

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 17th Floor
Sacramento, California 95814**

INITIAL STATEMENT OF REASONS

Date: January 26, 2009

REG-2007-00007

ONLINE PRELICENSING & CONTINUING EDUCATION

INTRODUCTION

Assembly Bill 2387 (Chapter 590, Statutes of 2006) was signed into law and took effect on January 1, 2007. This law amended Section 1749 of the California Insurance Code (CIC) by removing the word “classroom” from the prelicensing education requirement. It also added subsection 1749 (g) to ensure that safeguards for monitoring online student education are in place to maintain the integrity of prelicensing education. In 2007, Assembly Bill 720 (Chapter 270, Statutes of 2007) and Assembly Bill 797 (Chapter 271, Statutes of 2007) were signed into law and took effect on January 1, 2008. These statutes further amended CIC Section 1749, among other sections, to add three additional license types: (1) Life-Only agent license, CIC §1749(c); (2) Limited Lines Automobile Insurance agent license, CIC §1749(d); and, Accident and Health Insurance agent license, CIC §1749(e).

Insurance Commissioner Poizner ("Commissioner") believes that the proposed additions and amendments to California Code of Regulations (CCR), Title 10, Chapter 5, Subchapter 1, Article 6.5, entitled “Prelicensing and Continuing Education” are necessary to carry out the intent and purpose set forth in Assembly Bills 2387, 720 and 797. These statutory changes shall provide potential insurance licensees, particularly those individuals for whom classroom education is not easily accessible due to travel distances, time constraints, or other hardships, with another viable option for completing the prelicensing education requirements. The addition of two new discrete license types that encompass a specific area of insurance sales will make obtaining an insurance agent license further accessible to individuals who choose to work in one specific area of insurance sales rather than a broader area. Finally, AB 2387 established safeguards to ensure that the integrity of the online prelicensing education curriculum is maintained by insurance agent education providers.

It is beneficial to both insurers and consumers to increase the number of insurance agents licensed throughout California. The proposed regulations serve this purpose by ensuring that all individuals desiring to obtain licensure either as an insurance or life agent will have a variety of methods by which the prelicensing education requirements can be met. In addition, the ability to obtain an insurance or life agent license for a discrete type of insurance sales has the potential to increase the number of agents working in historically underserved areas of California. The proposed regulations are reasonably necessary to the degree to which they help to achieve progress toward this goal.

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF REGULATION

The specific purpose of each adoption and the rationale for the Commissioner's determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed are set forth below.

SECTION 2186 AUTHORITY AND PURPOSE

This section provides the statutory authority for the development of these regulations and purpose. Existing text is renumbered to subsection (a) due to the addition of subsection (b). Subsection (b) is added to refer to a new section, 2188.50 Forms, in which all forms required for this Article, will be found. The forms currently in this Article (446-3, 446-12 and 446-13) are found in several sections in various locations in the Article. Six new forms are being added to the text. In order to provide easier access to the forms for the affected public and clarity regarding which forms to use, it is reasonably necessary to locate all required forms in one section at the end of the Article.

SECTION 2186.1 DEFINITIONS

This section defines technical terms used in the regulations. Existing subsections have been renumbered to present the definitions in alphabetical order. Several definitions have been amended to comply with the new option of on-line education courses which are provided through various internet technologies, to add new license types, correct grammatical errors, and add other necessary new information. These changes are reasonably necessary to clarify and define for the affected public the specific activities that must be undertaken by potential and current insurance licensees to successfully obtain/maintain an insurance or life agent license. These changes also are reasonably necessary to inform the affected education providers of the specific details regarding course content, curriculum, hours, instructor qualifications, student verification, etc. needed to offer courses both in classrooms and online to prospective and current insurance and life agents. The specific subsections being amended or added are described in detail below.

Section 2186.1, Subsection (c): Classroom

Subsection (c)(2) is amended to allow online courses for prelicensing education students as well as continuing education students. It is also amended to add a type of technological media that may be used, i.e., webcast.

Section 2186.1, Subsection (e): Course

Subsection (e) is amended to add the new statutory provisions upon which these changes are based. Several subsections are being amended to add language required by the statutory changes or delete language no longer legally correct due to the statutory changes.

Subsection (1) is amended to clarify for the affected public the types of teaching methods and technological media that constitute a "contact" course.

Subsection (2) is renumbered and amended to clarify for the affected public the types of teaching methods and technological media that constitute a "non-contact" course. The terms used to define the types of technology permitted have been updated to meet currently used and easily understood terminology. Attendance monitoring is required for all continuing education courses unless specifically excluded in these regulations.

Subsection (2) is also amended to add subsection (B) to define "online prelicensing course" and

describe certain required components of an online preclicensing course due to the removal of the “classroom” requirement for pre-licensing education from Section 1749 et seq. of the CIC.

Subsections (i) and (ii) have been added to subsection (B) to describe components that must be integrated into an online preclicensing course to meet the requirements of CIC section 1749(j) that requires the Department to evaluate the safeguards in place in each course to ensure that the student completing the course is the person enrolled in the course and to review the methods used to monitor the students’ attendance, ability to interact with the entity providing the training and means of recording times spent completing the course. When student face-to-face contact with an instructor is not a required part of the course, there is a much greater potential for students to not complete the entire course requirements individually. Additional measures are required to ensure that the student who receives the credit for the course is in fact the student who took the course, passed the tests and completed the required number of hours taking the course.

Subsection (i) defines “participatory activities” and provides examples of such activities. The “participatory activities” are a method to ensure the students’ attendance is adequate as well as providing a method for the student to interact with the entity providing the education. Subsection (ii) defines “inquiry periods” and is added to clarify and emphasize the importance of a method to monitor the “participatory” feature required for online preclicensing courses and to ensure the student will actively participate in the course. Student participation is critical for comprehension of the preclicensing education curriculum and success in passing the licensing exam. These subsections are reasonably necessary to inform the affected public and clarify for education providers and students the difference between the various types of study available to complete the education requirements for licensure as an insurance or life agent. They are necessary to ensure the integrity of students taking online courses to meet their preclicensing education requirements.

Subsection (3) is renumbered and amended to clarify and distinguish the “non-contact” from the “contact” portions of the combination courses. This distinction is reasonably necessary to clarify for the affected public the various education methods available to students to meet the continuing education requirements for licensure.

Section 2186.1, Subsection (g): Electronic filing

Subsection (g) is amended to correct a grammatical error in the regulations replacing “electric” with “electronic” as the modifier to the word “filing”.

Section 2186.1, Subsection (i): Instructor

Subsection (i) is amended to distinguish the instructor requirements for contact versus non-contact courses and to provide the specific additional requirements for instructors of online preclicensing courses. This definition is necessary to ensure that students of non-contact courses have a qualified person available to respond to their course questions. This subsection adds a requirement for online preclicensing course students to be able to have a qualified person respond to their questions within 24 hours, excluding state holidays.

The maximum response time of twenty-four (24) hours was determined to be the most reasonable time frame for a student to wait for assistance from an instructor based on a comparison of other states’ instructor response time frames. Additionally, the work schedules of most students dictate that the courses will usually be taken on the weekends or on weekdays during the evening hours. The twenty-four (24) hour response time also serves to ensure that these students will receive effective

support. The intent of the prelicensing course is to prepare the student to not only pass the insurance license exam, but also to instill conceptual knowledge and a sense of ethics in future insurance agents and brokers for the protection of insurance consumers.

Section 2186.1, Subsection (j): Original signature

Subsection (j) is amended to refer to the new section of the regulations in which all required forms are found, section 2188.50. The form numbers are also corrected to correspond with the actual form being used. This subsection is also amended to clarify that the provider must use one of the forms of signature indicated. These changes are reasonably necessary to clarify the requirements for form use and accepted signature for the affected public.

Section 2186.1, Subsection (k): Provider

Subsection (k) is amended to refer to additional new code sections to which these regulations apply. These changes are reasonably necessary to clarify the requirements for the affected public.

Section 2186.1, Subsection (l): Provider Director

Subsection (l) is amended to refer to additional new code sections to which these regulations apply. These changes are reasonably necessary to clarify the requirements for the affected public.

Section 2186.1, Subsection (m): Student

Subsection (m) is amended to add the new agent categories as required by Insurance Code section 1749. It is also being amended to clarify that this definition applies to continuing education students as well. These changes are reasonably necessary to clarify the requirements and inform the affected public.

SECTION 2187-2187.7: PRELICENSING EDUCATION

Sections 2187, 2187.1, 2187.2, 2187.3, and 2187.4 of existing text provide the curriculum requirements for prelicensing education for existing insurance and life agent license types. Three new license types, life-only, accident and health insurance agent, and limited lines automobile insurance agents were created by Assembly Bills 720 and 797. Sections 2187.5, 2187.6, and 2187.7 are added to provide the prelicensing education curriculum for these new license types. These sections have been re-organized in a more logical sequence which will facilitate ease of use by the affected public. This re-organization was reasonably necessary due to the creation of two new license types (life-only and accident and health) which are sub-categories of an existing license type (life agent) and one additional new license type, limited lines automobile agent. Re-organizing the order in which the license types are found will provide an easier and more logical access for both students and education providers of the affected public.

In addition, the words “shall be in a classroom and...” are deleted from each existing section of text in order to conform the regulations to existing law. Assembly Bill 2387 (Chapter 590, Statutes of 2006) removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. In certain sections, an outdated effective date is also deleted.

The following sections are described in further detail and are provided in the order they will be found in the amended text for ease of reference for the affected public.

SECTION 2187: PRELICENSING EDUCATION FOR LIFE AGENTS (LIFE-ONLY AND ACCIDENT AND HEALTH AGENTS)

Existing section number 2187 is amended to be used for Prelicensing Education for Life Agents which was formally section 2187.1. This will allow the two new license types (life-only and accident and health) which are sub-categories of “life agent” to follow in logical numerical sequence. In addition, the title of this section is being amended to add the two new license types that are included in a “Life Agent” license—“Life-Only Agent” and “Accident and Health Agent”. These two new distinct license types were created by Chapters 270 and 271, Statutes of 2007. These changes are reasonably necessary to clarify for the affected public the new sub-categories of life agent.

Subsection (a) is amended to: (1) add the license type in the text for clarity of use by the affected public; and, (2) delete the phrases, “effective January 1, 2002” and “shall be in a classroom and”. This is necessary to conform these regulations to existing law. Assembly Bill 2387 (Chapter 590, Statutes of 2006) removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. The phrase “effective January 1, 2002” will be deleted because this date is no longer relevant. In addition, the reference “(c)” is deleted to refer to the broader code section 1749 so that as changes are made to the code, the regulations will not need to be amended solely to include additional or different subsections.

SECTION 2187.1: PRELICENSING EDUCATION FOR LIFE-ONLY AGENTS

Existing section number 2187.1 is amended to be used for new text for Prelicensing Education for Life-Only Agents (a sub-category of “life agents”). It is added pursuant to the enactment of Chapters 270 and 271 (Statutes of 2007, effective January 1, 2008) which created this new license type. The new text is using an existing section number in order to fall in a more logical sequence which will facilitate use by the affected public. The addition of this section is necessary to outline the general subject matter that will satisfy the prelicensing education requirement for this license. Subsection (a) defines the curriculum from which the general subject matter to be taught is detailed. It meets the requirements of AB 2387 (Chapter 590, Statutes of 2006) which removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. The curriculum provided is identical to the Life Agent curriculum with the exception of the deletion of the health related curriculum.

Subsection (b) is identical to this section for the other types of licenses and is necessary to inform the affected public that the examination for this type of license will be based on the subject matter detailed in subsection (a).

SECTION 2187.2: PRELICENSING EDUCATION FOR ACCIDENT AND HEALTH AGENTS

Existing section number 2187.2 is amended to be used for the new text for Prelicensing Education for Accident and Health Agent (a sub-category of “life agents”). It is added pursuant to the enactment of Chapters 270 and 271 (Statutes of 2007, effective January 1, 2008) which created this new license type. The new text is using an existing section number in order to fall in a more logical sequence which will facilitate use by the affected public. The addition of this section is necessary to outline the general subject matter that will satisfy the prelicensing education requirement for this license. Subsection (a) defines the curriculum from which the general subject matter to be taught is detailed. It meets the requirements of AB 2387 (Chapter 590, Statutes of 2006) which removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. The curriculum provided is identical to the Life Agent curriculum with the exception of the deletion of the life-only related curriculum.

Subsection (b) is identical to this section for the other types of licenses and is necessary to inform the affected public that the examination for this type of license will be based on the subject matter in the subsection (a).

SECTION 2187.3: PRELICENSING EDUCATION FOR FIRE AND CASUALTY BROKER-AGENTS

Existing section number 2187.3 is amended to be used for existing section 2187, Prelicensing Education for Fire and Casualty Broker-Agents. This will provide a more logical sequence which will facilitate use by the affected public. Subsection (a) is amended to add the license type in the text to both clarify the type of license to which this section relates and to conform to the text to the language of the other license type sections. The phrase “shall be in a classroom and” is deleted in order to conform these regulations to existing law. Assembly Bill 2387 (Chapter 590, Statutes of 2006) removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. In addition, the reference “(a)” is deleted to refer to the broader code section 1749 so that as changes are made to the code, the regulations will not need to be amended solely to include additional or different subsection references.

SECTION 2187.4: PRELICENSING EDUCATION FOR PERSONAL LINES BROKER-AGENT

Existing section number 2187.3 is amended and changed to section 2187.4 for this license type to fall in a more logical sequence which will facilitate use by the affected public. Subsection (a) is amended to add the license type name in the text to both clarify the type of license to which this section relates and to conform the text to the language of the other license type sections. The phrase “shall be in a classroom and” is deleted in order to conform these regulations to existing law. Assembly Bill 2387 (Chapter 590, Statutes of 2006) removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. Subsection (a) is amended to delete the phrase, “as effective January 1, 2002” because this date is no longer relevant. In addition, the reference to Insurance Code subsection “(b)” is deleted to refer to code section 1749 so that as subsection numbers change, the regulations will not need to be amended solely to include additional or different subsection numbers.

SECTION 2187.5: PRELICENSING EDUCATION FOR PERSONAL LINES LICENSEES TO BECOME FIRE AND CASUALTY BROKER-AGENTS

Existing section number 2187.4 is amended and changed to add new section number 2187.5 to fall in a more logical sequence which will facilitate use by the affected public. The word “Curriculum” has been deleted and replaced by the word “Education” in the title of this section to conform to the format of the title in other similar sections. Subsection (a) is amended to add the license type name in the text to both clarify the type of license to which this section relates and to conform the text to the language of the other license type sections.

The phrase “shall be in a classroom and” is deleted in order to conform these regulations to existing law. Assembly Bill 2387 (Chapter 590, Statutes of 2006) removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. In addition, the reference to Insurance Code subsection “(f)” is deleted to refer to code section 1749 so that as subsection numbers change, the regulations will not need to be amended solely to include additional or different subsection numbers. Finally, the words, “Commercial”, “Coverages”, “Health”, “Disability”, “Income”, and “Insurance” in the existing text are being capitalized to conform to the format of the other sections of text. These changes are necessary to provide clarity to the affected public.

SECTION 2187.6: PRELICENSING EDUCATION FOR LIMITED LINES AUTOMOBILE

INSURANCE AGENT

This new section of text and new section number is added to the CCR for the new Limited Lines Automobile Insurance Agent license type pursuant to the enactment of Chapters 270 and 271 (Statutes of 2007, effective January 1, 2008) which created this new license type. The new text is using a new section number in order to fall in a more logical sequence which will facilitate use by the affected public. The addition of this section is necessary to outline the general subject matter that will satisfy the prelicensing education requirement of Insurance Code section 1749 for this license type. Subsection (a) defines and specifies the curriculum from which the general subject matter to be taught is detailed.

Subsection (b) is identical to this section for the other types of licenses and is necessary to inform the affected public that the examination for this type of license will be based on the subject matter detailed in subsection (a).

SECTION 2187.7: PRELICENSING EDUCATION ON ETHICS AND THE CALIFORNIA INSURANCE CODE

Existing text is renumbered from section 2187.2 to new section number 2187.7 to fall in a more logical sequence which will facilitate use by the affected public. Subsection (a) is amended to delete the phrase, “shall be in a classroom and” which is necessary to conform these regulations to existing law. Assembly Bill 2387 (Chapter 590, Statutes of 2006) removed the word “classroom” from CIC section 1749(a) of the prelicensing education requirements. The phrase “effective January 1, 2002” will be deleted because this date is no longer relevant. In addition, the reference to Insurance Code subsection “(d)” is deleted to refer to code section 1749 so that as subsection numbers change, the regulations will not need to be amended solely to include additional or different subsection numbers.

SECTION 2188: PROVIDER CERTIFICATION, RENEWAL AND QUALIFICATION.

The title of this existing section is amended to clarify and place the three parts of the section in logical sequential order. Text relating to forms identified in this section is amended to refer to the correct and current form numbers, adding the letters “LIC” to the form number to identify it as a Licensing Services Division form. All revision dates have been deleted to allow for revisions without amending the regulations. All references to forms “incorporated by reference” have been deleted because all relevant forms will be included in these regulations rather than incorporated by reference to provide ease of access and use for the affected public. Finally, a reference to new section 2188.50 in which all relevant forms will be found is added.

In addition, subsection (a)(1)(iii) is amended to add the name of the form referred to in existing text for ease of use by the affected public. Subsection (c) is amended to add a heading “Provider Qualifications” to conform the formatting to the other subsections. In addition, subsections (c), (d), (i), (ii) and (iii) are renumbered to the correct numbering for the addition of this new subsection heading. These amendments are necessary to clarify for the affected public the required forms and how to locate them in these regulations.

SECTION 2188.1: INSTRUCTOR QUALIFICATIONS

This section is being amended to clarify the requirements that education providers must ensure are met for insurance and life agent education course instructors. Subsection (a)(1) is amended to: (1) include the appropriate references to the new and relevant Insurance Code sections for clarity and specificity for instructors, education providers and the affected public; and, (2) conform the instructor qualifications in the regulations to the qualifications on the instructor qualification form. These

amendments will assist instructors, education providers and the affected public in determining how to meet these requirements.

Subsections (2), (3), and (4) are added as new text to define and make specific the additional instructor qualifications that education providers must ensure for classroom prelicensing education instructors, online prelicensing education instructors, and continuing education instructors.

The requirement that the online prelicensing instructor be available within twenty-four (24) hours, excluding state holidays, to reply to a student's online prelicensing course questions is added. Since students will be taking online prelicensing courses without the benefit of an instructor on site, it is important that the student be able to have their questions answered in a timely manner. The maximum response time of twenty-four (24) hours was determined to be the most reasonable time frame for a student to wait for assistance from an instructor based on a comparison of other states' instructor response time frames.

Additionally, the work schedules of most students dictate that the courses will usually be taken on the weekends or on weekdays during the evening hours. The twenty-four (24) hour response time also serves to ensure that these students will receive effective support. The intent of the pre-licensing course is to prepare the student to not only pass the insurance license exam, but also to instill conceptual knowledge and a sense of ethics in future insurance agents and brokers for the protection of insurance consumers. This new subsection also describes who may respond to technical questions from online students.

New subsection (b) is added to specify the documentation that an education provider has to collect and maintain regarding course instructors. It specifies the required form and types of documentation considered adequate to meet the requirements. This will provide education providers and the affected public with detailed information regarding documentation and maintenance of these records.

Subsection (b) is being renumbered to (c) to allow for the addition of the new subsection (b) as stated below.

SECTION 2188.2: COURSE APPROVAL

Subsections (a), (b), and (h) are amended to add the letters "LIC" to the form number to identify it as a Licensing Services Division form. All revision dates have been deleted to allow for revisions without amending the regulations. Existing form numbers (2188.23 and 2188.24) have been deleted and a reference to new section 2188.50 in which all relevant forms will be found is added.

Subsection (g) is amended to delete the words, "that materially". This amendment is necessary to inform the affected public and ensure that education providers submit all course changes to the Department for prior review and approval.

Subsection (i) is amended to clarify how course credit hours are calculated based upon the removal of the classroom requirement for prelicensing courses in section 1749 et seq. of the Insurance Code. The amendment identifies the types of courses that provide a 60-minute hour from those providing a 50-minute hour. It also specifies the total number of hours or minutes a day for contact course instruction as well as non-contact courses. This amendment is necessary to inform the affected public as to the credit hours available based upon the type of course taken.

Subsection (j) is amended to delete the language and move it to subsection (i). New text is added to subsection (j) that clarifies and specifies the measures that a provider must employ to demonstrate to the Department that non-contact course students are actively engaged in course material for the entirety of the prescribed time.

These subsections were added to ensure the integrity of the non-contact education courses where student face-to-face contact with an instructor is not a required part of the course. Online courses have much greater potential for students to not complete the entire course requirements individually, thus necessitating additional measures to ensure that the student who receives the credit for the course is in fact the student who took the course, passed the tests and completed the required number of hours taking the course. These subsections are necessary to ensure the integrity of students taking online courses to meet their education requirements and to inform the affected public of the requirements regarding non-contact courses.

SECTION 2188.2.5: ONLINE PRELICENSING COURSE APPROVAL

Section 2188.2.5 is added to this Article to specify the additional requirements necessary to obtain approval of an online prelicensing education course.

Subsection (a) specifies the requirements and procedures needed to assure that the safeguards outlined in Insurance Code section 1749(j) are implemented. An online prelicensing course shall include the following: (1) clear instructions on accessing and participating in the course; (2) a methodology to ensure that the minimum hour requirements are met; (3) an electronic component that monitors time spent, authenticates the student's identity, prevents the student from skipping course content, and logs the student in and out of the course; (4) encryption of all student non-public information; and, (5) a participatory component that includes inquiry periods and/or activities to test the students' subject matter knowledge in order to assess the student's progress and provide feedback on areas requiring further study as well as the requirement that the education provider make an online instructor available to answer online student questions within 24 hours of the inquiry by the student.

These requirements are reasonably necessary to both protect the online student and promote the integrity of online education courses. Subsection (2) is necessary to confirm that the student has met the minimum time required by statute in both product education and code and ethics. Logging the student out after a twenty minute period of inactivity ensures the student will not receive credit for time spent completing the course if they are not actively participating. Subsection (3) was determined to be necessary after review of other states' course approval standards for online courses in order to satisfy the requirement that the online course ensure that the student completing the course is the person enrolled in the course. Subsection (4) is necessary based on a number of factors including the need to protect the privacy of the online student's non-public personal information as it passes through the Internet. Subsection (5) is based on a compilation of other states' regulations and requirements for online courses. These requirements will enhance curriculum comprehension, maintain the integrity of the prelicensing education curriculum as the student will not be allowed to proceed to the next section of material until all questions have been addressed, require review of areas needing further study before the student may proceed, and require the student to continue to review the course material until the time requirement is met.

Subsection (b) specifies the minimum number of review questions, per course, per section that an online prelicensing student must complete. This section is necessary to inform education providers, online students and the affected public of the additional new requirements necessary to obtain

approval of an online prelicensing course as well as inform online students of the review question course requirements. The minimum number of review questions per training hour is based on the existing criteria for the final examinations of continuing education courses.

SECTION 2188.3: COURSE RENEWAL

Subsection (a) is amended to clarify the form used and process available for renewing an unchanged or minimally changed insurance or life agent education course by an education provider. The existing form name is deleted as it is no longer available. The new form name, Provider Course Renewal Letter, is added. Text is added to inform the affected public of the process for course renewal. Since form LIC 446-38 is now electronically generated by the Commissioner and sent to the education provider, it remains “incorporated by reference” in the text.

SECTION 2188.4: MAINTENANCE OF RECORDS

Subsections (a) and (e) are amended to add the letters “LIC” to the form numbers to identify them as Licensing Services Division forms. All revision dates have been deleted to allow for revisions without amending the regulations. The words “incorporated by reference” are deleted because all relevant forms will be included in these regulations rather than incorporated by reference. A reference to new section 2188.50 in which all relevant forms will be found is added. These changes will increase the ease of access and clarity for the affected public regarding the required forms.

Subsection (b) is amended to add the requirement of maintaining affidavits for online prelicensing students in addition to all other record keeping requirements. This is necessary to inform the affected public of the additional requirement for education providers to maintain online prelicensing student affidavits to ensure that the required number of hours for product, code and ethics training are completed.

SECTION 2188.5: SUCCESSFUL COMPLETION OF PRELICENSING COURSES

Subsection (b) is amended to add the letters “LIC” to the form numbers to identify them as Licensing Division forms. All revision dates have been deleted to allow for revisions without amending the regulations. The words “incorporated by reference” are deleted because all relevant forms will be included in these regulations rather than incorporated by reference. A reference to new section 2188.50 in which all relevant forms will be found is added. These changes will increase the ease of access and clarity for the affected public regarding the required forms.

Subsection (b)(1) is amended to require either the student’s social security number or insurance license number for identification purposes. This is reasonably necessary because prospective licensees do not have an insurance license number and will be using only their social security number for identification purposes. Current licensees are given the option of providing either number for identification purposes.

SECTION 2188.5.5: SUCCESSFUL COMPLETION OF ONLINE PRELICENSING COURSES

Section 2188.5.5 is added to this Article to specify and detail the requirements for online students to complete an online prelicensing course and for online prelicensing education providers to document and verify required student performance.

Subsection (a) requires online students to: (1) complete the required number of training hours; (2) complete one-hundred percent (100%) of the inquiry period review questions; (3) successfully complete the identity questions throughout the course as described in Section 2188.2.5; and, (4) sign

an affidavit that states the student has completed the entire course including 20 or 40 hours of product education and 12 hours of code and ethics education.

Subsection (b) requires online preclicensing education providers to complete and maintain attendance records that contain at least the following: (1) the date and time the student logs into and exits an online preclicensing course to confirm that the provider has tracked the students' time spent completing the course; (2) the date and amount of time spent on each session of product education and on Code and Ethics education; and (3) the student affidavit as required in this subsection.

These requirements are necessary to ensure that an online student is the person who completes the online course, including the required number of hours and the required number of review questions. The language regarding the completion of the 20 or 40 hours of product education, and 12 hours of code and ethics education is to reinforce the minimum hour requirement by requiring the student to attest that the student completed the required minimum education hours per Section 1749 of the CIC. Online students may not have direct contact with the instructor or education provider therefore, additional safeguards are necessary to ensure that the enrolled student is in fact the person who has taken and completed the course. This language is reasonably necessary to ensure that the education provider and affected public maintain all appropriate documentation regarding online student participation.

SECTION 2188.8: CERTIFICATES OF COMPLETION

Subsection (a) is amended to allow the education provider to issue certificates of completion to the student electronically. Since the student can now successfully complete an "online preclicensing course" without contact with the Education Provider (unless the student has a question and contacts the provider), it is appropriate that the certificate of completion be available electronically as well. Both the Education Provider and student will benefit if the certificate is delivered electronically as it would eliminate any delays and costs of shipment of the certificate. Subsection (a)(7) is amended to add new and amended Insurance Code sections for appropriate reference.

Subsection (b)(4) is amended to add the letters "LIC" to the form numbers to identify them as Licensing Division forms. All revision dates have been deleted to allow for revisions without amending the regulations. The existing form number, 2188.83 is deleted and a reference to new section 2188.50 in which all relevant forms will be found is added. These changes will increase the ease of access and clarity for the affected public regarding the required forms.

SECTION 2188.50: FORMS

Section 2188.50 is added to this Article to include all required forms in one section located at the end of the Article. This will improve the ease with which the affected public may access the required forms and will present the forms in a more logical sequential order. Five new forms have been added to the text (LIC 446-2, LIC 446-4, LIC 446-5, LIC 446-32, and LIC 446-40) and three existing forms have been amended to delete the old section numbers and add a new section number (LIC 446-3, LIC 446-12 and LIC 446-13). These changes are reasonably necessary to eliminate confusion of the affected public in having some required forms included in various sections throughout the text of the regulations, other forms incorporated by reference and other forms referred to but neither included nor incorporated by reference. Having all required forms available in one section at the end of the Article will provide ease of access for the affected public, education providers and students.

Subsection (a) “Prelicensing/Continuing Education Program Provider Certification/Renewal Application” LIC 446-2 is added to the new text of the regulations. It is incorporated by reference in the existing text.

Subsection (b) “Prelicensing/Continuing Education Program Out-of-State Provider Jurisdiction Agreement” LIC 446-40 is added to the new text of the regulations. It is incorporated by reference in the existing text.

Subsection (c) “Prelicensing/Continuing Education Provider Stipulation to Maintain Records Outside of California” LIC 446-32 is added to the new text of the regulations. It is incorporated by reference in the existing text.

Subsection (d) “Prelicensing/Continuing Education Program Course Approval Application” LIC 446-3 is included in existing text as section 2188.23. This form is renumbered as section 2188.50(d) in new text.

Subsection (e) “Prelicensing/Continuing Education Program Course Attendance Record and Verification” LIC 446-5 is added to the new text of the regulations. It is incorporated by reference in the existing text.

Subsection (f) “Class Presentation Schedule” LIC 446-12 is included in existing text as section 2188.24. This form is renumbered as section 2188.50(f) in new text.

Subsection (g) “Provider Roster” LIC 446-13 is included in existing text as section 2188.83. This form is renumbered as section 2188.50(g) in new text.

Subsection (h) “Prelicensing/Continuing Education Program Instructor Qualification” LIC 446-4 is added to the new text of the regulations. It is incorporated by reference in the existing text.

IDENTIFICATION OF STUDIES AND REPORTS

There are no specific studies relied upon in the adoption of these amendments. In adopting the proposed regulations the Department of Insurance did not rely upon any technical, theoretical, and/or empirical study, report or similar document. Rather, it relied upon the extensive experience of the Department's Licensing Services Division (Producer License Bureau, Education Section), its Legal Division, its Curriculum Board, and the Online Prelicensing Subcommittee, which consisted of Curriculum Board members and interested parties.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of these regulations would not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

The Commissioner has determined that no reasonable alternative exists to carry out the purpose for which the regulations are proposed. Performance standards were considered but were rejected as an unreasonable and impracticable alternative in the context of regulations that seek

efficiently to define specific rules for the provision of online prelicensing education courses.

ECONOMIC IMPACT ON SMALL BUSINESS

The Commissioner has identified no reasonable alternatives to the presently proposed regulations, nor have any such alternatives otherwise been identified and brought to the attention of the Department, that would lessen any impact on small business. Although performance standards were considered as an alternative, they were rejected, in part, because the kind of risks from which the regulations seek to protect consumers cannot practicably be gauged by means of a performance standard.

PRE-NOTICE DISCUSSIONS

The Commissioner conducted pre-notice public discussions pursuant to Government Code Section 11346.45(a) on June 5, 2007. Interested and affected parties were given an opportunity to present statements or comments with respect to the proposed amendments. The Commissioner considered these statements and comments and certain changes were made to the proposed amendments in response to the statements or comments presented at the pre-notice hearing.