

**CHAPTER 17A**

**INSURANCE PRODUCER AND LIMITED INSURANCE REPRESENTATIVE STANDARDS OF CONDUCT: MARKETING**

**Authority**

N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:22A-1 et seq., 17:29B-7, and 17B:30-13 and 15.

**Source and Effective Date**

R.1995 d.60, effective December 30, 1994.  
See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 17A, Insurance Producer and Limited Insurance Representative Standards of Conduct: Marketing, expires on December 30, 1999.

**Chapter Historical Note**

Chapter 17A, Insurance Producer and Limited Insurance Representative Standards of Conduct: Marketing, was adopted as R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b). Petition for Rulemaking, received September 27, 1991. See: 23 N.J.R. 3659(a). Pursuant to Executive Order No. 66(1978), Chapter 17A was readopted as R.1995 d.60. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. ACTIVITIES FOR WHICH A PERSON MUST BE LICENSED AS AN INSURANCE PRODUCER OR REGISTERED AS A LIMITED INSURANCE REPRESENTATIVE**

- 11:17A-1.1 Purpose; scope
- 11:17A-1.2 Definitions
- 11:17A-1.3 Who must be licensed; exceptions
- 11:17A-1.4 Solicitation, negotiation, effectuation of an insurance contract
- 11:17A-1.5 Activities for which licensure not required
- 11:17A-1.6 Duty to have insurance producer at each place of business
- 11:17A-1.7 Personal private passenger automobile insurance solicitation
- 11:17A-1.8 Penalties
- 11:17A-1.9 Severability

**SUBCHAPTER 2. UNFAIR TRADE PRACTICES**

- 11:17A-2.1 Purpose; scope
- 11:17A-2.2 Definitions
- 11:17A-2.3 Rebates and inducements; prohibited practices
- 11:17A-2.4 Rebates and inducements; determination of value
- 11:17A-2.5 Tie-ins; coercion
- 11:17A-2.6 Identification of insurance producer
- 11:17A-2.7 Unfair discrimination
- 11:17A-2.8 "Twisting" prohibited
- 11:17A-2.9 Penalty
- 11:17A-2.10 Severability

**SUBCHAPTER 3. INCORPORATION OF OTHER PROVISIONS OF THE NEW JERSEY ADMINISTRATIVE CODE APPLICABLE TO INSURANCE PRODUCERS AND LIMITED INSURANCE REPRESENTATIVES**

- 11:17A-3.1 Incorporation of other rules

**SUBCHAPTER 4. MISCELLANEOUS MARKETING AND RELATED REQUIREMENTS**

- 11:17A-4.1 Agent and broker authorized to collect premiums
- 11:17A-4.2 Insurance producer to witness signature of insured
- 11:17A-4.3 Confirmation of underwriting information
- 11:17A-4.4 Special underwriting associations
- 11:17A-4.5 Disclosure of personal or privileged information
- 11:17A-4.6 Delivery of policies
- 11:17A-4.7 Receipts for materials
- 11:17A-4.8 Replies to inquiries by Commissioner
- 11:17A-4.9 Reporting of claims by property-casualty agents
- 11:17A-4.10 Fiduciary capacity
- 11:17A-4.11 Penalties
- 11:17A-4.12 Severability

**SUBCHAPTER 1. ACTIVITIES FOR WHICH A PERSON MUST BE LICENSED AS AN INSURANCE PRODUCER OR REGISTERED AS A LIMITED INSURANCE REPRESENTATIVE**

**11:17A-1.1 Purpose; scope**

(a) The purpose of this subchapter is to implement the provisions of N.J.S.A. 17:22A-1 et seq. generally, and 17:22A-3 in particular, by identifying the insurance-related activities that require licensure as an insurance producer or registration as a limited insurance representative.

(b) This subchapter applies to all persons performing the functions of licensed insurance producers.

**11:17A-1.2 Definitions**

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

"Automobile" means a private passenger automobile of a private passenger or station wagon type that is owned or hired and is neither used as a public or livery conveyance for passengers nor rented to others with a driver; and a motor vehicle with a pickup body, a delivery sedan, a van, or a panel truck or a camper type vehicle used for recreational purposes owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession or business of the insured other than farming or ranching. An automobile owned by a farm family copartnership or corporation, which is principally garaged on a farm or ranch and otherwise meets the definitions contained in this section, shall be considered a

private passenger automobile owned by two or more relatives resident in the same household.

“Clerical duties” means the administrative and underwriting tasks accomplished in the office and under the supervision of the insurer or licensed producer that are necessary to produce the insurance contract in accordance with the insurer’s or producer’s normal procedures and systems, including, but not limited to, the following:

1. Receiving requests for coverage for transmittal to a licensed insurance producer or for processing through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer;
2. Mailing billings;
3. Scheduling appointments with insurance producers;
4. Office filing;
5. Marketing research or prospecting so long as no attempt is made to solicit or to discuss a specific insurance product or to encourage replacement of an existing policy;
6. Receiving and recording information from an applicant or policyholder and preparing for an insurance producer’s review and signature all binders, certificates, endorsements, identification cards or policies pursuant to instructions from the insurance producer;
7. Receiving and recording information from an applicant or policyholder and preparing an application for insurance pursuant to instructions from and for the review of an insurance producer;
8. Receiving and recording information from a policyholder or prospective policyholder to give to an insurance producer for his or her response, or transmitting information to a policyholder or prospective policyholder under the supervision of an insurance producer;
9. Receiving and recording an insured’s request concerning any additions or deletions to an existing policy and preparing the appropriate endorsements or processing the appropriate changes through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer and notifying the insurance producer of the endorsements or changes;

Example: An unlicensed person may receive and process a request from an insured to delete an automobile on an existing policy and to add a replacement automobile, or may receive and process a request to delete physical damage coverage on a particular automobile, or receive and process a request for similar routine policy changes initiated by an insured. An unlicensed person may not, however, initiate a change by, for example, telephoning a life insurance policyholder and suggesting that the insured increase the face amount of the policy.

10. Opening mail;
11. Receiving premiums at the recorded place of business where the payment is being made on a binder, endorsement or existing policy;

12. Taking factual information relative to a claim;

13. Communicating with the policyholder or prospective policyholder in order to obtain factual information necessary for an insurance producer to complete a review;

Example: An unlicensed person may call an applicant to request the submission of additional documents.

14. Informing the insured as to his or her coverages as indicated in policy records;

15. Communicating with a prospective or existing insured for the purpose of auditing records or providing loss control on underwriting verifications and inspections;

16. Disseminating buyer’s guides, applications for coverage, coverage selection forms or other similar forms in response to a request from prospective or current policyholders;

Example: An unlicensed person may receive a request for an application and respond by mailing or giving an application for insurance and other related literature. The unlicensed person may not, however, initiate the conversation.

17. Disseminating information as to rates secured by reference to a published or printed list or computer data base of standard rates;

Example: An unlicensed person may respond to a specific request for the cost of a specific coverage from a rate manual published in print or in an electronic format. However, an unlicensed person may not provide advice or suggestions concerning the benefits or drawbacks of a particular coverage, deductible, limit, etc., in the course of disseminating this information.

and

18. As an underwriter employed by an insurer or by a licensed insurance producer, upon receipt of an application submitted by a licensed producer, requesting and reviewing information under paragraph 15 above, requesting and reviewing the results of a physical examination of a prospective insured named in a submitted application, requesting and reviewing information from persons other than the applicant, making a determination that the applicant meets the insurer’s underwriting criteria, and mailing the policy to the policyholder or the producer.

Example: An unlicensed full-time salaried underwriter not compensated based on sales receives a non-bound life insurance application from a licensed producer. The underwriter requests that the applicant take a physical examination. Pursuant to authorizations in the application, the underwriter requests medical records from the applicant’s physicians. The underwriter reviews the application, results of the physical examination and the medical records, and decides to issue the life insurance policy applied for. The underwriter mails the policy with a printed explanatory brochure to the applicant. All of these activities are permissible activities for the unlicensed underwriter.

2. The name of the insurer, if known, or insurance producer, that he or she is representing; and

3. The nature of the relationship between the insurance producer and the insurer or insurance producer being represented.

(b) In addition to (a)1 through 3 above, an insurance producer shall maintain his or her license at the business address on file with the Department and shall display the license to an insured or prospective insured upon their request.

#### **11:17A-2.7 Unfair discrimination**

No insurance producer or limited insurance representative shall refuse to take an application from a policyholder or prospective policyholder for any reason based in whole or in part upon the race, color, creed, religion, sex, marital status or physical impairments of an applicant or policyholder, or for any arbitrary, capricious, or unfairly discriminatory reason, or for any reason which is contrary to Federal or State law. Nothing in this section shall prohibit an insurance producer from refusing to submit an application to an insurer where there exists a contractual arrangement with an insurer to perform underwriting pursuant to established and legally permissible written underwriting guidelines and the refusal is based on these guidelines.

#### **11:17A-2.8 "Twisting" prohibited**

No insurance producer or limited insurance representative shall make any misleading representations or incomplete or fraudulent comparison of any insurance policies or annuity contracts or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, or convert any insurance policy or annuity contract, or to take out a policy of insurance or annuity contract with another insurer.

#### **11:17A-2.9 Penalty**

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17B:30-1 et seq., 17:29B-1 et seq. and N.J.S.A. 17:22A-1 et seq.

(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 therefore shall be assessed for each violation of the provisions of this subchapter.

#### **11:17A-2.10 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.

### **SUBCHAPTER 3. INCORPORATION OF OTHER PROVISIONS OF THE NEW JERSEY ADMINISTRATIVE CODE APPLICABLE TO INSURANCE PRODUCERS AND LIMITED INSURANCE REPRESENTATIVES**

#### **11:17A-3.1 Incorporation of other rules**

(a) The following rules are herein incorporated by reference to the extent that they regulate the conduct of insurance producers and limited insurance representatives:

1. N.J.A.C. 11:2-12, concerning mass marketing of property and liability insurance;
2. N.J.A.C. 11:4-11, concerning life insurance solicitation;
3. N.J.A.C. 11:4-17, concerning health insurance solicitation;
4. N.J.A.C. 11:4-2, concerning life insurance replacement;
5. N.J.A.C. 11:2-11 and 11:2-23, concerning life and health insurance advertising; and
6. N.J.A.C. 11:2-17, concerning unfair claims settlement practices.

### **SUBCHAPTER 4. MISCELLANEOUS MARKETING AND RELATED REQUIREMENTS**

#### **11:17A-4.1 Agent and broker authorized to collect premiums**

(a) Premium monies collected by an insurance producer acting as an insurance agent shall be deemed to be received by the insurer by whom the agent is authorized to act whether or not the agent actually remits the monies to the insurer.

(b) Premium monies collected by an insurance producer acting as an insurance broker shall be deemed to be received by the insurer in accordance with the provisions of N.J.S.A. 17:22-6.2a.

#### **11:17A-4.2 Insurance producer to witness signature of insured**

In cases where an applicant's signature is required, an insurance producer who takes an application for insurance shall be required to witness the signature of the prospective insured on the application prior to the submission of the application to the insurer. This requirement may be waived, however, upon prior written authorization by the insurer.

Amended by R.1995 d.60, effective February 6, 1995.  
See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).

**11:17A-4.3 Confirmation of underwriting information**

(a) Every insurance producer shall, within 10 days after the effectuation of an insurance transaction made through an insurance producer which modifies the terms of an existing insurance contract or the terms of an application for insurance, notify a policyholder or applicant, in writing, of all information submitted to the insurance producer by the policyholder or applicant pertinent to the modification, including confirmation that the insurance producer has sent the information to the insurer.

1. The requirement in (a) above shall apply to all insurance policies, certificates, binders and endorsements.

2. The requirement in (a) above shall not apply when the request for such modification is required to be submitted by the policyholder or applicant to the insurance producer in writing.

Amended by R.1995 d.60, effective February 6, 1995.  
See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).

**11:17A-4.4 Special underwriting associations**

(a) Every insurance producer who solicits, negotiates or effects contracts of insurance for the placement of risks in any residual market mechanism created by or pursuant to any statute shall conduct his or her business in accordance with the applicable plan of operation.

(b) For the purpose of this section, "solicit", "negotiate" or "effect" shall have the same meanings as provided by N.J.A.C. 11:17A-1.2.

Amended by R.1995 d.60, effective February 6, 1995.  
See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).

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

No insurance producer or limited insurance representative shall disclose 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.

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

Policies, certificates, or other evidence of insurance which are received by an insurance producer or limited insurance representative from an insurer for delivery to an insured shall be delivered or mailed to the insured by the insurance producer or limited insurance representative within 10 calendar days of their receipt by the insurance producer or limited insurance representative, unless the insured agrees in writing that the insurance producer or limited insurance representative 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.

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

An insurance producer or limited insurance representative 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 or limited insurance representative receives the materials. The receipt shall contain an itemized list of the materials received, the insurance producer's or limited insurance representative's name and the address and telephone number of the agency or other place where the insurance producer or limited insurance representative can be contacted. The receipt shall be dated and signed by the insurance producer or limited insurance representative and the insured.

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

An insurance producer or limited insurance representative 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.

**11:17A-4.9 Reporting of claims by property-casualty agents**

Claims and estimated losses thereon shall be reported to the insurer by an insurance producer acting as a property-casualty insurance agent no later than five business days following his receipt of notice of claim, unless the insurance producer has contractual authority from the insurer to settle the claim.

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

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

**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-1 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.

**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.