

Effective 5/10/2016

31A-25-208 Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Rulemaking for renewal and reinstatement.

- (1) A license type issued under this chapter remains in force until:
 - (a) revoked or suspended under Subsection (4);
 - (b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;
 - (c) the licensee dies or is adjudicated incompetent as defined under:
 - (i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or
 - (ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;
 - (d) lapsed under Section 31A-25-210; or
 - (e) voluntarily surrendered.
- (2) The following may be reinstated within one year after the day on which the license is no longer in force:
 - (a) a lapsed license; or
 - (b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.
- (3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:
 - (a) this title; or
 - (b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4)
 - (a) If the commissioner makes a finding under Subsection (4)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:
 - (i) revoke a license;
 - (ii) suspend a license for a specified period of 12 months or less;
 - (iii) limit a license in whole or in part; or
 - (iv) deny a license application.
 - (b) The commissioner may take an action described in Subsection (4)(a) if the commissioner finds that the licensee:
 - (i) is unqualified for a license under Section 31A-25-202, 31A-25-203, or 31A-25-204;
 - (ii) has violated:
 - (A) an insurance statute;
 - (B) a rule that is valid under Subsection 31A-2-201(3); or
 - (C) an order that is valid under Subsection 31A-2-201(4);
 - (iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;
 - (iv) fails to pay a final judgment rendered against the person in this state within 60 days after the day on which the judgment became final;
 - (v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;
 - (vi) is affiliated with and under the same general management or interlocking directorate or ownership as another third party administrator that transacts business in this state without a license;
 - (vii) refuses:

- (A) to be examined; or
- (B) to produce its accounts, records, and files for examination;
- (viii) has an officer who refuses to:
 - (A) give information with respect to the third party administrator's affairs; or
 - (B) perform any other legal obligation as to an examination;
- (ix) provides information in the license application that is:
 - (A) incorrect;
 - (B) misleading;
 - (C) incomplete; or
 - (D) materially untrue;
- (x) has violated an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;
- (xi) has obtained or attempted to obtain a license through misrepresentation or fraud;
- (xii) has improperly withheld, misappropriated, or converted money or properties received in the course of doing insurance business;
- (xiii) has intentionally misrepresented the terms of an actual or proposed:
 - (A) insurance contract; or
 - (B) application for insurance;
- (xiv) has been convicted of a felony;
- (xv) has admitted or been found to have committed an insurance unfair trade practice or fraud;
- (xvi) in the conduct of business in this state or elsewhere has:
 - (A) used fraudulent, coercive, or dishonest practices; or
 - (B) demonstrated incompetence, untrustworthiness, or financial irresponsibility;
- (xvii) has had an insurance license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
- (xviii) has forged another's name to:
 - (A) an application for insurance; or
 - (B) a document related to an insurance transaction;
- (xix) has improperly used notes or any other reference material to complete an examination for an insurance license;
- (xx) has knowingly accepted insurance business from an individual who is not licensed;
- (xxi) has failed to comply with an administrative or court order imposing a child support obligation;
- (xxii) has failed to:
 - (A) pay state income tax; or
 - (B) comply with an administrative or court order directing payment of state income tax;
- (xxiii) has violated or permitted others to violate the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and therefore under 18 U.S.C. Sec. 1033 is prohibited from engaging in the business of insurance; or
- (xxiv) has engaged in methods and practices in the conduct of business that endanger the legitimate interests of customers and the public.
- (c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the agency license.
- (d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:
 - (i) the individual;

- (ii) the agency if the agency:
 - (A) is reckless or negligent in its supervision of the individual; or
 - (B) knowingly participated in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or
- (iii)
 - (A) the individual; and
 - (B) the agency if the agency meets the requirements of Subsection (4)(d)(ii).
- (5) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:
 - (a) the licensee's license is:
 - (i) revoked;
 - (ii) suspended;
 - (iii) limited;
 - (iv) surrendered in lieu of administrative action;
 - (v) lapsed; or
 - (vi) voluntarily surrendered; and
 - (b) the licensee:
 - (i) continues to act as a licensee; or
 - (ii) violates the terms of the license limitation.
- (6) A licensee under this chapter shall immediately report to the commissioner:
 - (a) a revocation, suspension, or limitation of the person's license in any other state, the District of Columbia, or a territory of the United States;
 - (b) the imposition of a disciplinary sanction imposed on that person by any other state, the District of Columbia, or a territory of the United States; or
 - (c) a judgment or injunction entered against the person on the basis of conduct involving:
 - (i) fraud;
 - (ii) deceit;
 - (iii) misrepresentation; or
 - (iv) a violation of an insurance law or rule.
- (7)
 - (a) An order revoking a license under Subsection (4) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.
 - (b) If no time is specified in the order or agreement described in Subsection (7)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval of the commissioner.
- (8) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by the court.
- (9) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 138, 2016 General Session