

CHAPTER 17D

INSURANCE PRODUCER STANDARDS OF CONDUCT: ADMINISTRATIVE PROCEDURES AND PENALTIES

Authority

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

Source and Effective Date

R.2000 d.44, effective December 30, 1999.
See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

Executive Order No. 66(1978) Expiration Date

Chapter 17D, Insurance Producer Standards of Conduct: Administrative Procedures and Penalties, expires on December 30, 2004.

Chapter Historical Note

Chapter 17D, Insurance Producer and Limited Insurance Representative Standards of Conduct: Administrative Procedures and Penalties, was adopted as R.1990 d.11, effective January 2, 1990. See: 21 N.J.R. 1317(a), 22 N.J.R. 30(b), 22 N.J.R. 441(a).

Pursuant to Executive Order No. 66(1978), Chapter 17D, Insurance Producer and Limited Insurance Representative Standards of Conduct: Administrative Procedures and Penalties, was readopted as R.1995 d.60, effective December 30, 1999. See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).

Pursuant to Executive Order No. 66(1978), Chapter 17A, Insurance Producer and Limited Insurance Representative Standards of Conduct: Administrative Procedures and Penalties, was readopted as R.2000 d.44, effective December 30, 1999. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL REQUIREMENTS

11:17D-1.1 Purpose and scope

This chapter is promulgated to describe the procedures for imposing administrative penalties, including the method

of determining monetary fines, for violations of the provisions of N.J.S.A. Titles 17 and 17B and any rules or orders issued by the Commissioner. The procedures and penalties described apply to all insurers, insurance producers and other persons subject to the jurisdiction of the Commissioner.

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

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

Deleted "limited insurance representatives" preceding "and other persons".

11:17D-1.2 Definitions

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

"Administrative order" means any and all orders issued or executed by the Commissioner, his designee and the Department, including, but not limited to, consent orders and orders to show cause.

"Administrative penalty" means a sanction authorized by any statute or administrative rule to be imposed by the Commissioner for any act or omission by a person subject to the Commissioner's or Department's jurisdiction, including the revocation, suspension or refusal to renew any license or authority to conduct any regulated activity; any monetary fine and any order to make restitution or to pay the reasonable cost of an investigation and prosecution of any matter. It shall not include the rejection and return of any application or filing for additions or correction of any error, unless a fine is imposed and must be paid as a condition of later acceptance of the application or filing.

"Commissioner" means the Commissioner of the Department of Banking and Insurance of the State of New Jersey.

"Department" means the New Jersey Department of Banking and Insurance.

"Hearing" means a hearing held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules adopted thereunder.

"Insurance producer" means a person required to be licensed under the laws of this State to sell, solicit or negotiate insurance.

"Notice" means a written communication from the Department to an alleged violator of its intent to assess an administrative penalty containing those elements set forth in N.J.A.C. 11:17D-2.1. A notice may be in the form of an administrative order such as a consent order or order to show cause.

“Person” means any individual, corporation, organization, association, partnership or legal entity.

“Time related violation” means the failure to meet a time limit or deadline imposed by statute, rule or administrative order. When such a time limit or deadline is not met, each day after the time limit or deadline passes shall be considered a separate and distinct violation.

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

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

Substituted a reference to this chapter for a reference to this subchapter in the introductory paragraph.

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).

Rewrote “Insurance producer”; deleted “Limited insurance representative”.

SUBCHAPTER 2. ADMINISTRATIVE PROCEDURES AND PENALTIES

11:17D-2.1 Procedures for the imposition of administrative penalties

(a) Rules concerning the initiation of action against an alleged violator follow:

1. Before an administrative penalty is imposed, the Department shall direct a notice by certified mail or personal delivery to the last known business or mailing address of the alleged violator. The notice shall include:

- i. A reference to the statute, rule and/or administrative order alleged to be violated;
- ii. A concise statement of the facts alleged to constitute the violation;
- iii. A statement of the administrative penalty or penalties sought to be imposed; and
- iv. A statement advising the alleged violator of the right to a hearing and the procedure for requesting a hearing.

2. The notice may describe more than one violation, or more than one specific penalty for each violation. A single form of notice may be used to notify several alleged violators, so long as all are named and served with a copy of the notice in conformity with the provisions of (a)3 below.

3. The notice shall be served by personal delivery, or by certified mail to the alleged violator’s last known business or mailing address, according to the files maintained by the Department. Service in this manner shall be considered lawful service on the alleged violator.

(b) Rules concerning the failure of an alleged violator to respond to a notice follow:

1. The alleged violator’s failure to respond, as required by the notice, within the time provided in the notice, shall be deemed to be an admission to all of the allegations, charges and conclusions contained in the notice, and no further proceeding shall be required prior to the execution of a final order that imposes the administrative penalty or penalties described in the notice.

2. If no response is received within the time provided in any notice to suspend or revoke a license or authority to conduct any activity regulated by Title 17 and 17B, the Department shall prepare a final order suspending or revoking the license or authority to conduct such activity, and mail a copy of the order to the violator at his or her last known business address on file with the Department.

3. If the notice provides for the payment of any fine, compels any restitution or reimbursement to the Department for investigative or prosecution cost, and payment or proof of payment has not been received, the Department may proceed to suspend or revoke the license or authority of the violator as provided in N.J.A.C. 11:17D-2.1.

(c) Rules concerning an alleged violator’s consent to an administrative penalty follow:

1. In order for matters set forth in a notice to be deemed concluded by means of a consent by the alleged violator to the imposition of the administrative penalty described in the notice, the Department may require any or all of the following:

- i. The return to the Department for cancellation of any license or other written evidence of the authority to conduct the business of insurance in this State;
- ii. The payment of a monetary penalty;
- iii. The reimbursement to the Department of the costs of investigation and prosecution;
- iv. The restitution of moneys owed any person; and
- v. The execution of an administrative order which may include admissions of material facts, conclusions of law, and such other terms and conditions as the Commissioner, or his or her authorized designee may deem to be necessary and appropriate under the circumstances.

(d) Rules concerning a request by an alleged violator for a hearing follow:

1. An alleged violator shall have 20 calendar days from service of the notice of intent to impose an administrative penalty within which to deliver a written request for a hearing to: Manager of Enforcement, New Jersey Department of Banking and Insurance, PO Box 329, Trenton, New Jersey 08625-0329 or faxed to the Department at (609) 292-5337.

2. A request for a hearing shall include: