

# Arkansas Insurance Department

Mike Beebe  
Governor



Jay Bradford  
Commissioner

## BULLETIN NO. 4 -2014

**TO: ALL LICENSED INSURERS, HEALTH MAINTENANCE ORGANIZATIONS, FRATERNAL BENEFIT SOCIETIES, FARMERS' MUTUAL AID ASSOCIATIONS OR COMPANIES, HOSPITAL OR MEDICAL SERVICES CORPORATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, PRODUCER AND INSURANCE COMPANY TRADE ASSOCIATIONS, AND OTHER INTERESTED PARTIES**

**FROM: ARKANSAS INSURANCE DEPARTMENT**

**SUBJECT: NOTICE REQUIREMENTS FOR TERMINATION OF INSURANCE PRODUCER**

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Every insurer which appoints an insurance producer in this state is required to notify the Commissioner when the insurer terminates the producer's appointment, whether it is one for cause or not for cause. A "for cause" termination has numerous implications for the Department and the producer, including a review of the termination and, possibly, investigation by the Department into the producer's conduct. The Department has discovered many instances in which insurers misapply the law and improperly report a termination as being for cause. Due to the extensive misapplication of the reporting requirements after terminating a producer, this Bulletin is necessary to explain Arkansas law and the proper procedure for reporting termination of a producer's appointment, including appointments with an individual producer or business entity.

Arkansas Code Annotated § 23-64-515 requires every insurer or its authorized representative to notify the Insurance Commissioner when it terminates the appointment, employment, contract, or other insurance business relationship with a producer within thirty (30) days of the effective date of the termination. The notice must be in a format prescribed by the Commissioner and must state whether the termination is for cause or not for cause. The insurer must notify the Commissioner that a termination is for cause if the reason for termination is:

- (1) one of the reasons set forth in Arkansas Code Annotated § 23-64-512; or
- (2) the insurer has knowledge that the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in § 23-64-512.

See Ark. Code Ann. § 23-64-515(a). Specifically, a termination can only be reported as for cause if the producer committed or was found to have committed a violation set forth in Arkansas Code Annotated § 23-64-512, for which the producer can be subject to administrative actions. Such violations include:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in the license application;
- (2) Violating any of the following that calls into question the insurance producer's fitness to hold a license:
  - (A) A law; or
  - (B) A regulation, subpoena, or order of:
    - (i) The commissioner;
    - (ii) Another state's insurance commissioner; or
    - (iii) A court of competent jurisdiction.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
- (4) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
- (6) Having been convicted of a felony;
- (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
- (8) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility;
- (9) Having an insurance producer license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory;
- (10) Forging another's name to an application for insurance or to any document related to an insurance transaction;
- (11) Improperly using notes or any other reference material to complete an examination for an insurance license;
- (12) Knowingly accepting insurance business from an individual who is not licensed;
- (13) Failing to provide a written response after receipt of a written inquiry from the commissioner or his or her representative as to transactions under the license within thirty (30) days after receipt thereof unless the timely written response is knowingly waived in writing by the commissioner;
- (14) Failing to comply with an administrative or court order imposing a child support obligation;
- (15) Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax;
- (16) Refusing to be examined or to produce any accounts, records, or files for examination; or
- (17) Failing to cooperate with the commissioner in an investigation when required by the commissioner.

See Ark. Code Ann. § 23-64-512(a). Once the Department receives the notice, the insurer must provide any and all additional information, documents, records, or other data pertaining to the termination or activity of the producer, if so requested by the Department.

A termination for cause is only proper if it is for one of the reasons listed in Arkansas Code Annotated § 23-64-512(a), and the reason must be listed in the notice provided to the Department. See Ark. Code Ann. § 23-64-515(a). It is not proper, for example, to report a termination as being for cause when the producer violated a company policy or requirement, which is not included in the aforementioned list of violations.


Insurers are authorized to use certain third-party online programs to terminate a producer, including the National Insurance Producer Registry (NIPR) and LEO Services. However, when an insurer uses an online program to terminate a producer, the Department is not notified of the termination. Arkansas law requires every insurer to notify the Department of a termination by submitting a specific form. The form is on the Licensing Division's page of the Department's website, under the License Forms link. The direct link to the form is:

[http://insurance.arkansas.gov/License/LicenseFormfiles/Agency\\_Appointment\\_Termination\\_for\\_m.pdf](http://insurance.arkansas.gov/License/LicenseFormfiles/Agency_Appointment_Termination_for_m.pdf)

By this Bulletin, the Department does not intend or desire to discourage necessary reporting, or prevent a company from terminating a producer for a contractual reason. However, the Department will only consider a termination as "for cause" if the producer commits an act that is listed in Arkansas Code Annotated § 23-64-512(a).

The Department expects all insurers to comply with Arkansas Code Annotated § 23-64-515 when submitting a termination notice, and failure to submit proper notification may result in administrative action against an insurer. An insurer, the authorized representative of the insurer, or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with the Arkansas Insurance Code. Ark. Code Ann. § 23-64-515(g). Additionally, it is important to emphasize that any person who files any statement, application, form, or other document required to be filed by the Arkansas Insurance Code knowing the statement or information contained in the document to be false or misleading in any material respect shall be guilty of a Class D felony. Ark. Code Ann. § 23-60-109.

Questions concerning this Bulletin may be directed to the Legal Division at (501) 371-2820 or by e-mail at [insurance.legal@arkansas.gov](mailto:insurance.legal@arkansas.gov).

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

February 13, 2014  
DATE