

SUBCHAPTER 7. MEDICAL MALPRACTICE REPORTING REQUIREMENTS

11:1-7.1 Purpose and scope

(a) The purpose of these rules is to implement N.J.S.A. 17:30D-17(a), (b), and (h). These statutory provisions require insurers, insurance associations and licensed medical practitioners to notify the Commissioner and the Medical Practitioner Review Panel of any medical malpractice claim settlements, judgments, or arbitration awards involving a licensed practitioner. They also require notification to the Medical Practitioner Review Panel of any termination or denial of malpractice insurance coverage to a practitioner, or any surcharge assessed against a practitioner. These rules establish the form and content of the notices required under these statutory provisions.

(b) These rules apply to all insurers or insurance associations authorized to issue medical malpractice liability insurance in New Jersey, and to all practitioners licensed by the State Board of Medical Examiners.

Amended by R.2005 d.407, effective November 21, 2005.
See: 36 N.J.R. 4870(a), 37 N.J.R. 4455(a).

Rewrote (a).

11:1-7.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Medical malpractice liability insurance” means insurance coverage against the legal liability of the insured and against

loss, damage or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any licensed medical practitioner or health care facility or a claim arising out of ownership, operation or maintenance of the practitioner’s or facility’s business premises, including primary and excess coverages.

“Medical Practitioner Review Panel” or “Panel” means the panel established pursuant to N.J.S.A. 45:9-19.8.

“Practitioner” means any person licensed to practice medicine and surgery under N.J.S.A. 45:9-1 et seq., podiatry under N.J.S.A. 45:5-1 et seq., or a medical resident or intern.

“State Board of Medical Examiners” means the board established pursuant to N.J.S.A. 45:9-1.

Amended by R.2005 d.407, effective November 21, 2005.
See: 36 N.J.R. 4870(a), 37 N.J.R. 4455(a).

Added “Banking and” preceding “Insurance” to definition “Commissioner.”

Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In definition “Commissioner”, inserted “Banking and”.

11:1-7.3 Medical malpractice reporting requirements

(a) Any insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the Medical Practitioner Review Panel in writing of the following:

1. Any medical malpractice claim settlement, judgment or arbitration award involving any practitioner licensed by the State Board of Medical Examiners and insured by an insurer or insurance association;

2. Any termination or denial of medical malpractice liability coverage to a practitioner; and

3. Any surcharge assessed against a practitioner because of the practitioner's practice method or medical malpractice claims history.

(b) Any practitioner licensed by the State Board of Medical Examiners who is not covered by a policy of medical malpractice liability insurance issued in this State, or has coverage through a self-insured health care facility or health maintenance organization, or has medical malpractice liability insurance which has been issued by an insurer or insurance association from outside the State, shall notify the Panel in writing of any medical malpractice claim settlement, judgment or arbitration award to which the practitioner is a party.

(c) The initial written notice referred to in (a) and (b) above may be either in letter form or the malpractice report form of the National Practitioner Data Bank and shall contain at least the following information:

1. The name and address of the insurer, insurance association or practitioner submitting the information,

2. The name and address and any other information relating to the identity of the practitioner about whom the information is being submitted; and

3. In the case of a claim settlement, judgment or arbitration award, the name, address and other information relevant to the identity of the claimant making the medical malpractice liability claim against the practitioner, as well as the amount and relevant details of the claim settlement, judgment or arbitration award.

(d) The initial written notice referred to in (a) and (b) above shall be mailed by regular mail or delivered no later than seven days after the settlement, judgment or arbitration award is officially agreed to or entered, the notice of termination or denial of coverage is issued to the practitioner, or notice of the surcharge has been issued to the practitioner.

(e) In addition to the information provided in the initial written notice referred to in this section, the Panel may request in writing such supplemental relevant information as it determines to be necessary, which shall be received by the Panel no later than 30 days following the date of the Panel's written request.

(f) Reports to the Medical Review Board shall be addressed to:

Medical Practitioner Review Panel
PO Box 183
Trenton, NJ 08625-0183

(g) All insurers or insurance associations authorized to issue medical malpractice liability insurance in the State shall notify the Commissioner of any medical malpractice claim settlement, judgment or arbitration award involving any

practitioner licensed by the State Board of Medical Examiners and insured by the insurer or association. The notification shall be made regardless of whether the practitioner is currently insured by the insurer or association at the time of the settlement, judgment or arbitration award. The notification shall not include the name or other identifying information of the practitioner or claimant, but shall contain the following information:

1. The claim number;
2. An indicator if the form is amending a previously filed report;
3. The specialty or area of professional practice of the practitioner;
4. The practitioner's zip code;
5. The date of the loss;
6. A description of the claim/loss;
7. The final disposition;
8. The settlement date; and
9. The amount of the settlement, judgment or arbitration award.

(h) The notice referred to in (g) above shall be delivered to the Department electronically or by regular mail no later than seven days after the settlement, judgment or arbitration award is officially agreed to or entered. The notice shall be addressed to the Department at:

Med Mal Claim Reporting
Department of Banking and Insurance
Consumer Protection, Market Analysis Unit
PO Box 329
Trenton, NJ 08625
Email: medmalclrep@dobi.state.nj.us

Amended by R.2001 d.75, effective March 5, 2001.
See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

Added (f).
Amended by R.2005 d.407, effective November 21, 2005.
See: 36 N.J.R. 4870(a), 37 N.J.R. 4455(a).
Added (g) and (h).

11:1-7.4 Confidentiality

All information or documentation submitted to the Panel pursuant to this subchapter is confidential, except for release to a government agency under certain circumstances and conditions as set forth at N.J.S.A. 45:9-19.3 and 19.10.

11:1-7.5 Penalties

(a) Any insurer, insurance association or practitioner failing to notify the Medical Malpractice Review Panel pursuant to the requirements of this subchapter shall be subject to such penalties as the Commissioner may determine in accordance with N.J.S.A. 17:30D-12. Additionally, the Commissioner may assess a fine not to exceed \$1,000 for the

first violation and \$2,000 for the second and each subsequent violation, which may be recovered in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

(b) Any practitioner failing to notify the Medical Practitioner Review Panel pursuant to the requirements of this subchapter shall be subject to disciplinary action and civil penalties in accordance with N.J.S.A. 45:1-21, 22 and 25.

SUBCHAPTERS 8 THROUGH 9. (RESERVED)

SUBCHAPTER 10. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN PROPERTY AND CASUALTY INSURERS

Law Review And Journal Commentaries

Insurance. P.R. Chenoweth, 138 N.J.L.J. 56 (1994).

11:1-10.1 Purpose

This subchapter establishes the procedures, requirements and standards which govern the application of foreign and alien companies engaged in the business of property and casualty insurance for a Certificate of Authority to transact the business of insurance in the State of New Jersey.

11:1-10.2 Scope

This subchapter applies to any foreign and alien company engaged in the business of property and casualty insurance that applies for a Certificate of Authority to transact the business of insurance in the State of New Jersey. The filing requirements contained in this subchapter shall not apply to the continuation, renewal or timely reinstatement of existing Certificates of Authority except where the Commissioner, pursuant to law, shall otherwise so require.

11:1-10.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Affiliate” of, or person “affiliated” with, a specific person, means a person who or which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

“Alien insurer” means an insurer formed under the laws of any country other than the United States of America, its states, districts, territories, commonwealths, or possessions.

“Authorized insurer” means a domestic, foreign or alien insurer, duly authorized by a Certificate of Authority issued

by the Commissioner to transact the business of insurance in the State of New Jersey.

“Certificate of authority” means a certificate issued by the Commissioner evidencing the authority of an insurer to transact the business of insurance in the State of New Jersey.

“Commissioner of Insurance” or “Commissioner” means the Commissioner of the Department of Banking and Insurance of the State of New Jersey, or his or her designee as may be permitted by law.

“Committee on Admissions” means the advisory committee appointed by the Commissioner to aid in the review of applications for admission to transact the business of insurance in the State of New Jersey and to render to the Commissioner recommendations as to the disposition of such applications.

“Control” (including the terms “controlling”, “controlled by” and “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise; unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person, provided that no such presumption of control shall of itself relieve any person so presumed to have control from any requirement of this subchapter. This presumption may be rebutted by a showing made in the manner provided by N.J.S.A. 17:27A-3(i) that control does not exist in fact. The Commissioner may determine, after furnishing all interested persons with notice and an opportunity to be heard and after making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

“Department” means the Department of Banking and Insurance of the State of New Jersey.

“Domestic insurer” means an insurer formed under the laws of the State of New Jersey.

“Domicile” means:

1. As to alien insurers, the country under the laws of which the insurer was formed;
2. As to all other insurers, including United States branches of alien insurers, the state, districts, territories, commonwealths or possessions under the laws of which the insurer was formed;