



## Chapter 26

### LAW – ALL LINES

#### Department of Financial Services (DFS)

- Chief Financial Officer (CFO) – Head of the DFS, elected, directly oversees 15 different Divisions and Offices
- Divisions:
  - Division of Consumer Services – Takes consumer complaints, agencies have 20 days to respond to complaints
  - Division of Liquidation and Rehabilitation – DFS or CFO acts as receiver during receivership, runs things while the company is in liquidation or rehabilitation
  - Division of Unclaimed Property – Directly overseen by the CFO
- Offices:
  - Office of Insurance Regulation (OIR) – Handles insurance obviously, Commissioner runs it, can conduct investigations inside AND OUTSIDE of the state
  - Office of Financial Regulation – Handles all other money stuff: banks, credit unions and securities

#### Financial Services Commission

Governor

Attorney General

CFO

Commissioner of Agriculture

**NOT the Commissioner of the OIR (insurance commissioner)**

#### Market Conduct Examinations

- Every 5 years
- Every year during first 3 years for new domestic insurers

#### Cease and Desist Orders

- Issued by the CFO
- Violation of cease and desist is \$50,000 fine from CFO and suspension or revocation of license

#### Injunctions

- NOT the CFO
- Issued by the circuit court

**LICENSES**

Purpose of licensing statutes is to make sure you have a minimum level of knowledge and competence.

Must be at least 18 years old.

Cannot retake the exam more than 5 times in 12 months.

**Viatical settlement broker**

- Represents the viator (policyowner who’s selling their life policy)
- Self-appointed
  - Cannot be appointed with carrier at same time
  - Cannot sell new policies
  - Cannot receive new commissions
  - CAN continue getting residuals for past policies sold

Public adjuster – Represents the public

All lines adjuster – Represents the insurer

**Agency** – Hanging a sign in your front lawn, need an agency license

**Unaffiliated agent** – Not affiliated (appointed with) a company

- Self-appointed
  - Cannot be appointed with carrier at same time
  - Cannot sell new policies
  - Cannot receive new commissions
  - CAN continue getting residuals for past policies sold

**Notify DFS within 30 days of:**

- Change of contact info including email address
- Administrative actions
- Plead guilty or nolo contendere to felony or crime punishable by a year or more in prison

DFS can refuse to issue a license based on previous denial, suspension or revocation of license

Unfair Trade Practices (not allowed)	Allowed
<ul style="list-style-type: none"> <li>▪ <b>Sliding</b> <ul style="list-style-type: none"> <li>○ Adding ancillary products (like riders) without disclosure or lying about why they’re there to get a higher commission</li> </ul> </li> <li>▪ <b>Coercion</b> <ul style="list-style-type: none"> <li>○ Limiting free choice in transacting insurance – Ex.: A bank requires you get insurance to secure a loan and</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>Rebating</b> <ul style="list-style-type: none"> <li>○ A kickback (inducement) to buy insurance</li> <li>○ Gifts are allowed up to \$100 without being rebating</li> <li>○ If a company offers a rebate:               <ul style="list-style-type: none"> <li>▪ They cannot discriminate (the rebate must be “uniformly applied” to</li> </ul> </li> </ul> </li> </ul>

<p>refuses to issue the loan unless you get the insurance from a specific company/agent</p> <ul style="list-style-type: none"> <li>▪ <b>Misrepresentation</b> <ul style="list-style-type: none"> <li>○ Generally misrepresenting to a client</li> </ul> </li> <li>▪ <b>False advertising</b> <ul style="list-style-type: none"> <li>○ Generally misrepresenting to the public</li> </ul> </li> <li>▪ <b>Defamation</b> <ul style="list-style-type: none"> <li>○ Talking smack about others, even if it's true, even if only orally and not written</li> <li>○ "False or maliciously critical"</li> </ul> </li> <li>▪ <b>Twisting</b> <ul style="list-style-type: none"> <li>○ Inappropriate replacement of another company's policy (recommended based on a misrepresentation)</li> <li>○ 1<sup>st</sup> degree misdemeanor</li> </ul> </li> <li>▪ <b>Churning</b> <ul style="list-style-type: none"> <li>○ Inappropriate replacement of your own company's policy (recommended based on a misrepresentation)</li> <li>○ 1<sup>st</sup> degree misdemeanor</li> </ul> </li> <li>▪ <b>Unfair discrimination</b> <ul style="list-style-type: none"> <li>○ Answer on the exam is location</li> </ul> </li> <li>▪ <b>Unfair claim settlement</b> <ul style="list-style-type: none"> <li>○ Settling claims differently because of the size of the claim, for example</li> </ul> </li> <li>▪ <b>Fraud</b> <ul style="list-style-type: none"> <li>○ A material misrepresentation that is intentionally deceptive</li> </ul> </li> <li>▪ <b>Fraudulent Signatures</b> <ul style="list-style-type: none"> <li>○ 3<sup>rd</sup> degree felony</li> </ul> </li> </ul>	<p>everyone who bought that policy")</p> <ul style="list-style-type: none"> <li>▪ <b>Replacement</b> <ul style="list-style-type: none"> <li>○ Nothing wrong with replacement, happens all the time</li> <li>○ Includes withdrawing dividends</li> <li>○ To do a replacement you must: <ul style="list-style-type: none"> <li>▪ Have the applicant sign a Notice Regarding Replacement</li> <li>▪ Submit the Notice Regarding Replacement to the existing insurer</li> <li>▪ Give the applicant a Comparative Information Form IF REQUESTED BY THE APPLICANT</li> </ul> </li> </ul> </li> <li>▪ <b>Controlled business</b> <ul style="list-style-type: none"> <li>○ Selling policies to people with whom you have a financial interest</li> <li>○ As long as you write AT LEAST AS MUCH in uncontrolled business (to the general public)</li> </ul> </li> </ul>
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## Penalties

Felonies	Misdemeanors
<ul style="list-style-type: none"><li>▪ Unauthorized entities (3<sup>rd</sup> degree)</li><li>▪ Fraudulent signatures (3<sup>rd</sup> degree)</li><li>▪ Misappropriation of funds \$300+</li></ul>	<ul style="list-style-type: none"><li>▪ Twisting and churning (1<sup>st</sup> degree)</li><li>▪ Violation of insurance code (2<sup>nd</sup> degree)</li><li>▪ Misappropriation of less than \$300</li></ul>

## Affiliated Parties –

Any person who directs or participates in the conduct or affairs of a license:

- Director or officer of the company, agency etc.
- A third-party marketer who aids and abets in the fraudulent sale of insurance
- Really, anyone who is associated with the agent and knowingly aids and abets the agent
- May ALL be held liable