

# PROVIDER *Insights*

Division of Agent and Agency Services

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### ALERT: Reminder

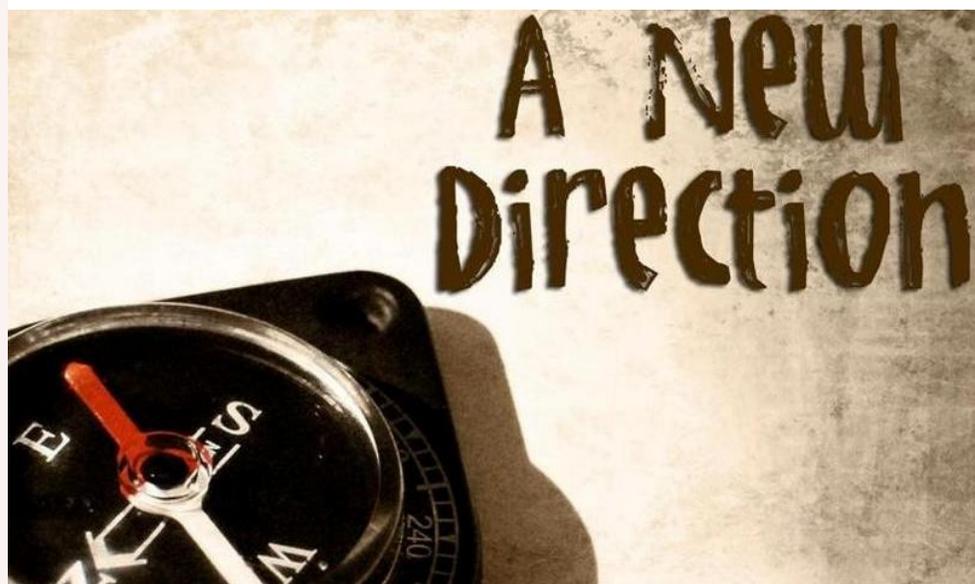
Be aware that approved 5-Hour Update courses will expire after one (1) year. It is the sole responsibility of the provider and school officials to ensure that all 5-Hour Update courses are valid. Submitting course offerings which exceed the one year term will **not** extend the course duration, and credits will not be awarded.

## New Directions

By Charles Meyer

The Education Unit has historically enjoyed presenting information and conveying updates to its education provider stakeholders through our bi-monthly conference calls. Our staff has valued the opportunity to connect with Florida's education providers, and we're more than pleased by our providers that look forward to 'tuning in'. While the conference call has consistently been an enjoyable venture for regular staff members and guest speakers alike, the Education Unit is challenged to reach an ever-increasing population of educators, considering the limitations of this format. In an effort to ensure delivery of valuable content related to the education of insurance agents and adjusters through an even wider channel, the Education Unit is transitioning to a quarterly

newsletter format. Restrictions in available audience space will no longer be an issue, and removing potential scheduling conflicts creates a large degree of flexibility for content digestion. Education providers can expect the same nature of material in the newsletter, but can now be encouraged to explore the contents at their own pace and on their own timeline.



## Employee Spotlight

By Earnest Fryson



*“Being in great demand, Clay’s talents brought him full circle back to the Education Unit in the capacity of Team Lead.”*

In this month’s newsletter, the Employee Spotlight focuses on Clay Tidwell. Clay joined the Department of Financial Services (DFS) in 2012. With a solid Insurance background, Clay was a perfect fit for the position of Insurance Analyst with the Education Unit. Using his extensive background and knowledge of insurance regulation, it was not very long before Clay began to advance into higher levels of responsibility.

A position which demands critical thinking and problem solving, while juggling customer issues involving applications, records, legal matters and investigations.

Being in great demand, Clay’s talents brought him full circle when he rejoined the Education Unit in the capacity of Team Lead. With an industry of more than 2,000 providers and over 570,000 licensees in the State of Florida, problematic issues often end up in the Education Unit. The most difficult problems are routed to Clay for resolution.

Solving problems requires focus, dedication and patience, something Clay does exceptionally well. Clay has been married to his lovely wife, Alexandra, for 27 years. They are the proud parents of Christopher and Cassi, who

both attend Tallahassee Community College and have plans for attending Florida State University. Known for his love of people, Clay has proven himself to be a person of great integrity, who also has a good sense of humor. His hearty laugh is contagious. The Department of Financial Services is fortunate to have an employee who sets an ex-ample others can follow, so we are pleased we are able to recognize Clay Tidwell in this edition of Employee Spotlight.

## State Approved Study Manuals

By Heather Cleary

*“The approved study manuals are copyrighted materials and are property of the Florida Department of Financial Services.”*

Providers are required to inform each pre-licensing student that the study manual is required for general lines, personal lines, customer representative, industrial fire, life, health and variable, title and surplus lines courses. Providers must also furnish the contact information for the current study manual vendor and verify on the first day of class that each student is aware that the state licensing exam is based upon the exam content outline found in the latest edition of the approved study manual.

The approved study manuals are copyrighted materials and are property of the Florida Department of Financial Services. Pre-licensing courses are meant to be based upon the approved study manuals. Course materials or supplemental handouts should not include photocopied or reproduced pages of the study manual or any other copyrighted materials.

Anyone reproducing the study manual or any other copyrighted material in any way could be found in violation of the law and could face

administrative action from the Department and/or potential litigation for copyright infringement.



## House Bill 633 Excerpts

By Clay Tidwell

This quarter is an ideal time to submit new 5-Hour courses as the approval of House Bill 633 in 2014 has provided some very important information, which affects agents and agencies alike. Some of the immediate impacts are;

### Agencies

A branch agency is no longer required to be licensed if it transacts business under the same name and federal tax identification number as the licensed agency and has a licensed agent in charge of the branch location.

Remember to include in the licensing the address and telephone number of the branch location within 30 days after insurance transactions began at the branch location.

The bill repealed the law, allowing certain insurance agencies to register in lieu of a license. The bill converts all agency registrations to licenses effective October 1, 2015. Effective January 1, 2015, the bill also eliminates the three-year expiration of an agency license unless suspended, revoked, cancelled or terminated.

### Agent in Charge/ Agents

An agent in charge (AIC) is licensed, appointed, and responsible for the supervision of all individuals within an insurance agency. The agent in charge of an insurance agency may be the agent in charge of additional branch locations if insurance activities requiring licensure as an insurance agent do not occur at the location when an agent is not physically present.

Both agencies and branches are required to designate an agent in charge and to file the agent's name, license number, and physical address of the insurance agency location on the DFS website. A change of the agent in charge must be reported to DFS within 30 days. If the agent in charge ends her/his affiliation with the agency, the agency must designate another AIC within 30 days. If the agency fails to make such designation within 90 days, the agency license automatically expires on day 91.

The AIC is accountable for misconduct or violations committed by the licensee or agent or by any person under her or his supervision acting on behalf of the agency. However, the agent in charge is not criminally liable for the misconduct unless she or he personally committed the act or knew or should have known of the acts and of the facts that constitute the violation.

### Unaffiliated Insurance Agent

There is also, now, a new type of agent; the unaffiliated insurance agent. The UIA or UA, is a licensed insurance agent, except limited lines, who is not appointed by or affiliated with any insurer, but is self-appointed. This agent acts as an independent consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by a written contract signed by the parties.

The UA is **prohibited** from being affiliated with an insurer, insurer-appointed insurance agent, or insurance agency. However, these agents may continue to receive commissions on sales made before the date of appointment as an unaffiliated insurance agent, as long as the agent discloses the receipt of commissions to the client when making recommendations or evaluating products of the entity from which commissions are received.

House Bill 633 contains other changes with Appointments by Insurers, Title and Branch agencies, License suspensions for Specified Felonies, Military and Licensure filing fees, and Licensure exams, just to name a few. These changes are very important to our Insurance community and would certainly warrant the attention of 5-Hour Law and Ethics updates course submittals.

For more information you can visit our website and the [Insurance Insights](#) or you can directly view the [Bill](#) and the [Bill Summary](#).

## Course Update vs. Course Application

By Suzanne Perkins

When is a provider able to submit an update for a course instead of submitting a new course application? In most cases a new course application is going to be required; however, there are a few instances where a provider would be able to just submit the information to be updated. Below are a few pointers to help providers know when a course update is applicable.

### Approved Course Update Criteria

The following criteria would require updates to previously approved courses:

- Courses that have not been offered, depending on the timeframe, may be considered for an update. For example, if you just received approval for a course and immediately realize that something is missing.
- If the Seminar guest speaker unexpectedly changes, a course update request with the credentials of the new guest speaker should be submitted.

Anything outside of the items listed above would require a new course application. If you are submitting a new course application to replace an existing course, please make sure to put a note in the course application with the existing Course ID. Upon approval of the replacement course, the existing course

will be closed and can no longer be offered. *Please note that if the only content to be updated consists of Florida Statute or Florida Administrative Code do so within the actual instruction instead of submitting a new application as a replacement.*

If you find yourself in a situation where a course update is available for your course, please submit the updated material to the Department for review via email to [Education@MyFloridaCFO.com](mailto:Education@MyFloridaCFO.com). Make sure to include all of the necessary information regarding the course that you wish to update such as the Course ID and resume, bio or cv.

## Dually Approved Courses

By Kathleen Bodie

What is time consuming, costly and no longer necessary??

### DUALLY APPROVED COURSES!

The department no longer approves applications for multiple authorities. Because of the flexible Elective category, there is no need for the same course to be approved for more than one course authority.

Here are a few examples:

- If you need to get a course approved for an audience of both general lines agents and all lines adjusters, previously you would need to submit two applications, one for each authority, so both license types would receive credit. Currently, you need to only submit one application for the
- Although the way the course authorities are credited to a licensee has changed, nothing has changed in this respect for approving courses. Courses still need to be approved for the course authority that they qualify for.

authority you want to have approved. Agents can now take adjuster courses and receive Elective credits and vice versa.

- A useful chart that outlines each licensee's CE requirements can be found at: [www.MyFloridaCFO.com/Division/Agents/Licensure/Education/CEReq.htm](http://www.MyFloridaCFO.com/Division/Agents/Licensure/Education/CEReq.htm).

This positive change for providers reduces the number of applications you will need to submit, saving you time and money!



## Case Law vs. Statutory Law

By Tom Rowell

**ATTENTION CE PROVIDERS:** Have you ever questioned when to include law citations for case law or statutory law that is indicated for discussion on a course outline? Furthermore, should relevant Florida examples be provided?

Below are some quick pointers.

- When submitting a course that will have discussion about pertinent State Case Law, you may reference case law from other states. Although it is not required, you may want to include supporting Florida case law for relevancy.

- Please note, any case law which is going to be discussed should be properly cited on the outline for reference.
- When submitting a course that includes discussion or laws from other states, then you must also include Florida Statutory Law for comparison.

### In summary:

Whether your course will discuss case law, statutory law, or a combination of both, please provide reference of such by citing the actual case/statutory law on the course outline. When there is discussion of laws from other states, please cite and provide discussion of the Florida Law that relates.

Thank you for the opportunity to clarify and Happy Course Submitting!

• **Written laws** are laws which have been enacted in the constitution or in legislations.



• **Unwritten laws** are laws which are not contained in any statutes and can be found in case decisions. This is known as the common law or **case law**.



## What's in a Title: CE Requirements

By Heather Cleary

The talk of the town for the past couple of years has been focused on the new 5-Hour Law and Ethics Update Course and Elective requirement as this was a major shift in licensee education. A topic that has not been at the forefront of conversation is the continuing education requirement for title agents. Mainly this stems from the fact that there has really been little change in what is required of a title agent when it comes to the actual education hours and types of courses that are required. Title agents are still required to complete ten hours of credit every two years, three hours of which must be on

the subject matter of ethics, rules and compliance. The remaining seven hours must be satisfied by taking courses specifically approved for Title Insurance and Escrow Management. As you can see, these requirements have essentially remained unchanged.

Let's explore for a moment what happens when a title agent obtains another license type such as an individual who currently holds a title agent license and decides that they really would like to hold a general lines agent license as well. Once this individual holds both license types, what would the continuing education requirement look like? Would this individual be required to complete two separate compliance cycles to satisfy

both license requirements? The simple answer is yes. To dig deeper, section 626.2815, F.S. requires title agents to take courses specifically approved for title insurance every two years and also requires all other licensees to take a 5-Hour Law and Ethics Update course specific to a license held and elective courses every two years. Because both of these requirements are so vastly different, licensees who hold both license types will be required to complete the requirement for each license separately in order to maintain each respective license.

If you have questions, please contact the Consumer Helpline at 1-877-693-5236 or email [Education@MyFloridaCFO.com](mailto:Education@MyFloridaCFO.com).

By Charles Myer

## Education Auditing

One of the Department's many duties as a regulatory body includes ensuring the quality of insurance pre-licensing and continuing education. As such, the Department actively monitors and evaluates our providers to determine their level of compliance, adherence to applicable laws, and their overall commitment to quality. Providers should view this process as a valuable feedback mechanism, and strive to work alongside Department representatives.

Many providers experienced feedback during 2014 concerning the timely reporting of credit by means of Letters of Guidance. Based on historical data from 2014 and 1Q2015, this feedback has had a measurable and positive effect (See Figure 1 below).

While providers are becoming increasingly aware of timeliness requirements related to course roster submissions, there is still

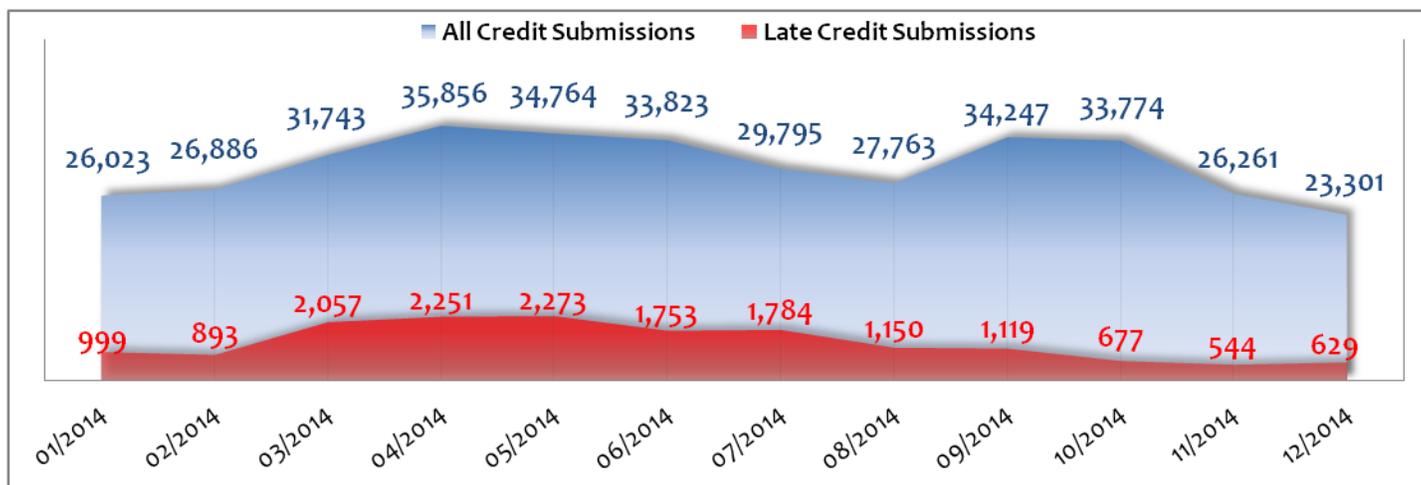
much progress to be made. The importance of reporting timely cannot be understated; only a single credit hour of CE can make or break a licensee's compliance status. Providers should focus on required attendance procedures, identity verification, and documentation, as strong business practices in these areas will significantly reduce the chance of erroneous data when it's time to report credit. Quality record keeping will also safeguard you should the Department request to review your records.

While the guarantee of value in the insurance education realm is initially supported by the application process for course providers, instructors, and individual courses, the promise of high standards of learning can only be ensured by the Department's physical presence in the field. Providers, school officials and instructors should not view Departmental course auditing as potential - they are a certainty. Along with our field auditing, a comprehensive review of virtual course offerings is also completed by Department staff.

Remember, the goal of Departmental monitoring and auditing is quality by means of regulatory compliance, which ultimately makes the insurance marketplace a better place to do business. Keep operating by the book, and the Department will always be your partner in licensee education and consumer advocacy.



**Figure 1 History of Credit Submissions**





- 1. It is the day before a CE class that you scheduled and you realized that you neglected to send the course application to the Department for approval, what do you do?**

  - A. Hold the course anyway, maybe no one will ask about getting CE credit.
  - B. Submit your course application and contact the Department to demand approval ASAP.
  - C. Reschedule the course for a later date.
  - D. Contact all of the enrollees and explain that the course that they enrolled in has not yet been approved for FL CE credit and offer a full refund if they no longer wish to attend. Submit the course to the Department and make sure any advertisement for this course have been removed until Department approval has been received.
  
- 2. You are pressed for time and really need to get the advertisement out to everyone to let them know about your annual seminar, but your courses have not yet been approved by the Department for FL CE credit, what do you do?**

  - A. Send out the advertisement via email and post on your website marking FL CE credit as "Approval Pending".
  - B. Send the advertisement via email only with FL noted as approved for CE credit, mark it on your website as "Approval Pending".
  - C. Login to MyProfile to check the course approval status. If it has not yet been approved, send the Department a nasty email explaining that these courses should have been approved by now.
  - D. Login to MyProfile to check the status and see if the Department has requested additional information through a DFS Request. Noticing that additional information was needed, I reply with the necessary documents and await approval to send out my advertisement.
  
- 3. You are holding a pre-licensing course and a student approaches you requesting to receive the state approved study manual in an electronic format to accommodate a disability. The student mentions that he has already contacted the vendor for the study manual and was told that they do not provide the manual in an electronic format. What do you do?**

  - A. Scan or photocopy the study manual for the student so that he has a copy since it is required by Florida regulations.
  - B. Tell the student not to even bother he can just use an old version that has been hanging around the classroom since last year; all of the content is still the same.
  - C. Inform the student that this is his problem and he will need to figure it out, you only provide the coursework and the information of who to contact to obtain a manual.
  - D. Contact the vendor yourself to explain the situation and inquire about available study manual format accommodations for a students with disabilities and if you are not able to obtain an answer contact the Department.



4. A student contacts you after they have completed a CE bundle package to fulfill all of their CE requirements for their current cycle. The student wants to submit a complaint because they paid for CE compliance per the advertisement that they received. The courses that they ended up completing did not fulfill their requirements. In reviewing the student's records you realize that the school made a course recommendation error. What do you do?
- Explain to the licensee that you will take care of this mix-up for them by applying credit for the 5-Hour Law & Ethics Update course even though the licensee did not take this course because it was clearly your error.
  - Send the licensee a completed answer sheet for the 5-Hour Law & Ethics Update course final exam and ask them to sign it so that you can maintain your records and also give them credit for the course.
  - Explain to the licensee that this was an error on the part of your company and you will do anything in your power to assist in sorting this out, but the licensee will need to contact the Department for guidance.
  - Explain to the licensee that this was an error on the part of your company and you will do anything in your power to assist in sorting this out. Offer to provide the 5-Hour Law & Ethics course to them free of charge since the advertisement for the course bundle they signed up for guaranteed CE compliance.
5. **Certificates of Completion are to be issued to each student;**
- Only in the event they do not receive electronic credits.
  - Only if the student requests the certificate.
  - Within 30 days of an official Departmental request to issue.
  - Within 30 days of completion date of the class.
6. **For provider Course approvals, the words "Approval Pending";**
- Are only to be used if properly notarized by the Department.
  - Must be clearly noted on all advertising for a course at least 10 days in advance of the course offering.
  - Approval pending or similar language can only be used in special circumstances approved by the Department.
  - Approval pending or similar language is prohibited since it is inherently misleading.
7. **The instructor for your upcoming course is no longer available to teach, what do you do?**
- Nothing.
  - Get another instructor to teach the course.
  - Call the Department helpline.
  - Schedule another instructor to teach the course and submit a replacement course offering.
8. **A student arrived an hour late to a course you are conducting. After the student explains why she was late, you:**
- Give her reduced credits for being late.
  - Allow her credit for attending.
  - Offer no credit.
  - Offer credit only if she makes up the portion of the course she missed.

*(Continued from page 8)*

9. **You keep attendance records for all your courses for:**
- A few days after rosters are submitted.
  - 10 years.
  - 5 years, but only for classroom courses.
  - 5 years or longer.
10. **During a seminar, several students want to discuss a hot new bill working its way through the legislature that's not in the course plan. You:**
- Allow an open discussion about it.
  - Are very familiar with it, so you discuss its influence on the industry.
  - Speak briefly about it and quickly move on.
  - Explain that it's not law yet, and that speculating on its passage really isn't in the lesson plan for the day.

### See Scoring Below

#### Scoring:

Give yourself the following points based on the answer you provided. Add up all of your points for a total score. See the scoring results below to see how compliant you are as a provider.

- A = 1 point
- B = 2 points
- C = 3 points
- D = 4 points



#### How Compliant Are You?

**If your score is 10-20 points** *Not Even Close!!!* As an education provider in Florida you have a lot to learn about Florida Statutes and Florida Administrative Code. The answers that you provided are violations of Florida regulations and should be taken very seriously. Please feel free to reach out to the Department for guidance.

**If your scores is 21-30 points** *Close But No Cigar!* If you were playing horseshoes this may be a decent score, however, as an education provider in Florida you are held to a higher standard. You are getting things right some of the time, but not consistently. Take a look at the questions where you scored only 1 or 2 points so that you can get all 4's next time. Please feel free to reach out to the Department for guidance.

**If your score is 31-40 points** *You Are The Bomb-Diggity!* It is obvious that you know your stuff and take pride in what you do. You go above and beyond to get it right the first time and make sure you do what is right by the letter of the law. Kudos to you and keep up the great work!

See our home page at:

[www.MyFloridaCFO.com/Division/Agents/Licensure/Education/Default.htm](http://www.MyFloridaCFO.com/Division/Agents/Licensure/Education/Default.htm)