

#### 11:17A-4.5 Disclosure of personal or privileged information

No insurance producer shall disclose or solicit the disclosure of personal or privileged information about an individual collected or received in connection with an insurance transaction except in conformity with N.J.S.A. 17:23A-1 et seq.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted "or limited insurance representative" following "No insurance producer".

Amended by R.2005 d.237, effective July 18, 2005.

See: 37 N.J.R. 413(a), 37 N.J.R. 2691(c).

Inserted "or solicit the disclosure of" preceding "personal or privileged information".

#### 11:17A-4.6 Delivery of policies

Policies, certificates, or other evidence of insurance which are received by an insurance producer from an insurer for delivery to an insured shall be delivered or mailed to the insured by the insurance producer within 10 calendar days of their receipt by the insurance producer, unless the insured agrees in writing that the insurance producer may retain them for a longer period of time. With respect to title insurance only, in all cases where the insurance producer prepares the policies of insurance, those policies shall be delivered to the insured or to the applicant within 30 days following the receipt by the insurance producer of the necessary proofs showing that all requirements or exceptions to title as set forth in the title commitment, and which customarily do not appear in the policy, have been satisfactorily disposed of.

Amended by R.1993 d.199, effective May 3, 1993.

See: 25 N.J.R. 446(a), 25 N.J.R. 1878(a).

Added special requirements for delivery of policies for title insurance.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted references to limited insurance representative throughout.

##### Case Note

Insurance agent fined for failing to promptly deliver policy to insured. *Karpinski v. Darley*, 96 N.J.A.R.2d (INS) 67.

#### 11:17A-4.7 Receipts for materials

An insurance producer who takes possession of an insured's or a potential insured's insurance policies, certificates, or other documents pertaining to existing or pending insurance, shall provide to the insured a written receipt for those materials at the time the insurance producer receives the materials. The receipt shall contain an itemized list of the materials received, the insurance producer's name and the address and telephone number of the agency or other place where the insurance producer can be contacted. The receipt shall be dated and signed by the insurance producer and the insured.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted references to limited insurance representatives throughout.

#### 11:17A-4.8 Replies to inquiries by Commissioner

An insurance producer shall reply, in writing, to any inquiry of the Department relative to the business of insurance within the time requested in said inquiry, or no later than 15 calendar days from the date the inquiry was made or mailed in cases where no response time is given.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted "or limited insurance representatives" following "An insurance producer".

##### Case Notes

Respondent's insurance producer license was properly suspended and she was subject to an imposition of fine of \$1,500 as well as \$250 in costs after she submitted a check for payment of her license renewal fee that was dishonored by the bank for insufficient funds, in violation of N.J.A.C. 11:17D-2.4(a)(3), and then failed to reply to an inquiry request by the Department, in violation of this section. While imposition of the maximum penalties was inappropriate given the lack of bad faith, respondent's limited ability to pay, the small profit involved and the lack prior violations, respondent clearly failed in her statutory duty to respond to the Department's requests for information until the Order to Show Cause was issued (adopting, as modified, 2008 N.J. AGEN LEXIS 759). *Goldman v. Ransom*, OAL Dkt. No. BKI 12576-2007N, 2008 N.J. AGEN LEXIS 1047, Final Decision (October 28, 2008).

#### 11:17A-4.9 Reporting of claims and estimated losses by producers

Claims and estimated losses thereon shall be reported to the insurer or designated claims representative by an insurance producer no later than five business days following his or her receipt of notice of claim, unless the insurance producer has contractual authority from the insurer to settle the claim.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Inserted "or designated claims representative" following "to the insurer", deleted "acting as a property-casualty insurance agent" preceding "no later" and inserted "or her" preceding "receipt of notice".

#### 11:17A-4.10 Fiduciary capacity

An insurance producer acts in a fiduciary capacity in the conduct of his or her insurance business.

##### Case Notes

Partial Summary Decision (2006 N.J. AGEN LEXIS 552) adopted, which concluded that the president and partial owner of the insurance producer at issue was responsible for the conduct of the business of the company in accordance with N.J.A.C. 11:17A-4.10 and N.J.A.C. 11:17A-1.6(c), no matter who in the company may have actually failed to transmit premiums to insurers, return premiums to insureds, and obtain insurance coverage for its customers, in violation of N.J.A.C. 11:17C-2.2(a) and (b); by violating these insurance remittance laws of New Jersey, the licensee was also in violation of N.J.S.A. 17:22A-40(a)(2). *Bakke v. Prime Ins. Syndicate*, OAL Dkt. No. BKI 1168-05, 2006 N.J. AGEN LEXIS 509, Final Decision (May 8, 2006).

Adopting Initial Decision's conclusion that licensees failed to comply with fiduciary standards owed by insurance producers by engaging in a pattern of collecting insurance premiums from customers and issuing insurance identification cards and certificates of insurance for insurance policies that were not yet bound (adopting and modifying 2005 N.J.

AGEN LEXIS 916). Bakke v. AMF Insurance Services, Inc., OAL Dkt. No. BKI 85-05 (REMAND), Final Decision (March 13, 2006).

#### **11:17A-4.11 Penalties**

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17:22A-26 et seq. and any other applicable law.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist, and a separate penalty

therefor shall be assessed, for each violation of the provisions of this subchapter.

Amended by R.2002 d.354, effective November 4, 2002.  
See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).  
In (a), amended the N.J.S.A. reference.

#### **11:17A-4.12 Severability**

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.