

cerning the benefits or drawbacks of a particular coverage, deductible, limit, etc., in the course of disseminating this information;

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; and

19. Providing information to and receiving and recording information from an applicant for travel insurance or car rental insurance for processing by a licensee where the unlicensed person is an employee of the licensee.

Example: An unlicensed counter person in a car rental or travel agency may receive and record an applicant's request for personal effects coverage or travel insurance. The car rental company or travel agency must be a licensee and the counter person must provide the customer with written information about the coverage.

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

"Completed written application" means a signed application that contains the minimum information necessary to rate and underwrite the policy, is accompanied by a completed coverage selection form as provided at N.J.A.C. 11:3-15.6 and, if requested, a copy of the applicant's driver's license, a copy of the motor vehicle registration for the principal vehicle to be insured, one additional proof of New Jersey residency and an acknowledgment of requirement for insurance inspection form where physical damage is requested.

"Declination," "denied" or "denial" means:

1. Refusal by an insurance producer to submit an application on behalf of an applicant to any of the insurers represented by the producer;

2. Refusal by an insurer to issue an automobile insurance policy to an applicant upon receipt of an application for automobile insurance;

3. The offer of automobile insurance coverage with less favorable terms or conditions than those requested by a person, including the refusal to make requested changes to an existing policy that are available to other insureds with that insurer;

4. The refusal by an insurer or producer to provide, upon the request of an applicant, an application form or other means of making an application or request for automobile insurance coverage;

5. The refusal by an insurer to renew a policy of automobile insurance in accordance with its acceptance criteria;

6. The cancellation of an automobile insurance policy by the insurer pursuant to N.J.S.A. 17:29C-7 for any reason other than nonpayment of premium; or

7. Failure of an insurer to either bind coverage or issue a written denial of coverage to an applicant, or if requested to notify the applicant whether coverage will be provided or denied, within five business days from the date a completed written application is received. When an application is transmitted to an insurer by first class mail, there is a rebuttable presumption that the application was received by the insurer two calendar days after mailing when the destination is in New Jersey or within a 300 mile radius of the place of mailing, or three calendar days when the destination is outside a 300 mile radius of the place of mailing, as evidenced by a proof of mailing or postmark.

"Department" means the Department of Banking and Insurance.

"Financial institution" means any State or Federal banking institution, bank holding company, credit union, savings and loan association, finance company, mortgage loan company, or any other institution, association, partnership, company corporation, individual or individuals whose principal business is the lending of money or the extension of credit.

"Inducement" means money or any favor, advantage, object, valuable consideration or anything other than money which has a cost of or a redeemable value greater than \$25.00.

"Insurance contract" means a contract, policy, application, binder or commitment, where applicable, of life insurance, health insurance, indemnity, property and casualty, fidelity, surety, guaranty, title insurance, a commitment for title insurance or an annuity.

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

“Insurer” means any company that underwrites or issues an insurance policy or contract including fraternal benefit societies as defined at N.J.S.A. 17:44B-1 et seq., risk retention groups and purchasing groups as defined at 15 U.S.C. § 3901 and N.J.S.A. 17:47A-1 et seq., limited assignment distribution (LAD) carriers as defined at N.J.A.C. 11:3-2.2 and organizations and/or groups formed under N.J.A.C. 11:2-36.

“Negotiate” or “negotiation” means the act of conferring directly with, or offering advice directly to a purchaser or prospective purchaser of a particular contract or policy of insurance concerning any of the substantive benefits, terms or conditions of the contract or policy, provided the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers, but does not include clerical duties carried out under the supervision and control of an insurer or licensed insurance producer, or procedures relating to loss control, inspection, or the processing, adjusting, investigating or settling of a claim on an existing insurance contract.

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

“Personal private passenger automobile insurance” or “automobile insurance” means direct insurance on private passenger automobiles issued by an insurer in accordance with a personal lines rating system filed and approved pursuant to N.J.S.A. 17:29A-1 et seq.

“Professional employer organization (PEO)” means a sole proprietorship, partnership, corporation or other business entity, which would constitute a PEO or employee leasing company as defined in N.J.S.A. 34:8-67.

“Rebate” means the return or promise to return of any monetary sum, or discount, abatement, credit or reduction in premium other than that plainly expressed in the insurance contract.

“Solicit” or “solicitation” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer, but does not include clerical duties carried out under the supervision and control of an insurer or licensed insurance producer, or procedures relating to loss control, inspection, or the processing, adjusting, investigating or settling of a claim on an existing insurance contract.

“Transmission” means any form of mailing including, but not limited to, third class mail, certified mail, any overnight delivery or express delivery, hand delivery and any wire or electronic transmission including, but not limited to, facsimile transmission or computer e-mail or data transfer.

Amended by R.1992 d.192, effective April 20, 1992.  
See: 23 N.J.R. 546(a), 24 N.J.R. 1510(a).

Definitions added for automobile, declination, eligible person and personal private passenger automobile insurance.

Emergency Amendment R.1993 d.135, effective March 1, 1993 (operative March 8, 1993) (expired April 30, 1993.)

See: 25 N.J.R. 1290(a).

Definition for completed written application added; item 7 added to definition of declination; definition for transmission added.

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

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

Added definition of clerical duties, and exceptions of such duties to definitions of effectuate, negotiate and solicit; definition of insurance contract and insurer amended.

Adopted Concurrent Proposal, R.1993 d.238, effective April 30, 1993.

See: 25 N.J.R. 1290(a), 25 N.J.R. 2479(a).

Petition for Rulemaking.

See: 25 N.J.R. 4523(b).

Amended by R.1994 d.598, effective December 5, 1994.

See: 26 N.J.R. 3591(a), 26 N.J.R. 4777(a).

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.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; and inserted “Department”, “Financial institution”, “Inducement” and “Rebate”.

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 “Declination,” “denied” or “denial”, substituted “producer” for “agent” throughout; deleted “Effectuate” or “effectuation” and “Limited insurance representative”; rewrote “Insurance producer”, “Negotiate” or “negotiation” and “Solicit” or “solicitation”.

Amended by R.2004 d.14, effective January 5, 2004.

See: 35 N.J.R. 4169(a), 36 N.J.R. 195(b).

In “Clerical duties”, amended 8 and added 19.

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

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

Added “Professional employer organization (PEO)”.

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

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

Substituted “Commissioner” for “Commission”; in “Inducement”, substituted “a cost of” for “an intrinsic value” and “\$25.00” for “\$20.00”; rewrote “Insurer”.

Amended by R.2008 d.380, effective December 15, 2008 (operative January 1, 2009).

See: 40 N.J.R. 3572(a), 40 N.J.R. 6970(b).

In definition “Completed written application”, deleted “as set forth at N.J.A.C. 11:3-44.3(a) to determine whether the applicant is an eligible person,” following “information necessary”; in 3 of definition “Declination,” “denied” or “denial”, deleted “, or the offer to insure at a rate applicable to other than an eligible person” following “insurer”; in rewrite 5; and in 7, deleted “that includes the information in N.J.A.C. 11:3-44.3(a)” following “received”; and deleted definition “Eligible person”.

Amended by R.2011 d.027, effective January 18, 2011.

See: 42 N.J.R. 1470(a), 43 N.J.R. 189(b).

In paragraph 19 of definition “Clerical duties”, substituted “travel insurance or car rental” for “ticket”; in the Example following paragraph 19 of definition “Clerical duties”, inserted the first occurrence of “or travel”, inserted “or travel insurance” and inserted the second occurrence of “or travel agency”; in definition “Transmission”, inserted “or electronic”, and substituted “e-mail or data transfer” for “modem”.

### 11:17A-1.3 Who must be licensed; exceptions

(a) Except as provided in N.J.A.C. 11:17B-2.1(b) or (e), no person shall act as an insurance producer or maintain or operate any office in this State for the transaction of the business of an insurance producer, or receive any commission, brokerage fee, compensation or other consideration for services rendered as an insurance producer, without first obtaining a license from the Commissioner granting authority for the kind of insurance transacted.