

Amended R.1991 d.52, effective February 4, 1991.
 See: 22 N.J.R. 3444(a), 23 N.J.R. 310(a).
 In (e): revised date to "January 1, 1992."
 Amended by R.1992 d.44, effective January 21, 1992.
 See: 23 N.J.R. 1912(a), 24 N.J.R. 287(c).
 Application of (e) specified.
 Amended by R.1993 d.49, effective January 19, 1993.
 See: 24 N.J.R. 3220(a), 25 N.J.R. 313(a).
 Licensure or registration required by (c) to be secured by May 1, 1993.
 Amended by R.1993 d.199, effective May 3, 1993.
 See: 25 N.J.R. 446(a), 25 N.J.R. 1878(a).
 Text at (e) amended to include officers and employees of insurance producers; and to clarify that direct contact with the public requires license.
 Amended by R.1995 d.60, effective February 6, 1995.
 See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).
 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), inserted "Except as provided in N.J.A.C. 11:17B-2.1(b) or (e)," preceding "No person shall act"; in (b) and (c), amended the N.J.S.A. references and substituted "sells" for "effects" preceding "contracts of insurance" in (b); rewrote (e).

Case Notes

License revoked; unlicensed persons allowed to solicit coverage.
 Fortunato v. EVA Insurance & Accounting, Inc., 93 N.J.A.R.2d (INS) 27.

11:17A-1.4 Selling, soliciting or negotiating an insurance contract

(a) No person shall solicit, negotiate or sell an insurance contract in New Jersey unless he or she is a licensed insurance producer.

(b) Selling, soliciting or negotiating an insurance contract includes, but is not limited to, the following activities:

1. Discussing the effect of age, health or other risk-related conditions of the prospective policyholder;
2. Urging or advising any prospective purchaser to buy any particular policy or to insure with any particular company;
3. Initiating sales over the telephone or otherwise;
4. Completing or signing applications for insurance if the person is other than the applicant's authorized representative;
5. Collecting premiums in person at other than a recorded place of business;
6. Making or proposing to make an insurance contract;
7. Disseminating information as to coverages in general or for any particular policy, except that this shall not prohibit the dissemination of buyer's guides or applications for coverage in response to requests from prospective policyholders;
8. Disseminating information as to rates in general or for any particular policy where the rate cannot be secured by referring to a published or printed list of standard rates;

9. Initiating an inquiry as to the terms of existing coverage, except exclusively in the course of clerical duties;

10. Discussing or describing the coverages or terms of a proposed contract of insurance with a prospective policyholder, including counseling as to which coverages to buy;

Example: If an insured or prospective insured requests advice in any communication with an unlicensed employee, the response must be made by a licensed producer.

11. Recommending or independently initiating additions or deletions to an insured's policy;

12. Signing binders, endorsements and insurance policies;

13. Authorizing the issuance or delivery of certificates of insurance, endorsements, binders or insurance policies or insurance identification cards; and

14. Responding to a policyholder's request for advice or counsel regarding policy provisions or coverage.

Example: In the course of requesting an application form or a change to an existing policy, if a policyholder or prospective policyholder, while speaking to an unlicensed person, requests an opinion about the terms of the proposed insurance contract or the proposed change to the existing contract, the response must be made by a licensed producer.

(c) No insurance producer shall negotiate or solicit in New Jersey any insurance contract which has not first been filed in New Jersey where such contract is required to be filed.

(d) Except as provided in (d)1 below, no professional employer organization or its employees, principals and/or agents shall engage in any activities listed in (b) above at any time, including while negotiating and/or conducting business with any client company or prospective client company, unless the activity is conducted or performed by a properly licensed insurance producer.

1. Professional employer organizations whose only insurance related activity when enrolling new members is either providing information on the single insurance plan available through the PEO, distributing literature on multiple insurance plans available or performing only those functions described in N.J.S.A. 17:22A-30b(2) shall not be deemed to be engaged in activity requiring licensure pursuant to (b)7, 8 or 10 above.

Amended by R.1993 d.199, effective May 3, 1993.
 See: 25 N.J.R. 446(a), 25 N.J.R. 1878(a).
 Text at (b) amended to define activities further and to add examples.
 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), substituted "sell" for "effect" and deleted "or a registered limited insurance representative" following "insurance producer"; in (b), substituted "Selling, soliciting or negotiating" for "Solicitation,

negotiation and effectuation of" in the introductory paragraph and rewrote 9; in (c), deleted "or limited insurance representative" following "insurance producer".

Amended by R.2004 d.184, effective May 3, 2004.

See: 35 N.J.R. 4170(a), 36 N.J.R. 2198(a).

Added (d).

11:17A-1.5 Activities for which licensure not required

Office employees who perform strictly clerical duties under the supervision and control of an insurer or licensed producer shall not be required to be licensed as an insurance producer.

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

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

Activities defined further; examples added; (a)15 through 17 added. Administrative Correction.

See: 25 N.J.R. 4179(b).

11:17A-1.6 Duty to have insurance producer at each place of business

(a) Each place of business maintained by an insurance producer for the purpose of transacting the business of insurance shall be under the direct supervision of an insurance producer.

(b) Any insurance producer who has established one or more places of business for the purpose of transacting the business of insurance shall assign at least one separate insurance producer to each location and shall register as a branch office in accordance with N.J.A.C. 11:17-2.8. Any insurance business conducted at a branch office shall be the responsibility of both the licensed producer assigned to that office and the insurance producer that registered the branch office in accordance with N.J.A.C. 11:17-2.8.

(c) Licensed partners, officers and directors, and all owners with an ownership interest of five percent or more in the organization shall be held responsible for all insurance related conduct of the organization licensee, any of its branch offices, its other licensed officers or partners, and its employees.

Amended by R.2000 d.44, effective February 7, 2000.

See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

In (b), added a second sentence; and rewrote (c).

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 (b), substituted "N.J.A.C. 11:17-2.8" for "N.J.S.A. 17:22A-8" in the second sentence; rewrote (c).

11:17A-1.7 Personal private passenger automobile insurance solicitation

(a) An insurance agent, or an insurance broker who has a brokerage relationship with an insurer, when soliciting personal private passenger automobile insurance, shall:

1. Not attempt to channel an eligible person away from an insurer or insurance coverage so as to avoid the agent's or broker's obligation to submit an application or an insurer's obligation to accept an eligible person;

2. Provide each applicant seeking automobile insurance with premium quotations for the forms or types of coverage requested by the applicant, which are offered by all insurers represented by the agent or broker for personal private passenger automobile insurance or with which the agent or broker places personal private passenger automobile risks. If the request for a quotation was made orally, the agent or broker may provide the applicant with an oral quotation; but shall provide the applicant at minimum with information about rate levels in the territory;

3. Upon request, submit an application of an eligible person for automobile insurance to the insurer selected by the applicant.

i. Where a producer who, pursuant to the authority granted by an insurer, has the authority to immediately bind an application for private passenger automobile insurance, determines that the applicant is an eligible person, the producer shall bind the coverage, or if requested shall notify the applicant whether coverage will be provided or denied, and shall transmit the application to the insurer within five business days of receipt of the completed written application. Nothing in this section shall be construed to compel an insurer to provide a producer with the authority to bind coverage immediately except as provided at N.J.A.C. 11:3-44.4.

ii. Where a producer who, pursuant to his or her agreement with an insurer, does not have authority to bind coverage immediately, receives a completed written application, the producer shall promptly transmit the application to the insurer. Nothing in this section shall be construed to permit an insurer to rescind any binding authority previously granted to its producers.

iii. Producers that transmit applications to insurers for underwriting review shall retain proof of such transmissions in order to memorialize the date upon which transmission occurred. Such proof may be in the form of:

(1) An official receipt of mailing which includes the applicant's name thereon;

(2) A copy of a facsimile transmission which contains the applicant's name and the date of transmission; or

(3) Any other manner from which proof and date of mailing can be verified;

4. Within 10 working days after receiving a declination (see N.J.A.C. 11:3-33) from an insurer to which a written application has been submitted, so advise the applicant in writing, unless the written declination was sent by the insurer to the applicant or the insured;

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".

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.

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.