and agents. Some of the enhancements are being worked on in cooperation with the NAIC in an effort to promote as much consistency and to eliminate as much redundancy as possible. Well before implementation of our enhanced systems, the Bureau will provide appointing companies and other interested parties with complete details. For now, however, we wanted to let you know what we are working on for future implementation:

- We are working closely with the NAIC to become a participant in the Producer Database (PDB) and, ultimately, in the Producer Information Network (PIN). Once accomplished, this will allow for sharing of producer information among the states, and will expedite and simplify the licensing, appointment, clearance, and certification processes for all parties.
- Agent and agency appointment and appointment termination transactions will be available to appointing companies using Electronic Data Interchange (EDI). We are working with the NAIC on this, and we plan to utilize the transaction set that has been developed by the NAIC.

- For those appointing companies that are part of a group, our enhanced system will allow appointments and appointment terminations to be processed for **all** authorized companies in the group simply by utilizing the NAIC Group Code on the appointment and appointment cancellation forms, instead of the current requirement that the forms list each individual company's NAIC Company Number. This means that the Appointment Form (PIN 4151) and the Appointment Cancellation Form (PIN 4921) will be revised again later this year to include a space for the appointing company(ies) to furnish the NAIC Group Code. You may, therefore, wish to limit the number of these forms that you reproduce at this time, since they will be changing again by year-end.
- We are working with our system developers and a local bank to develop a lockbox application that will allow for the quarterly payment of Appointment Fees and the annual payment of Appointment Renewal Fees directly through the bank. We anticipate that this will also allow for Electronic Funds Transfer (EFT) between appointing companies and the bank.
- System enhancements will allow the Bureau, in certain circumstances, to relax its current "one form, one check" requirement. The enhanced system will, in some circumstances, permit companies, agents and agencies to submit multiple forms with one check.
- Our enhanced system will allow automated access to records of Corporate Charters of domestic corporations and Certificates of Authority issued to foreign corporations. Once accomplished, this will permit the Bureau to discontinue the requirement that paper copies of these documents be submitted by applicants for agency licenses.

It is our hope that the contents of this administrative letter will provide useful information to the insurers, insurance trade associations, national agents' associations, agents, and agencies that receive it. Questions regarding the content of this letter should be directed to the Bureau's Agents Licensing Section at (804) 371-9631.

Cordially,

Alfred W. Gross
Commissioner of Insurance

AWG/me
Attachment