

CHAPTER 17
PRODUCER LICENSING

Authority

N.J.S.A. 17:1-8.1 and 15e, and 17:22A-1 et seq..

Source and Effective Date

R.1998 d.233, effective April 15, 1998.
See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

Executive Order No. 66(1978) Expiration Date

Chapter 17, Producer Licensing, expires on April 15, 2003.

Chapter Historical Note

Chapter 17, Producer Licensing, Subchapters 1, 2 and 5, was adopted as R.1988 d.186, effective April 18, 1988 (operative April 26, 1988). See: 20 N.J.R. 225(c), 20 N.J.R. 904(b). Subchapter 3, Professional Qualifications, was adopted as R.1989 d.192, effective April 3, 1989. See: 20 N.J.R. 1152(a), 21 N.J.R. 899(b). Pursuant to Executive Order No. 66(1978), Chapter 17, Producer Licensing, was readopted as R.1993 d.206, effective April 15, 1993. See: 25 N.J.R. 883(a), 25 N.J.R. 1972(a).

Pursuant to Executive Order No. 66(1978), Chapter 17, Producer Licensing, was readopted as R.1998 d.233, effective April 15, 1998. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 11:17-1.1 Purpose and scope
- 11:17-1.2 Definitions

SUBCHAPTER 2. LICENSING RULES

- 11:17-2.1 Term of license
- 11:17-2.2 License authorities
- 11:17-2.3 Application filing requirements for initial licenses
- 11:17-2.4 Temporary certificate
- 11:17-2.5 License renewal
- 11:17-2.6 Additional authorities
- 11:17-2.7 Legal and business names; addresses
- 11:17-2.8 Branch offices
- 11:17-2.9 Business relationships
- 11:17-2.10 Continuation of business of a producer who becomes disabled or dies
- 11:17-2.11 Limited insurance representatives
- 11:17-2.12 Licensing information requirements
- 11:17-2.13 Fees
- 11:17-2.14 Denial of license
- 11:17-2.15 Termination and cancellation of license; reinstatement after termination
- 11:17-2.16 Licensee records
- 11:17-2.17 Requests for disclosure of social security numbers

SUBCHAPTER 3. PROFESSIONAL QUALIFICATIONS

- 11:17-3.1 Approval of insurance education program
- 11:17-3.2 Prelicensing education
- 11:17-3.3 State licensing examination; use of independent examination vendor; exemptions; retaking of examination
- 11:17-3.4 Continuing education
- 11:17-3.5 Recognized professional designations

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. TRANSITION RULES

- 11:17-5.1 Prelicensing education and examination
- 11:17-5.2 Professional qualifications
- 11:17-5.3 through 11:17-5.7 (Reserved)

SUBCHAPTER 6. MANAGING GENERAL AGENTS

- 11:17-6.1 Purpose and scope
- 11:17-6.2 Definitions
- 11:17-6.3 Requirements for MGA
- 11:17-6.4 Insurer requirements
- 11:17-6.5 Filing requirements
- 11:17-6.6 Claim processing requirements
- 11:17-6.7 Record maintenance
- 11:17-6.8 Penalties

APPENDIX

SUBCHAPTER 7. REINSURANCE INTERMEDIARIES

- 11:17-7.1 Purpose and scope
- 11:17-7.2 Definitions
- 11:17-7.3 Requirements for reinsurance intermediaries
- 11:17-7.4 Filing requirements
- 11:17-7.5 Insurer requirements
- 11:17-7.6 Record maintenance
- 11:17-7.7 Penalties

APPENDIX

SUBCHAPTER 1. GENERAL PROVISIONS

11:17-1.1 Purpose and scope

(a) This chapter implements provisions of N.J.S.A. 17:22A-1 et seq., the New Jersey Insurance Producer Licensing Act (the Act). The chapter concerns the licensing conduct of insurance producers and shall be considered part of the insurance law of the State of New Jersey, and violation of any provisions shall be sufficient cause for action against any person as permitted by statute. Specification of the standards of conduct shall not, however, prohibit the application of other insurance statutes or rules to licensed producers.

(b) Provisions of the Act and of this chapter shall be applied to all licensees, limited insurance representatives and other persons, including nonresident licensees in connection with the licensing and standards of conduct on business for which a New Jersey insurance producer license is required.

Amended by R.1998 d.233, effective May 18, 1998.
See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

In (b), deleted "New Jersey Insurance Provider Licensing" preceding "Act".

11:17-1.2 Definitions

(a) Words and terms contained in the Act, when used in this chapter, shall have the meanings as defined in the Act, unless the context clearly indicates otherwise.

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

“Act” means the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-1 et seq.

“Administrative Procedure Act” means the Act concerning practices and proceedings of New Jersey public agencies pursuant to N.J.S.A. 52:14B-1 et seq.

“Branch office” means an office in New Jersey other than a principal office where a resident licensee conducts insurance business.

“Business name” means the legal name of a corporation or partnership, and any trade or fictitious name under which a licensee or license applicant conducts or intends to conduct insurance business.

“Credit involuntary unemployment insurance” means casualty insurance on a debtor to provide indemnity for payments becoming due on a specific loan or credit transaction while the debtor is involuntarily unemployed.

“Credit life insurance” and “credit health insurance” mean the insurance coverages as defined in N.J.S.A. 17B:29-2.

“Credit property/casualty insurance” means insurance against loss from bad debts and includes property insurance coverage solely for the lender’s interest against loss of or damage to personal property serving as security on a specific loan or credit transaction.

“First-time applicant” means any person who was not actively licensed during the 12-month period prior to application.

“Home state” means the state other than this State in which a nonresident licensee or license applicant holds a resident insurance license.

“Insurance related conduct” includes soliciting, negotiating or binding policies of insurance; all communication with insureds concerning any term or condition of a policy of insurance; office management policies affecting insureds; processing claims; and transmitting funds between insureds, producers, premium finance companies and insurance companies.

“Late renewal” means any renewal that is applied for subsequent to the expiration of a license and within 12 months after the expiration date.

“Nonresident” (of New Jersey) means a person who neither resides in New Jersey nor maintains an office in New Jersey where insurance business is transacted.

“Resident” (of New Jersey) means a person who either resides in New Jersey or maintains an office in New Jersey where insurance business is transacted.

“Self-storage personal property insurance” means direct primary insurance coverage for the personal property of a renter or lessee in a self-storage facility which insures the renter’s or lessee’s interest against loss or damage to the renter’s or lessee’s personal property, including debris removal and extra rental expense, while the personal property is located in the rented self-storage space.

“Ticket life insurance”, “ticket accident insurance” and “ticket property/casualty insurance” means the insurance coverages sold covering only the risk of travel in connection with a ticket sold by a travel agent or an agent of any railroad company, steamship company, airline company, car rental company or bus company.

Petition for Rulemaking: Producer Licensing.

See: 24 N.J.R. 305(b).

Notice of Receipt of Petition for Rulemaking.

See: 24 N.J.R. 659(a), 24 N.J.R. 660(a).

Notice of Receipt and Action on Petition for Rulemaking.

See: 24 N.J.R. 1826(b), 24 N.J.R. 3770(a).

Amended by R.1993 d.507, effective October 18, 1993.

See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Amended by R.1997 d.278, effective July 7, 1997.

See: 28 N.J.R. 4707(a), 29 N.J.R. 2853(a).

Added “Self-storage personal property insurance”.

Amended by R.1998 d.233, effective May 18, 1998.

See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

In (b), substituted “chapter” for “subchapter”.

SUBCHAPTER 2. LICENSING RULES**11:17-2.1 Term of license**

(a) The standard term of an insurance producer license shall be 16 licensing quarters. Licensing quarters shall begin on the first day of February, May, August and November of each year. Licenses shall expire in the fourth year on the last day of the quarter before the quarter in which the license was effective.

(b) Each license issued shall contain an expiration date. An initial license shall be deemed effective as of the date of issuance of any temporary certificate issued pursuant to N.J.A.C. 11:17-2.4.

Correction, effective March 6, 1989.

See: 21 N.J.R. 637(a).

Added “before the quarter” to (a).

11:17-2.2 License authorities

(a) Producers licensed in accordance with the Act and this chapter shall be authorized to write the kinds of insurance designated if qualified by each authority set forth below.

1. Life Authority: All coverages defined as "life insurance" in N.J.S.A. 17B:17-3; all coverages defined as an

"annuity" in N.J.S.A. 17B:17-5; and all coverages defined as a "contract on a variable basis" in N.J.S.A. 17B:28-1.

2. Health Authority: All coverages defined as "health insurance" in N.J.S.A. 17B:17-4.

3. Property Casualty Authority: All coverages written by authorized insurers for fire and allied lines, earthquake, growing crops, ocean marine, inland marine, workers' compensation and employers' liability, automobile liability bodily injury, automobile liability property damage, other liability, boiler and machinery, fidelity and surety, credit property/casualty, burglary and theft, glass, sprinkler leakage and water damage, livestock, smoke or smudge, physical loss to buildings, radioactive contamination, mechanical breakdown or power failure, other property or casualty loss, municipal bond insurance and mortgage guaranty insurance.

4. Surplus Lines Authority: All coverages written by unauthorized insurers and defined as "surplus lines" in N.J.S.A. 17:22-6.42. No license shall be issued, renewed or maintained with surplus lines authority unless the applicant or licensee meets the requirements specified in N.J.S.A. 17:22A-14.

5. Title Insurance Authority: All policies of insurance guaranteeing or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in or the unmarketability of the title to said property, guaranteeing, warranting or otherwise insuring by a title insurance company the correctness of searches relating to the title to real property, or doing any real business in substance equivalent to any of the foregoing.

(b) The Department is authorized to issue nonresident licenses containing the above authorities regardless of whether the authority conferred by the nonresident applicant's home state license precisely matches the kinds or lines of insurance described above, so long as they are generally comparable. No nonresident licensee shall be authorized to transact business for any kind or line of insurance for which the licensee is not authorized in its home state.

(c) No person shall be authorized to transact business regarding contracts on a variable basis unless that person also holds a securities license as required by any other state or Federal law.

Case Notes

Agent's license was revoked for selling life insurance without license to do so. *Fortunato v. McCoy*, 96 N.J.A.R.2d (INS) 56.

Long course of conduct in issuing false premium and rating information and in wrongfully applying premium funds justified denial of application for licensure as an insurance producer. *Sirchio v. Fortunato*, 95 N.J.A.R.2d (INS) 68.

11:17-2.3 Application filing requirements for initial licenses

(a) A first time applicant for an individual license shall submit the following:

1. A properly completed application requesting issuance of an insurance producer license with one or more

authorities, which shall contain the applicant's legal name, home address, date of birth, business mailing and location address, business trade name, if any, and response to questions concerning applicant's character and fitness for licensing. The application must be signed, dated and certified to be correct by the applicant;

2. If a resident, a certificate evidencing completion of an approved course of prelicensing education or a certificate evidencing waiver of that requirement; and a certificate evidencing that the applicant has passed the State licensing examination for the authority or authorities requested, or a certificate evidencing waiver of the examination requirement;

3. If a nonresident, a recent certification from the insurance licensing agency of the applicant's home state that he or she holds a currently valid license authorizing transaction of insurance business for the kinds of insurance for which application is made;

4. Any documents or statements required to explain responses to questions concerning the applicant's character, fitness or financial responsibility;

5. A properly completed criminal history verification form;

6. If the application requests surplus lines authority, a bond conforming to the requirements of N.J.A.C. 11:17-2.12; and

7. A valid check or money order for the fees required in accordance with N.J.A.C. 11:17-2.13.

(b) A first time applicant for an organization license shall submit the following:

1. A properly completed application requesting issuance of an insurance producer license for one or more authorities, which shall contain the organization's legal name; business mailing and location address; other business names, if any; names, license reference numbers, if any, and license authorities of each licensed officer or partner; names, addresses and license reference numbers, if any, of all persons owning five percent or more of the organization; and responses to questions concerning the applicant's character, fitness and financial responsibility. The application must be dated, signed and certified to be correct by all officers or partners of the organization that hold, or have applied for, New Jersey insurance producer licenses;

2. If the applicant is a New Jersey corporation or partnership, a copy of the Certificate of Incorporation or of the partnership document, stamped "filed" by the Office of the Secretary of State, County Clerk or other authority as applicable. If the application includes a business name other than the organization's legal name, the applicant shall also submit a certificate stamped "filed" by the Office of the Secretary of State, County

Clerk or other authority, as applicable, confirming that the business name has been properly recorded;

3. If the applicant is a foreign corporation or partnership applying for a resident license to open an office in New Jersey, a certificate filed by the Office of the New Jersey Secretary of State authorizing the applicant to transact business in New Jersey;

4. If the applicant is a foreign corporation or partnership applying for a nonresident license, a recently issued certification by the licensing authority in the applicant's home state evidencing that the applicant is authorized there to transact insurance business with comparable authorities;

5. Properly completed criminal history verification forms for each officer, director, partner or owner of five percent or more of the applicant organization;

6. If applying for surplus lines authority, a bond conforming to the requirements of N.J.A.C. 11:17-2.12(c);

7. Any documentation required to explain responses to questions and concerning the applicant's character, fitness and financial responsibility; and

8. A valid check or money order for the fees required by N.J.A.C. 11:17-2.13.

(c) Failure to pay a license fee due to "not sufficient funds" or otherwise non-negotiable instrument shall void any license issued in good faith by the Commissioner. Any business written during the period prior to payment shall be deemed in violation of N.J.S.A. 17:22A-3 and shall subject the licensee to penalties in addition to the penalties prescribed at N.J.A.C. 11:17D-2.4(a)3 for checks returned for insufficient funds, and a late renewal fee.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Case Notes

Application for residential insurance producer license properly denied. Department of Insurance v. Pinero, 94 N.J.A.R.2d (INS) 1.

11:17-2.4 Temporary certificate

(a) The Commissioner or his or her designee is authorized to issue a temporary certificate evidencing that an applicant may begin work when the applicant has submitted in proper form the items required by N.J.A.C. 11:17-2.3 if the submission does not disclose any matter that may disqualify the applicant from being licensed. Any certificate issued in accordance with this section shall contain an expiration date and shall expire no more than 60 days after issuance.

(b) A nonresident licensee, upon moving his or her residence or business into the State of New Jersey, shall within 20 days notify the Department of his or her change of address and intent to qualify as a resident insurance producer. Upon such notification, the licensee may continue to act as an insurance producer for a period of 90 days from the date of such notification. The Commissioner or his or her designee may, for good cause shown, extend this time.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

11:17-2.5 License renewal

(a) A current licensee shall renew a license in the following manner:

1. At least 10 days before the license expiration date, each licensee shall submit a properly completed renewal application together with a valid check or money order for fees in accordance with N.J.A.C. 11:17-2.13. The renewal application shall be signed, dated and certified to be correct by the licensee or a licensed officer or partner of a licensed organization. The licensee shall certify that he, she or it continues to be qualified in accordance with the insurance laws of New Jersey.

(b) Failure to submit the renewal application for receipt by the date of expiration shall be deemed to establish that the license expired on the date shown, and that the licensee was not thereafter authorized to engage in any activities for which the license is required.

(c) Any licensee who does not desire license renewal shall notify the Department by submitting the renewal application signed, dated and marked on the face, "Do Not Renew".

(d) If an applicant's license has lapsed for a period of less than one year, the applicant may apply for late renewal of the license within one year of the date the license expired provided the following is attached to the application:

1. Proof of completion of 48 continuing education credits as required by N.J.A.C. 11:17-3.4; and

2. The applicant's certification which shall state whether or not the applicant has transacted any business as an insurance producer during the unlicensed period and, if so, the number of policies written.

(e) An applicant who files a late renewal request within one year of the license expiration date shall be granted a waiver from the prelicensing education and examination requirement set forth in N.J.A.C. 11:17-3.2 and 3.3.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

11:17-2.6 Additional authorities

(a) A currently licensed individual producer may obtain additional authorities as described in N.J.A.C. 11:17-2.2 by submitting the following:

1. His or her current original license, marked to request the additional authority or authorities, dated, signed and certified to be correct by the applicant;
2. If a resident, a certificate evidencing completion of an approved course of prelicensing education, if required, or a certificate evidencing waiver of this requirement, and a certificate evidencing that the applicant has passed the State licensing examination for the authority or authorities requested or a certificate evidencing waiver of this requirement;
3. If a nonresident, a recent certification issued by the licensing authority in the applicant's home state, evidenc-

ing that the applicant holds a current license with comparable authority;

4. If applying for surplus lines authority, a bond conforming to the requirements of N.J.A.C. 11:17-2.12(c); and
5. A valid check or money order for the processing fee as required by N.J.A.C. 11:17-2.13.

(b) A currently licensed organizational producer may obtain additional authorities as described in N.J.A.C. 11:17-2.2 by submitting the following:

1. Its current original license, marked to request the additional authority or authorities, dated, signed and certified to be correct by a licensed officer or partner who holds or has applied for that authority;
2. If a nonresident applicant, a recent certification issued by the licensing authority in the applicant's home state, evidencing that the applicant holds a currently valid license with comparable authority in that state;
3. If applying for surplus lines authority, a performance bond as required in accordance with N.J.A.C. 11:17-2.12(c); and
4. A valid check or money order for the processing fee described in N.J.A.C. 11:17-2.13.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

11:17-2.7 Legal and business names; addresses

(a) No resident licensed producer shall conduct insurance business under a name other than its legal name unless the name has been filed with and approved by the Department. Nothing in this section shall prohibit the transaction of business under the licensee legal name and the words "agency", "insurance agency", "brokerage" or words of similar import. Issuance of a license containing the name shall serve as notice of approval.

(b) No nonresident licensed producer shall conduct business under a name other than its legal or business name in the state where it maintains a resident license.

(c) Standards for approval of business names are as follows:

1. No business name shall have the capacity or tendency to be misleading or deceptive;
2. No business name shall be identical or confusingly similar to the business name of another currently licensed resident producer;
3. If the word "insurance" or its equivalent is contained in the name, it must be joined with wording such as "agency" or "brokerage" to distinguish the entity from an insurance underwriting company;
4. No business name shall express or imply any identification or affiliation with a Federal, State or other government entity, including any department, division, bureau or any subdivision of such entities;
5. No business name shall consist of or include any franchise designation except in accordance with procedures approved by the Commissioner; and
6. No business name shall contain the name of, or imply any affiliation with, a producer whose license has been revoked.

(d) An applicant may obtain prior Departmental approval of a proposed business name before the filing of the name with the Secretary of State, County Clerk or other authority

by submitting the proposed name or names for consideration. Prior approvals of names shall expire 90 days after the date of prior approval if no license application is received by the Department.

(e) The requirements for business addresses and notification of change of business mailing or location address and residence address are as follows:

1. All licensees shall provide the Department with a complete and current business mailing address, which shall include a street or location address. Individual licensees shall also provide the Department with a complete and current residence address.
2. All licensees shall provide the Department with written notification of any change of business mailing or location address and residence address within 20 days of the change and maintain a proof of notification for five years or until receipt of a new or renewed license or other documentation from the Department showing the new address.
3. Any legal process issued pursuant to the statutory authority of the Commissioner including, but not limited to, subpoenas, orders and orders to show cause may be served by sending the documents to the business mailing or residence address of the licensee then on file with the Department.

(f) A licensee shall advise the Department of a change of any legal name, business name or a change of the address which appears on the license by noting the change on its current original license and returning it to the Department for cancellation and reissuance of a new license containing the updated information. No fee shall be required for such changes. If the notice is to change a legal or business name, the request shall be accompanied by a copy of the document filed in the office of the Secretary of State, County Clerk or other authority evidencing that the change has been properly recorded.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Case Notes

Submitting documentation to create false impression as to writing of service fee agreements was dishonesty warranting revocation of license as insurance producer. *Fortunato v. Watley*, 95 N.J.A.R.2d (INS) 23.

11:17-2.8 Branch offices

(a) Licensees shall file with the Department a branch office registration form within 30 days before business is first conducted there. A branch office registration form shall be accompanied by the processing fee specified in N.J.A.C. 11:17-2.13. The appropriate registration form will be prescribed by the Department.

(b) Upon receipt of a properly completed branch office registration form and fee, the Department shall issue a branch office certificate. Branch office certificates shall expire contemporaneously with the producer's own license. The branch office certificate shall not authorize the transaction of business at any location other than that named.

(c) The licensee shall advise the Department in writing of the closing of any branch office within 20 calendar days of the closing by returning the branch office certificate for cancellation.

(d) A branch office shall be open to the public during such hours and days of the week as to provide the public reasonable access to the branch office. The branch office shall post the hours and days of operation in a manner reasonably calculated to inform the public.

(e) No branch office may be opened or operated unless at least one licensed individual insurance producer is permanently and exclusively assigned to that office and present or accessible during normal business hours except when engaged in the activities of the branch office elsewhere. The requirements of this section shall not preclude a branch office from remaining open to service accounts while the assigned producer is temporarily absent, and shall not permit unlicensed individuals to engage in any activities for which a license is required.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

11:17-2.9 Business relationships

(a) The agency relationship between company and producer is subject to the following requirements:

1. An agency relationship between an insurance company and licensed producer is established by written contract executed by both parties. Both parties shall maintain copies of agency contracts and make them available for inspection by the Department upon request.

2. An insurance company contracting with a licensed insurance producer shall be responsible to advise the Department of that relationship by filing a notice within 15 days after execution of the contract, on a form prescribed by the Department containing the company's name and reference number; the producer's name and reference number; and the effective date of the contract. The form shall contain the name and title of the company official who signed and certified the notice. The notice shall be submitted with the fee set forth in N.J.A.C. 11:17-2.13.

3. Prior to executing any agency contract, the insurance company shall determine that the producer is properly licensed with authority for the kinds of insurance described in the contract. The insurance company shall not accept any business produced prior to a person's licensure nor shall an insurance company pay commissions to any person for any business produced prior to licensure. The company officer executing the notice shall certify that he or she examined the credentials of the producer and is satisfied that the producer is currently licensed with the authorities for one or more of the kinds of insurance for which the company is authorized.

4. Unless otherwise specified in the notice, filing a notice of agency contract shall be deemed to mean that the producer is that company's agent for all kinds or lines of insurance for which the company and producer are jointly authorized.

5. The agency contract shall be deemed to continue in effect until a notice of termination of that contract is filed by the insurance company with the Department on a form prescribed by the Commissioner.

6. The notice of termination filed shall specify the true reason for termination. If the reason is conduct by the producer that may constitute cause for disciplinary action against the producer, an additional copy of the notice of cancellation shall be mailed by the insurance company to the Department's Enforcement Division together with an outline of available documentation.

7. The insurer shall make a good faith attempt to collect from producers all company brochures, solicitation or other related materials subsequent to termination. This requirement shall not apply to underwriting guidelines and other materials required for use during the time the producer continues to service policies following termination, as provided by contract or pursuant to N.J.S.A. 17:22-6.14a1.

8. Notwithstanding the lack of any contract establishing an agency relationship, any insurer that delivers in this State to any insurance producer a contract of insurance pursuant to the application or request of such producer, acting for an insured other than himself, shall be deemed to have authorized such producer to receive on its behalf payment of any premium which is due on such contract at the time of its issuance or delivery or the payment of any installment of such premium or any additional premium which becomes due or payable thereafter on such contract, providing such payment is received by the producer within 90 days after the due date of the premium or installment or after the date of delivery of a statement by the insurer of such additional premium.

(b) The employment of another producer by a producer is subject to the following requirements:

1. Licensed producers may enter into employment contracts by which the employed producer (employee) conducts business under the supervision of and in the name of an employing producer (employer). The employment contract shall be in writing and shall specify that it does not include all license authorities of the parties, if such is the case. Both parties shall retain copies of the contract and shall make them available to the Department upon request.

2. An employer who has entered into such an employment contract shall notify the Department of the agreement by submitting a document signed by the employer, or licensed officer or partner if an organization, containing the employee's name, license reference number and the date of employment. The employer shall examine the credentials of the employee to determine that he or she is licensed to conduct the kinds of business described in the contract.

3. An employee may, if authorized by the employer and any insurance company for which the employer is an agent, execute the employer's name to contracts of insurance in accordance with a written agency contract.

4. An employer shall be responsible for the insurance-related conduct of an employee. In any disciplinary proceeding, the existence of the employment contract shall be prima facie evidence that the employer knew of the activities of the employee.

5. Existence of a business relationship between two licensed producers by which each acts as an independent contractor shall not require the filing of any notice in accordance with this provision, nor create any responsibility for the acts of the other in the absence of knowledge or concerted action.

Amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

11:17-2.10 Continuation of business of a producer who becomes disabled or dies

(a) A licensed producer continuing the business of a deceased or disabled producer is subject to the following requirements:

1. Pursuant to the provisions of the Act, a surviving spouse, next of kin, or administrator or executor of a deceased producer, or the legal guardian of a producer who has become mentally or physically disabled, may enter into a contract with a licensed producer for the purpose of continuing the business of the deceased or disabled producer. The contract may provide that the deceased or disabled producer's representative receive for a period not to exceed six months a portion of the fees or commissions generated by the business, notwithstanding that the representative does not hold a producer's license.

2. The licensed producer who contracts with the surviving spouse, next of kin, or administrator or executor of a deceased producer, or the legal guardian of a producer who has become mentally or physically disabled, to continue the business of the deceased or disabled producer shall immediately notify the Department in writing.

3. The notice shall contain the name and license reference number of the licensed producer; name and license reference number of the deceased or disabled producer; address where the business will be conducted; date of death or disablement; term of contract; and the

name and address of the deceased or disabled producer's representative.

4. The notice shall be signed by the licensed producer and filed with the Department.

5. The notice shall be accompanied by the deceased or disabled producer's current license returned for cancellation and such other documents as may be necessary to show the legal capacity of the deceased or disabled producer's representative.

6. The licensed producer shall notify the Department when the contract has terminated.

New Rule, R.1993 d.507, effective October 18, 1993.

See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Public Notice: Receipt of and action on petition for rulemaking.

See: 28 N.J.R. 4680(a).

11:17-2.11 Limited insurance representatives

(a) The following kinds of insurance may be marketed through limited insurance representatives:

1. Bail bonds;
2. Credit life;
3. Credit health;
4. Credit involuntary unemployment;
5. Credit property/casualty;
6. Ticket life;
7. Ticket accident;
8. Ticket property/casualty;
9. Group mortgage cancellation;
10. Mortgage guaranty;
11. Legal insurance; and
12. Self-storage personal property insurance.

(b) An organization shall not be registered as a limited insurance representative unless there is also an individual member of that organization licensed or registered as a limited insurance representative. Each individual acting as a limited insurance representative for an organization must be so licensed or so registered. An insurance company authorized to write the lines of insurance described in (a) above shall register its limited insurance representatives with the Department in accordance with this section.

(c) Prior to registering any limited insurance representative, the insurance company and the representative shall execute a written contract describing the duties and responsibilities of each. Both parties shall retain a copy of the contract and shall make it available to the Department upon request.

(d) The insurance company shall satisfy itself that the proposed limited insurance representative is trustworthy, competent, of good character, honest, financially responsible and capable of acting as its representative.

(e) The insurance company shall register its limited insurance representatives on a form prescribed by the Commissioner containing its company name and reference number; the representative's name, and date of birth if an individual; business mailing and location address; kind of insurance business to be conducted; and the effective date of the contract. The fee described in N.J.A.C. 11:17-2.13 shall be paid at the time of initial registration.

(f) The contract will be deemed to continue in effect until the insurance company files a notice of termination of the registration with the Department on a form prescribed by the Commissioner. The notice shall specify the reason for termination. If the reason is conduct of the representative that may constitute cause for disciplinary action against the representative, the company shall mail an additional copy of the notice to the Department's Enforcement Division together with an outline of available documentation.

(g) During the existence of the contract and until notice of termination has been filed, the limited insurance representative shall be deemed to be acting under the supervision of the insurer and as an agent for it, with respect to any insurance related conduct and pursuant to the contract between the parties.

(h) Nothing in this section shall prevent licensed insurance producers from marketing the kinds of insurance described in (a) above so long as they are licensed with the appropriate authority according to N.J.A.C. 11:17-2.2. Nothing in this section shall prevent companies authorized to write such insurance from entering into an agency contract with a licensed producer and filing a notice of agency contract in accordance with N.J.A.C. 11:17-2.9(a).

Recodified from 11:17-2.10 and amended by R.1993 d.507, effective October 18, 1993.

See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Amended by R.1997 d.278, effective July 7, 1997.

See: 28 N.J.R. 4707(a), 29 N.J.R. 2853(a).

Added (a)12.

11:17-2.12 Licensing information requirements

(a) The following requirements relate to the provision of criminal history information by licensed producers and license applicants.

1. An applicant for an individual license shall submit with his or her initial application a New Jersey State Police Request for Criminal History Record Information and the fee required to pay for its processing.

2. An applicant for an organization license shall submit with its application New Jersey State Police Requests for Criminal History Record Information and the fee required to pay for their processing, for each officer, director, partner and owner of five percent or more of the organization. Applicants who contemporaneously submit organization and individual applications need not submit duplicates.

3. Upon request by the Department, any licensed producer or license applicant, or any officer, director, partner or owner of five percent or more of any applicant organization, shall have fingerprint impressions taken and submit them to the Department on a New Jersey State Police fingerprint card, with the fee required to pay for their processing.

4. Upon request by the Department, a licensed producer or license applicant shall supply copies of any complaint, indictment, judgment of conviction or other related documents.

5. Failure to respond to any specific request or to submit documentation requested shall constitute grounds for denial of the license, or suspension or revocation of any current license.

6. Failure to indicate a criminal conviction on the application for an insurance producers license shall constitute a material misrepresentation and subject a licensee to the penalties provided at N.J.S.A. 17:22A-17a and b.

(b) Upon request by the Department, a licensed producer or license applicant shall supply copies of any petition or complaint in bankruptcy, discharge in bankruptcy, or copies of any pleadings in a proceeding for assignment to creditors. Failure to respond to any specific request or to submit documentation requested shall constitute grounds for denial of the license, or suspension or revocation of any current license.

(c) The following provisions apply to the bond requirement for surplus lines authority.

1. The bond required to be filed in connection with the application of any person for a producer license with surplus lines authority shall be on a form approved by the Commissioner pursuant to N.J.S.A. 17:22A-14.

2. Failure to maintain a bond in full force and effect and in the full amount required will serve to void the authority to act as a surplus lines producer as of the date of expiration or cancellation of the bond. Voiding or cancelling surplus lines authority shall be subject to the right of any producer to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, on the issue of whether the filed bond remained valid or a replacement bond was obtained and filed.

3. Upon request by the Department, licensees shall provide information concerning the volume of surplus lines business transacted.

(d) Licensed organizations shall notify the Department within 30 days of the addition or deletion of any licensed or unlicensed officer, director, partner or owner of five percent or more of the licensed organization. Notification of the addition of any unlicensed officer, director, partner or owner of five percent or more of the licensed organization shall be accompanied by a properly completed criminal history verification form and required fee.

(e) Departure, termination or deletion of licensee officers, directors or partners, which leaves an organization insurance producer with no licensed officers, directors or partners or with officers, directors or partners who do not have like authorities as the organization producer, shall make the organization producer license inactive. Under these circumstances, the organization license shall be returned immediately to the Commissioner.

Recodified from 11:17-2.11 and amended by R.1993 d.507, effective October 18, 1993.

See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).
Amended by R.1998 d.233, effective May 18, 1998.
See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

11:17-2.13 Fees

(a) The following fees shall be payable as set forth in this chapter:

1. License fee: \$300.00;
2. Filing or processing initial application: \$20.00;
3. Additional authority filing: \$20.00;
4. Reinstating terminated license before its stated expiration date: \$20.00;
5. Any branch office registration: \$20.00;
6. Filing or processing any Notice of Agency Contract: \$20.00;
7. Any limited insurance representative registration: \$20.00; and
8. Late renewal fee: \$50.00.

(b) All fees shall be paid by check or money order made payable to: State of New Jersey—General Treasury. All Department fees are non-refundable after the license effective date.

(c) Disabled veterans may be exempted from payment of the fees described in (a) above upon submission to the Department of a recent certificate of the United States Veterans Administration confirming a current service connected disability.

Recodified from 11:17-2.12 and amended by R.1993 d.507, effective October 18, 1993.

See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

11:17-2.14 Denial of license

(a) Whenever it appears from an application, attached documents and Department records that an applicant has not demonstrated the qualifications prescribed in the Act and this chapter, the Department shall advise the applicant in writing that the license requested is denied; shall specify the reason for denial; and shall further advise the applicant of the right to request a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq. and the procedure for doing so.

(b) Upon receipt of a request for a hearing on a license denial, the Department shall review the application and attachments, its records and any additional information submitted and determine whether the license may be issued. If after this review the Department determines that the applicant is not qualified, the Department shall find that the matter is a contested case and transmit it to the Office of Administrative Law for hearing.

(c) Nothing in this section shall prevent the return of an application to the applicant for correction of ministerial errors.

Recodified from 11:17-2.13 and amended by R.1993 d.507, effective October 18, 1993.

See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Case Notes

Plea of guilty to indictment charging second degree felony of indecent sexual conduct precluded finding of good character necessary to licensure as insurance producer. *Anderson v. Karpinski*, 95 N.J.A.R.2d (INS) 61.

11:17-2.15 Termination and cancellation of license; reinstatement after termination

(a) A licensee may terminate a current producer license by returning the license document to the Department for cancellation at any time before expiration. The Department may refuse to accept a request for cancellation of an organization license unless all current licensed officers or partners consent to the request.

(b) A producer license may be reinstated after termination during the same license period by completing an application in accordance with the provisions of N.J.A.C. 11:17-2.3. No additional license fee for that period shall be required but the processing fee provided in N.J.A.C. 11:17-2.13 shall be paid.

(c) Submitting a license for cancellation or allowing a license to expire shall not void or terminate any disciplinary proceedings against the licensee, nor prevent imposition of any penalty, ordered restitution or costs.

(d) In the event a license is lost or destroyed, the licensee may request a duplicate by submitting a certified statement attesting to the loss.

(e) Nothing in these rules shall authorize any person whose license has been revoked or suspended to continue to transact insurance business after the date of revocation or suspension.

Recodified from 11:17-2.14 and amended by R.1993 d.507, effective October 18, 1993.
See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).

Case Notes

Fraudulently filed insurance claims justifies insurance producer's license revocation. *Randall v. Martini*, 97 N.J.A.R.2d (INS) 22.

Failure to supervise conduct of persons working under authority of agent's producer's license not excused by illness. *Commissioner of Insurance v. Holloway, Sr.*, 97 N.J.A.R.2d (INS) 6.

Resident insurance producer's license was revoked after he submitted false claim to insurance company. *New Jersey Department of Insurance v. Rosenblatt*, 96 N.J.A.R.2d (INS) 102.

Insurance producer's license was revoked because he failed to disclose that his real estate licenses had previously been revoked. *Karpinski v. Pepe*, 96 N.J.A.R.2d (INS) 97.

License of insurance producer was properly revoked upon proof of fraudulent misconduct, including issuing bad checks and forging insured's signature. *Fortunato v. Huertas*, 96 N.J.A.R.2d (INS) 34.

Insurance producer's conviction for issuing bad checks shows unfitness for licensure. *Karpinski v. McKishen*, 96 N.J.A.R.2d (INS) 20.

Prior theft convictions and numerous misrepresentations on application warranted denial of request for licensure as resident insurance producer. *Fortunato v. Thomas*, 95 N.J.A.R.2d (INS) 73.

Long course of conduct in issuing false premium and rating information and in wrongfully applying premium funds justified denial of application for licensure as an insurance producer. *Sirchio v. Fortunato*, 95 N.J.A.R.2d (INS) 68.

Misappropriation of funds that led to federal conviction justified revocation of license as an insurance broker. *Shipitofsky v. Karpinski*, 95 N.J.A.R.2d (INS) 67.

Resident insurance producer license revoked; penalties, restitution and costs; failure to remit collected funds to an insurer. *Samuel F. Fortunato v. Wallace W. Lee, t/a Universal Casualty Insurance Agency*, 94 N.J.A.R.2d (INS) 53.

Revocation of insurance producer's license was appropriate. *Karpinski v. Weiss*, 94 N.J.A.R.2d (INS) 43.

11:17-2.16 Licensee records

(a) The following licensee records shall be public records in accordance with N.J.S.A. 47:1A-1 et seq.:

1. Individual licensee: Name, license reference number, business name, business mailing and location address, business telephone and fax numbers, date of birth, license authorities, date first licensed, date of license examination, current license issue date, professional qualification, date last licensed or current license expiration date; names of companies for which notice of agency contracts have been filed, date of agency contract and date of termination of agency contract if any, and limits on authority if any; names and reference numbers of licensed organizations for which the producer serves as a licensed officer or partner, date became a licensed officer or partner and date terminated if any; names and reference numbers of employed or employing producers, date relationship began and terminated.

2. Licensed organization: Legal name of producer, license reference number, other business name if any, business mailing and location address; license authorities, date first licensed, date last licensed or current expiration date, names and reference numbers of licensed officers and partners; names and reference numbers of insurance companies for which notice of agency contracts have been filed, agency contract date and termination date if any, limits of authority if any; names and reference numbers of employed producers, date relationship began and terminated.

(b) The following licensee records are specifically determined to be nonpublic records in accordance with N.J.S.A. 47:1A-1 et seq.:

1. Criminal complaints, indictments, judgments of conviction and other separate documents submitted in connection with a license application concerning whether an applicant is disqualified by reason of conviction of a crime;
2. Criminal history records obtained as the result of any criminal history check;
3. Petitions or discharges in bankruptcy, complaints, orders or other pleadings in actions for assignment to creditors and other separate documents submitted in connection with a license application concerning whether the applicant is disqualified by reason of unworthiness;
4. Copies of orders of suspension or revocation issued by professional or occupational licensing authorities, and other separate documents submitted in connection with a license application concerning whether the applicant is disqualified by reason of unworthiness;
5. Records concerning the medical disability of any licensee; and
6. Investigative files in any matter pending investigation, or in any completed investigation in which no formal disciplinary action was taken.

(c) Upon request by any person, the Department shall issue a certification of the license status of any currently licensed producer or producer licensed within the preceding four years. Such certification shall contain the licensee's name, date of birth, license reference number, whether currently licensed or expired, kinds of insurance for which authorized whether qualified by examination or the equivalent, and whether any formal disciplinary action was taken during the last four years.

(d) Nothing in this section shall compel the Department to maintain licensee records beyond normal retirement or destruction schedules as approved by the Division of State Library, or to retrieve and provide a copy of any written record required to be filed with the Department when the information requested is available as a certified abstract of information contained in the Department's electronic data processing system.

Recodified from 11:17-2.15 R.1993 d.507, effective October 18, 1993.
 See: 24 N.J.R. 3216(a), 25 N.J.R. 4744(b).
 Amended by R.1998 d.233, effective May 18, 1998.
 See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

In (a)1, included business telephone and fax numbers, date of license examination, and current license issue date as public records.

11:17-2.17 Requests for disclosure of social security numbers

(a) The Department may request that licensed producers, registered limited insurance representatives, license applicants and registration applicants submit their social security numbers to the Department. All such requests shall either include or be accompanied by a notice stating:

1. The purpose or purposes for which the Department intends to use the social security numbers;
2. That disclosure made pursuant to the request is either voluntary or mandatory; and
3. That the request is authorized by this section and by such other law as may be applicable.

New Rule, R.1996 d.183, effective April 1, 1996.
 See: 28 N.J.R. 234(a), 28 N.J.R. 1891(a).
 Amended by R.1997 d.187, effective May 5, 1997.
 See: 29 N.J.R. 304(a), 29 N.J.R. 2178(a).

In (a), inserted reference to registered insurance representatives and registration applicants; in (a)2, inserted reference to mandatory disclosure; and in (a)3, inserted reference to other applicable law.

SUBCHAPTER 3. PROFESSIONAL QUALIFICATIONS

11:17-3.1 Approval of insurance education program

(a) Professional schools, insurance companies and others who establish programs which include teaching of insurance courses to satisfy professional qualification requirements for prelicensing or continuing education shall, prior to conducting such courses, obtain approval in accordance with this section.

(b) An application for approval of an insurance education program shall be made on a form prescribed by the Commissioner and shall provide the following information:

1. The name of the program and the address of the permanent program office;
2. The name and address of the sponsoring organization, if any;
3. The name of the program director or directors, New Jersey producer license reference number(s), if any, and a signed statement from each director that he or she has read this subchapter, understands his or her responsibilities as a director, and that he or she is fully responsible for the activity of the program;

4. Whether the program will teach prelicensing education courses, continuing education courses, or both;

5. The address of any permanent classroom or classrooms to be used by the program; and

6. Any other information that may be required by the Department to determine whether the program meets the requirements for approval.

(c) Programs seeking approval to teach courses of prelicensing education shall also provide:

1. The names of all instructors employed by the program to teach prelicensing education courses and sign certificates of completion, together with documentation confirming that each is qualified in accordance with (f)3 below;

2. The names of the courses, by license authority, which will be taught by the program, if approved; and

3. A copy of the enrollment application for the program, a form of student contract, and any other agreement between the program and student.

(d) Each application for program approval shall be certified as correct by the program director or directors named in the application, and shall be accompanied by a fee of \$300.00. The application for approval shall be submitted to the Supervisor of Insurance Education at least 90 days prior to the anticipated opening of the program.

(e) Applications for program approval shall be reviewed to determine compliance with the requirements prescribed in this subchapter. An applicant shall supply such additional information or documentation as may be required by the Department to determine whether such requirements are met.

1. An inspection of the program office and any permanent classroom facility may be conducted prior to approval or the approval may be granted conditioned upon the results of an inspection.

2. If the application is in proper form and the requirements described in this subchapter are met, the Department shall issue a certificate of approval which shall contain:

i. The name and approval code number of the program;

ii. An indication as to whether the program is approved for prelicensing education, continuing education or both; and

iii. The effective date and expiration date of the approval.

3. A program approval shall expire in the fourth year on the last day of the licensing quarter in which it was effective:

4. A program approval may be renewed by the same procedure set fourth in this section.

(f) Each approved insurance education program (except as modified hereafter) shall:

1. Maintain a permanent office in New Jersey where shall be maintained student records, samples of all instructional material used, up-to-date copies of the New Jersey insurance statutes and administrative rules, and the certificate of approval for the program. The office shall be open and accessible to the Department and to prospective, present and past students during normal business hours. The requirement for a permanent office in New Jersey may be waived for programs sponsored by accredited colleges and universities, producer trade associations or tax exempt, nonprofit educational institutions that agree to maintain student records and provide records to the Department and former students upon request.

2. Retain a director in charge of the program, who shall be accessible to the Department and the public at the program's permanent office as required in (f)1 above during normal business hours. The program director shall:

i. Oversee the program and activities of all instructors;

ii. Be responsible to carry out the program's administrative duties imposed by this subchapter; and

iii. Receive and distribute to all instructors and students communications from the Department and others. The director shall not have had his or her insurance license revoked.

iv. Failure by a licensed director to supervise the program for records compliance and attendance requirements for the issuance of school certificates and continuing education verification forms to students may result in action being taken against the director's producer license and/or the program.

3. Use knowledgeable and competent instructors to teach all courses. An instructor shall not have had his or her New Jersey insurance producer license revoked and shall in the opinion of the Commissioner, be otherwise of good character and reputation. Instructors employed to teach courses of prelicensing education shall possess at least five years' experience in insurance practice, insurance education or the equivalent which must be derived from the same authority or authorities of insurance for which the instructor is employed to teach courses, and shall, in addition:

i. Hold a recognized professional designation; or

ii. Have passed the New Jersey instructor examination; or

iii. Be a faculty member of an accredited college or university teaching insurance courses.

4. Be permitted to use special lecturers or guest speakers to instruct on particular topics, so long as the program carries out the recordkeeping and reporting requirements imposed by this subchapter. For prelicensing education courses, the use of substitute teachers, special lecturers or guest speakers shall not collectively exceed 25 percent of the total course hours.
5. Use classroom facilities with sufficient lighting, desks or tables and which are otherwise conducive to learning. Classroom facilities shall be open to the Commissioner or his or her designee for class monitoring at any time.
6. If approved to teach prelicensing courses, instruct students in accordance with a curricula established or approved by the Department.
7. Conduct and administer courses in a manner reasonably calculated to assure that certificates or reports of courses attended and completed accurately reflect the students attendance and performance. Except as may be provided consistent with the provisions of N.J.A.C. 11:17-3.4(g), an instructor shall be physically present in the classroom during the conduct of the entire course including any tests or examinations.
8. Maintain for five years the records of each student including the name(s) of the course or courses taken; proof that the course final examination was passed, if applicable; and copies of the final examinations and education certificates issued. Programs voluntarily terminating operations shall turn over education certificates to the Department within 14 days of ceasing operation.
9. If approved to teach prelicensing courses, provide remedies for students who have failed the State licensing examination, which may include review courses or second full courses at reduced rates.
10. If approved to teach prelicensing courses and if it charges tuition therefor, provide to all persons requesting an enrollment application or information, at the time of such request and in a manner approved by the Department, all passing rates on the State licensing examination for all programs for each examination given during the preceding six month period; or, if the program has not been in operation for this period of time, the passing rate for all examinations given during the period which the program has been in operation. This information shall be test specific and shall be furnished in writing and without request.
 - (g) An approved insurance education program may maintain classroom facilities at more than one permanent location in New Jersey under the supervision of a single director, provided that:
 1. The address of each permanent classroom is revealed on the application for approval or subsequent amendments;
 2. That each classroom meets the standard of (f)5 above; and
 3. Permanent student records are maintained at the program's office.
 - (h) An approved insurance education program may conduct classes at temporary locations in New Jersey provided that each classroom facility meets the requirements of (f)5 above, and that permanent student records are maintained at the program's office.
 - (i) Upon request from the Department, the director of an approved education program shall provide information about the time, date and place of any prelicensing or continuing education courses scheduled so that the classes may be monitored.
 - (j) An approved insurance education program shall issue to each student who has successfully completed a prelicensing education course a certificate which shall contain the following:
 1. The program name and program code number;
 2. The student's name;
 3. The name of the course and the hours of study;
 4. Signatures of the student and the instructor or the director of the program;
 5. The course completion date; and
 6. A statement signed by an instructor that the student was instructed for the number of hours indicated on the certificate, that the instructor is satisfied that the student knows the material, and that the student has received at least a 70 percent minimum passing course grade on a final examination.
 - (k) Any insurance education program may be denied approval for failure to meet the requirements in this section.
 - (l) Any denial of program approval, or any proposal to revoke or suspend approval, shall be in writing, and shall advise the applicant of his or her right to a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq. Nothing in this section shall prohibit the rejection and return of applications for correction of ministerial errors.
 - (m) The Commissioner may suspend or revoke the approval of an insurance education program for any of the following reasons:
 1. The failure to maintain any requirement set forth in this section;

2. The failure to advise the Department promptly of any change in information initially submitted in the application during the period of approval including, but not limited to, change of director, school address, place or time of scheduled classes and instructors;

3. Obtaining an approval by fraud or misrepresentation;

4. The failure to conduct any classes for a period of 12 months;

5. For prelicensing education programs only, the failure to maintain an overall passing rate on the State insurance licensing examination of 70 percent or more for any period of 12 consecutive months. The 70 percent passing rate shall be determined on the basis of first time test takers;

6. For continuing education programs only, the failure to report to the Department or contract vendor the students' continuing education credits.

(n) Any school whose approval has been suspended or revoked shall turn over its education certificates to the Department within 14 days.

(o) As an alternative to suspension or revocation of approval, the Commissioner may place any program on probation with appropriate conditions or impose monetary penalties not to exceed \$1,000 for the first violation and \$2,000 for each succeeding violation.

(p) No insurance education program or director whose approval has been revoked may reapply for approval for a period of five years.

Amended by R.1994 d.438, effective September 6, 1994.
See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

11:17-3.2 Prelicensing education

(a) Each applicant for a resident insurance producer's license shall pass a course of prelicensing education with the appropriate number of hours of classroom instruction described in (b) through (e) below.

(b) Prior to being licensed in New Jersey for the first time as a producer, an applicant shall complete a course on regulation of the insurance industry in New Jersey for a total of 15 classroom hours. The course shall include the following topics:

1. State regulatory jurisdiction;
2. The powers of the Commissioner and the methods of regulation;
3. Producer licensing;
4. Producer trade practices, standards of conduct and ethics; and
5. Doing business as a license insurance producer.

(c) Prior to being admitted to the State licensing examination to obtain a particular producer license authority, an applicant shall complete a course of prelicensing education for the specific authority or authorities as follows:

1. Life authority, for a total of 25 classroom hours:
 - i. General life insurance concepts;
 - ii. Annuities;
 - iii. Contracts on a variable basis; and
 - iv. New Jersey law and practice regarding life insurance.
2. Health authority, for a total of 25 classroom hours:
 - i. General health insurance concepts; and
 - ii. New Jersey law and practice regarding health insurance.
3. Life and health authorities, for a total of 40 classroom hours:
 - i. General life insurance concepts;
 - ii. Annuities;
 - iii. Contracts on a variable basis;
 - iv. General health insurance concepts; and
 - v. New Jersey law and practice regarding life and health insurance.
4. Property/casualty authority, for a total of 125 classroom hours:
 - i. General property insurance concepts;
 - ii. General casualty insurance concepts;
 - iii. Health insurance concepts; and
 - iv. New Jersey law and practice regarding property/casualty and health insurance.
5. Title insurance authority, for a total of 45 classroom hours:
 - i. General principles of real estate and title insurance; and
 - ii. New Jersey law and practice regarding title insurance.

(d) A person holding an approved professional designation described in N.J.A.C. 11:17-3.5 shall not be required to complete the courses of prelicensing education.

(e) A person who previously held a New Jersey insurance license, which was surrendered as a condition of public employment, shall not be required to complete the courses of prelicensing education to reinstate the license provided that the employment was insurance-related and application for license is made within one year of termination of the public employment.

(f) Upon application to the Supervisor of Insurance Education, any of the courses in (c) above may be waived for any license applicant who can demonstrate that he or she satisfies at least one of the following conditions:

- 1. For all authorities, that he or she holds, or has held, an insurance producer, agent, broker or solicitor license in a state other than this State, which is current or expired less than one year preceding the date of application for waiver;
- 2. For all authorities, that he or she is a veteran of the United States armed services, and has completed a course of veteran's education approved by the Department of Education and the Commissioner of Insurance;
- 3. For all authorities, that he or she has successfully completed courses in insurance subjects at an accredited college or university, which are equivalent or comparable to the prelicensing courses required for the authority requested;
- 4. For title insurance authority only, that he or she is an attorney at law admitted to practice in New Jersey.

(g) An application for waiver shall be made on a form prescribed by the Department and shall be submitted directly to the Supervisor of Insurance Education prior to registering for the State licensing examination or making application for an insurance producer license. In addition to providing the information requested by the form:

- 1. Applicants seeking a waiver authorized by (f)1 above shall submit a recent certification of license status or letter of severance issued by the insurance licensing authority in the state where they hold or held an insurance license.
- 2. Applicants seeking a waiver authorized by (f)2 above shall submit proof of completion of a course of veteran's education issued by the New Jersey Department of Education.

3. Applicants seeking a waiver authorized by (f)3 above shall submit a transcript issued by the college or university where the course was taken and a description of the subject matter covered.

4. Applicants seeking a waiver authorized by (f)4 above shall submit a certificate of good standing issued by the Clerk of the New Jersey Supreme Court.

(h) If a waiver is approved pursuant to (f) and (g) above, the Supervisor of Insurance Education shall issue a letter of approval waiving the prelicensing education requirement, which shall be attached to the producer license application when submitted to the Department.

(i) Producer license applicants who obtain a waiver of the education requirement shall be solely responsible for preparing themselves to take the state examination.

(j) Waivers shall expire in 30 days from the date of issuance and shall thereafter be reissued or renewed for good cause only, upon presentation of evidence satisfactory to the Commissioner. Any such extension shall not exceed one additional period of 30 days.

(k) For all authorities, classroom attendance at any course(s) in (c) above shall be waived by the Department for any applicant who can demonstrate that he or she is a person with a disability as defined in "the American with Disabilities Act" (42 U.S.C. § 12102) and that his or her disability presents an impediment to classroom attendance at the required courses. In order to obtain a waiver, the following procedure must be complied with prior to participation in the correspondence course:

- 1. The applicant must file for permission to take the correspondence course(s) in lieu of classroom attendance (Appendix, Form No. 1, incorporated herein by reference); and
- 2. Provide a physician's Certification indicating the nature of the disability that precludes classroom attendance (Appendix, Form No. 2, incorporated herein by reference).

APPENDIX
Form No. 1

DISABLED PERSON'S REQUEST FOR WAIVER OF CLASSROOM ATTENDANCE;
PERMISSION TO TAKE CORRESPONDENCE COURSE IN ACCORDANCE WITH N.J.A.C. 11:17-3.2(k)

Mail to:
Supervisor of Insurance Education
New Jersey Department of Banking and Insurance
Enforcement and Consumer Protection
PO Box 329
Trenton, NJ 08625-0329

Applicant Name: _____
Address: _____

Social Security Number: _____
Date of Birth: _____

I HEREBY REQUEST PERMISSION TO TAKE THE FOLLOWING PRELICENSING CORRESPONDENCE COURSE:_____

SUCCESSFUL COMPLETION OF THIS COURSE IS NECESSARY TO SECURE THE FOLLOWING RESIDENT INSURANCE PRODUCER'S LICENSE: _____

I HAVE THE FOLLOWING DISABILITY WHICH PRECLUDES CLASSROOM ATTENDANCE AT PRELICENSING COURSE(S) AND I SHOULD BE GRANTED PERMISSION TO TAKE THE ABOVE MENTIONED CORRESPONDENCE COURSE(S): _____

I HAVE ATTACHED HERETO A CERTIFICATION SIGNED AND PREPARED BY DR. _____ WHICH ATTESTS TO MY DISABILITY.

Date _____ Applicant _____

Date: _____

Approved: _____

Denied: _____ Reasons: _____

By: _____

Supervisor of Insurance Education

Form No. 2

PHYSICIAN'S STATEMENT

Applicant's Name: _____

Address: _____

Social Security Number: _____

TO THE PHYSICIAN COMPLETING THIS FORM:

IN ORDER TO INSURE THAT INDIVIDUALS LICENSED TO SELL INSURANCE IN NEW JERSEY HAVE THE PROPER TRAINING AND EDUCATION IN THE INSURANCE INDUSTRY THE DEPARTMENT OF BANKING AND INSURANCE REQUIRES THAT THEY COMPLETE CERTAIN EDUCATION CLASSES. THESE COURSES NORMALLY REQUIRE CLASSROOM ATTENDANCE BY THE LICENSE APPLICANT. HOWEVER, THE DEPARTMENT REALIZES THAT DUE TO A DOCUMENTED DISABILITY SOME MAY BE UNABLE TO ATTEND CLASSES. IN THESE CASES THEY WILL BE GIVEN PERMISSION TO COMPLETE HOME STUDY COURSES. TO ASSIST THE NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE IN EVALUATING THE ABOVE INDIVIDUAL'S REQUEST FOR THIS ACCOMMODATION PLEASE COMPLETE THE FOLLOWING AND RETURN IT TO THE ABOVE INDIVIDUAL FOR SUBMISSION TO THE DEPARTMENT WITH OTHER NECESSARY PAPERWORK. NOTE: UNDER N.J.A.C. 11:17-2(B)5 THIS INFORMATION IS NOT CONSIDERED PART OF THE PUBLIC RECORD AND WILL BE KEPT CONFIDENTIAL.

1. IN YOUR PROFESSIONAL OPINION DOES THIS PERSON'S MEDICAL CONDITION PRECLUDE CLASSROOM ATTENDANCE AT PRELICENSING COURSES? _____ YES or _____ NO

2. BRIEFLY IDENTIFY THE DISABILITY WHICH RESULTS IN THE INABILITY TO ATTEND PRELICENSING CLASSES: _____

PHYSICIAN NAME _____

ADDRESS AND TELEPHONE NUMBER _____

PHYSICIAN SIGNATURE _____ DATE _____

WOB32APP/INOREGS

Amended by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Amended by R.1998 d.277, effective June 1, 1998.

See: 29 N.J.R. 5257(a), 30 N.J.R. 2025(a).

Added a new (k) and appendix.

(b) Any contract for development and administration of the New Jersey State insurance producer licensing examination shall include, without limitation, the following terms and conditions:

1. The contract vendor shall develop and administer the examination in accordance with specifications approved by the Commissioner.

2. Examinations shall be administered not less than two times per month at such times and places as may be agreed upon by the Commissioner and the contract vendor. The contract vendor shall provide the Commissioner with at least four months' prior notice of scheduled test administration dates.

11:17-3.3 State licensing examination; use of independent examination vendor; exemptions; retaking of examination

(a) All applicants for a resident insurance producer license shall pass the State licensing examination, which may be given by the Department or by an independent vendor under contract to the Department that meets the criteria set forth in (b) below.

- 3. The contract vendor shall:
 - i. Establish at least four test administration centers within the State;
 - ii. Provide all physical facilities; and
 - iii. Provide all test center personnel sufficient for the administration of the test.
- 4. At least one test administration center shall be in each of the following areas:
 - i. Newark;
 - ii. Trenton;
 - iii. Camden; and
 - iv. Atlantic City.
- 5. The contract vendor shall collect from applicants taking the insurance license examination a previously agreed upon fee covering the cost of developing and administering the examination.

6. The contract vendor shall administer the examination in accordance with the contract, which shall contain adequate provisions for preregistration of test candidates, score reporting, security measures and such other provisions that, in the opinion of the Department, assure fair and consistent administration of the examination.

7. The contract vendor shall print and distribute to all approved education programs and to any prospective test candidate such candidate bulletins, registration forms, current test content outlines and other information that may be useful or required.

8. The contract vendor shall score examinations promptly, and shall provide score reports to all passing and failing candidates within 15 calendar days after each test date.

9. The contract vendor shall provide to failing candidates, for each test taken, diagnostic information by major content areas.

10. The contract vendor shall provide to the Department:

i. Alphabetical lists containing candidate names, addresses, identification numbers, school code numbers and scores on State producer licensing examinations of passing and failing candidates; and

ii. Summary statistics, for each test, indicating the number of candidates registered, tested and absent, and passing or failing.

11. The contract vendor shall provide to the Department, on at least a quarterly basis, accumulative, non-personally identifiable pass/fail data and diagnostic data by major content areas for each test for approved programs of prelicensing insurance education.

12. The contract vendor shall provide to approved programs teaching courses of prelicensing education quarterly reports about their students' performance on the licensing examination, which shall contain students' names, the tests taken, scores (passing or failing) and summary statistics. Quarterly reports shall be mailed within 15 days of the end of each quarter.

13. The Department shall have the sole responsibility for establishing minimum qualifications and passing requirements of candidates taking the licensing examination.

14. The contract vendor shall defend and indemnify the Department of Insurance, the State of New Jersey and its agents, officers and employees from all claims, actions, damages, liability and expenses in connection with loss of life, personal injury, damage to property and/or failure to comply with the requirements of "The Americans with Disabilities Act" arising out of the ownership, occupancy or use by the contract vendor of any facilities used as test administration centers, occasioned wholly or

in part by any act or omission of the contract vendor, its agents, contractors or employees.

15. The contract vendor shall provide technical and legal assistance to the Department in the event of any legal challenge to the validity of any examination administered, prepared and/or copyrighted by the contract vendor or the Department in which the State of New Jersey or any of its agencies, officers or employees is named as a party.

16. The contract vendor shall provide public liability insurance with respect to the test facilities in a form satisfactory to the Department with minimum policy limits of \$1,000,000 bodily injury coverage for each occurrence; \$1,000,000 aggregate bodily injury coverage; \$500,000 property damage coverage for each occurrence; and \$1,500,000 aggregate property damage coverage.

17. The contract vendor shall transmit to the Department, in a form satisfactory to the Department, information collected during the test registration process to aid in prompt licensing of passing candidates, and may issue to passing candidates, on a form prescribed by the Department, a temporary work authority. The contract vendor shall deliver the test registration data of passing candidates to whom a temporary work authority has been issued within 30 days of the date of the test.

(c) Applicants holding a recognized professional designation described in N.J.A.C. 11:17-3.5 are exempt from the licensing examination.

(d) Applicants previously licensed as non-residents shall apply for a waiver of prelicensing education and pass the State examination within 90 days of meeting the definition of resident licensee; otherwise the license will no longer be valid for failure to qualify as a resident.

(e) Applicants who previously held a New Jersey insurance license which was terminated as a condition of public employment, are exempt from re-examination provided that the public employment was in an insurance-related field and the license application is made within one year of the termination of that employment.

(f) For good cause shown, the Commissioner may, by order, require an applicant for licensure or a licensee to retake the State licensing examination within a specified period of time. The order shall clearly and fully state the alleged factual circumstances upon which it is based. In the case of a licensee, a license shall remain effective pending the results of the new examination unless otherwise subject to revocation or suspension.

1. A licensee or applicant for licensure may appeal the decision of the Commissioner within 10 days of receipt of the order to retake the examination by filing with the Commissioner a written statement and supporting documentation, if any, disputing with specificity the allegations in the order. In appropriate circumstances,

the Commissioner, or his or her designee, may provide the licensee or applicant for licensure with the opportunity to present evidence orally.

2. After review of the record, the Commissioner shall either rescind the order or require the licensee or applicant for licensure to retake the examination within a prescribed period of time.

i. If a licensee fails to retake the examination within the prescribed period of time, the Commissioner shall issue an Order to Show Cause why the license should not be revoked and shall advise the licensee of his or her right to a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

ii. If an applicant for licensure fails to retake the examination within the prescribed period of time, the Commissioner may refuse to issue the license for which application is made and shall advise the applicant for licensure of his or her right to a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(g) Resident individuals registered by any insurance company to do business as a limited insurance representative dealing with bail bonds or mortgage guarantee insurance shall have taken and passed an examination given by the company thereby demonstrating an appropriate level of competency as a limited insurance representative with respect to these lines of insurance. The insurance company registering such persons shall confirm that this requirement has been met, and the limited insurance representative shall maintain evidence of meeting this requirement at his or her place of business.

Amended by R.1994 d.438, effective September 6, 1994.
See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

11:17-3.4 Continuing education

(a) No resident individual insurance producer license shall be renewed with an effective date on or after May 1, 1995 unless the renewal applicant demonstrates that he or she has completed 48 continuing education credits during the previous four years. Insurance related computer courses must be limited to one such course per four-year licensing period. Producers taking prelicensing insurance courses for the purpose of adding an authority shall not be granted continuing education credits for completing such courses. Producers satisfying credit requirements in a state other than New Jersey may apply for waiver of the 48 credit requirement in New Jersey. The Commissioner shall grant a waiver if the credit requirements of the sister state are substantially similar to those of New Jersey.

(b) Approved insurance education programs shall submit to the Department for certification of continuing education credits, at least 30 days prior to the date the course is to begin, such courses as they may develop. This 30-day requirement may be waived upon a showing by the program of unusual circumstances that require immediate action.

1. A request for continuing education credit certification shall be made on a form prescribed by the Department which shall request the following information:

i. The name and code number of the approved education program submitting the course;

ii. A brief description of the topics or subject matter to be covered;

iii. The number of actual classroom hours required to complete the course;

iv. Such other information as may, in the opinion of the Department, be necessary to evaluate the course for certification of continuing education credits; and

v. Whether the course will be offered independent of other approved courses or as part of a cluster of courses given within a single day or on succeeding days.

2. Submissions for certification of a series of courses in accordance with (c)4 below may substitute the education requirements to obtain and maintain the designation together with samples of courses, for the requirements of (b)1i, ii, iii and iv above.

3. Courses which have been submitted and evaluated independently may be offered as a cluster of courses only if the subject matter of the courses is distinct and not overlapping. When such courses are being offered consecutively, notice of such offering shall be made to the Supervisor of Insurance Education for reevaluation at least 30 days prior to its anticipated administration.

4. The Supervisor of Insurance Education shall certify courses submitted for continuing education credits as provided above, or disapprove the course for continuing education credits, and notify the program director of the decision. In the event of disagreement with the decision, the program director may, within 30 days of receipt of notice from the Department, supply the Supervisor of Insurance Education with a written request for reevaluation supported by reasons for disagreement with the decision and such additional information as may be appropriate. The Supervisor of Insurance Education shall promptly reevaluate the course and advise the program director of the result of the Supervisor's reevaluation.

5. No credit shall be allowed for courses dealing with salesmanship or personal motivation, nor shall primarily social activities be considered to compute course length.

(c) Continuing education credits shall be certified in accordance with the following:

1. Each completed part of the Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC) and Chartered Property/Casualty Underwriter (CPCU) designations shall be worth 12 continuing education credits.

2. Each college level insurance course completed and passed at an accredited college, university or entity other than a college which has been evaluated and approved for college credit by the American Council on Education shall be worth four continuing education credits for each semester hour of college credit.

3. The number of continuing education credits certified shall be based upon the length of the course, course content and the level of difficulty. Each continuing education course submitted by an approved insurance education program may, depending upon the evaluation of the course content and whether the courses are offered independently or clustered with other courses, be worth the total number of credits computed in accordance with the following schedule.

- i. One credit for a half day three-hour course;
- ii. Two credits for a full day six-hour course;
- iii. Three credits for a two day 12-hour course;
- iv. Four credits for a course more than two days comprising 13 hours or more;
- v. Two additional credits for a basic level or introductory course; and
- vi. Four additional credits for an advanced course.

4. Each series of courses submitted as a single unit by an approved education program, and which are administered in connection with the issuance or annual maintenance of a professional designation approved in at least one-third of the states requiring continuing education as a condition of licensure, shall be worth up to 12 continuing education credits based upon the length of the courses and the level of difficulty of the subject matter. For example, annual maintenance of the certified insurance counselor designation shall, upon approval of the program, satisfy the continuing education requirements of this paragraph.

5. Courses offered to attain a professional designation or license will be worth no more than eight credits.

6. No approval will be granted for home study or correspondence courses except as provided in (g) below.

(d) The director of an approved insurance education program shall report the names and producer license reference number of those persons completing each continuing education course within 30 days of course completion or certification of continuing education credits, whichever is later. The instructor teaching the course may be deemed to have completed it for the purpose of securing continuing education credit. The report shall be made to the Department, or its designee, on a form prescribed by the Department, and shall include the following information:

1. The program name and school code;
2. The name and code number of the continuing education course and date completed; and

3. The number of continuing education credits as certified.

(e) Producers who request continuing education credit pursuant to (c)1 or 2 above, shall submit to the Department, on a form prescribed by the Department, the request together with a transcript or other documentation certifying completion of the course and college credits awarded.

(f) Attorneys who are licensed for title insurance only shall submit to the Department, at least six months but not more than one year prior to renewal, a certificate of good standing issued by the Clerk of the Supreme Court of New Jersey accompanied by a completed form prescribed by the Department, which provides the attorney's name, producer reference number, date of birth, social security number and license expiration date.

(g) The Commissioner may grant credit for alternative courses, such as home study for handicapped or disabled persons, as defined by "The Americans with Disabilities Act," when classroom attendance is an impediment due to the person's disability. Evidence of such hardship in the form of a certification by a physician shall be submitted with any such request. The request shall describe how the person's disability is an impediment to classroom attendance. Individuals with disabilities shall contact the Supervisor of Insurance Education prior to alternative course enrollment at the Department of Banking and Insurance, PO Box 329, Trenton, New Jersey 08625-0329.

(h) At least once each year, the Department, or its designee, shall issue to individual resident producers an accounting which shall identify and include:

1. The number of continuing education credits completed, the course or courses taken, and the school code where the credits were completed;
2. The total number of continuing education credits completed;
3. The total number of continuing education credits remaining to be completed; and
4. The license renewal date of the producer.

(i) If the accounting required by (h) above is considered by the resident producer to be inaccurate, he or she shall promptly request the director of the approved education program to file with the Department, or its designee, an appropriate supplemental report.

(j) At least four months prior to the renewal of license, the Department, or its designee, shall issue to individual resident producers a statement indicating, based on current records, whether the continuing education requirement for renewal has been met. In the event the producer asserts that credit has not been recorded for a certified continuing education course, it shall be the sole responsibility of the producer to request the director of the approved program where the course was taken to file with the Department, or its designee, a supplemental report of continuing education credits.

Public Notice: operative date delayed until May 1, 1991.

See: 22 N.J.R. 662(b).

Amended by R.1991 d.218, effective April 15, 1991 (operative May 1, 1991).

See: 23 N.J.R. 287(a), 23 N.J.R. 1133(a).

Added "For example, annual maintenance of the certified insurance counselor designation shall, upon approval of the program, satisfy the continuing education requirements of this paragraph." to (c)4.

Amended by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Amended by R.1998 d.233, effective May 18, 1998.

See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

In (a), added last two sentences; in (c)1, substituted "Consultant" for "Counselor"; and in (g), updated address information.

11:17-3.5 Recognized professional designations

(a) The Department recognizes the following professional designations as acceptable substitutes for the producer education and examination requirements except continuing education:

1. For life and health authorities, a Chartered Life Underwriter (CLU) or a Chartered Financial Consultant (ChFC) designation conferred by the American College of Life Underwriters;

2. For property/casualty, health and surplus lines authorities, a Chartered Property/Casualty Underwriter (CPCU) designation conferred by The American Institute of Property and Liability Underwriters.

(b) An applicant seeking to rely on a recognized professional designation to satisfy any education or examination requirements in accordance with (a) above, shall submit adequate proof of such achievement which shall include an official document or transcript issued by the organization conferring the designation.

Amended by R.1998 d.153, effective April 6, 1998.

See: 29 N.J.R. 5259(a), 30 N.J.R. 1318(a).

In (a)1, inserted a reference to a Chartered Financial Consultant designation.

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. TRANSITION RULES

11:17-5.1 Prelicensing education and examination

(a) Beginning on the effective date of the Act, no license shall be issued to any individual who has last passed the State licensing examination more than one year before the date of application. For purposes of this subsection, the date of application shall be deemed to be the date the application was received by the Department.

(b) Beginning on the effective date of the Act, no license shall be issued to any individual who has last completed the course of prelicensing education more than two years before the date of application.

(c) For purposes of this section, the date of application shall be deemed the date the application was received by the Department.

Recodified from 11:17-5.5 by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Prior text at 11:17-5.1, Effective dates, repealed.

11:17-5.2 Professional qualifications

No continuing education credits shall be accepted for courses completed prior to May 1, 1991.

New Rule: R.1989 d.192, effective April 3, 1989.

See: 20 N.J.R. 1152(a), 21 N.J.R. 899(b).

Recodified from 11:17-5.7 and amended by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Prior text at 11:17-5.2, Relicensing current licensees as producers, repealed.

Case Notes

Submitting documentation to create false impression as to writing of service fee agreements was dishonesty warranting revocation of license as insurance producer. *Fortunato v. Watley*, 95 N.J.A.R.2d (INS) 23.

11:17-5.3 (Reserved)

Repealed by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Section was "Limited insurance representatives".

11:17-5.4 (Reserved)

Repealed by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Section was "Insurance consultants".

11:17-5.5 (Reserved)

Recodified as 11:17-5.1 by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

11:17-5.6 (Reserved)

Repealed by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

Section was "Effect of license revocation or suspension".

11:17-5.7 (Reserved)

Recodified as 11:17-5.2 by R.1994 d.438, effective September 6, 1994.

See: 26 N.J.R. 1289(a), 26 N.J.R. 3731(a).

SUBCHAPTER 6. MANAGING GENERAL AGENTS

Authority

N.J.S.A. 17:1-8.1, 17:1C-6(e) and P.L. 1993, c.237.

Source and Effective Date

R.1993 d.563, effective October 15, 1993.
See: 25 N.J.R. 4318(a), 25 N.J.R. 5229(c).

Subchapter Historical Note

Subchapter 6, Managing General Agents, was adopted as emergency new rules R.1993 d.454, effective August 16, 1993 (to expire October 15, 1993). See: 25 N.J.R. 4318(a). The provisions of R.1993 d.454 were readopted as R.1993 d.563. See: Source and Effective Date.

11:17-6.1 Purpose and scope

This subchapter implements the provisions of N.J.S.A. 17:22C-1 et seq. This subchapter sets forth the procedures for the regulation of certain persons, firms, associations or corporations who act as managing general agents on behalf of insurers.

Amended by R.1998 d.233, effective May 18, 1998.
See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

Substituted an N.J.S.A. reference for a Public Law reference.

11:17-6.2 Definitions

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

“Commissioner” means the Commissioner of the New Jersey Department of Insurance.

“Insurer” means:

1. Any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to N.J.S.A. 17:17-1 et seq., or N.J.S.A. 17B:17-1 et seq.;
2. Any medical service corporation operating pursuant to N.J.S.A. 17:48A-1 et seq.;
3. Any hospital service corporation operating pursuant to N.J.S.A. 17:48-1 et seq.;
4. Any health service corporation operating pursuant to N.J.S.A. 17:48E-1 et seq.;
5. Any dental service corporation operating pursuant to N.J.S.A. 17:48C-1 et seq.

“Managing general agent” or “MGA” means any person, firm, association or corporation who binds ceding reinsurance contracts on behalf of an insurer or manages all or part of the insurance business of an insurer, including the management of a separate division, department or underwriting office, and acts as an agent for that insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the

insurer in any one quarter or year together with one or more of the following:

1. Authority to adjust or pays claims in excess of \$5,000 per claim or in the aggregate, if the claims will settle for \$100,000 or more in a year; or
2. Negotiates reinsurance on behalf of the insurer.

Notwithstanding the above; the following persons shall not be MGAs for the purposes of this subchapter:

1. An employee of the insurer;
2. A United States manager of the United States branch of an alien insurer;
3. An underwriting manager which, pursuant to contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, subject to N.J.S.A. 17:27A-1 et seq., and whose compensation is not solely based on the volume of premiums written;
4. An attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney.

“Nonresident” means a person who neither resides in New Jersey nor maintains an office in New Jersey where insurance business is transacted.

“Producer” means a person licensed in accordance with N.J.S.A. 17:22A-1 et seq.

“Resident” (of New Jersey) means a person who either resides in New Jersey or maintains an office in New Jersey where insurance business is transacted.

Amended by R.2002 d.123, effective April 15, 2002.

See: 33 N.J.R. 3868(a), 34 N.J.R. 1538(a).

In “Producer”, deleted the N.J.A.C. reference.

11:17-6.3 Requirements for MGA

(a) No person, firm, association or corporation shall act in the capacity of a managing general agent with respect to risks located in this State for an insurer licensed in this State unless such person is licensed as an insurance producer in this State, with authority for the kind or kinds of business to be transacted.

(b) No person, firm, association or corporation shall act in the capacity of a managing general agent representing an insurer domiciled in this State with respect to risks located outside of this State unless such person is licensed as a producer in this State.

(c) All managing general agents shall acquire and maintain a surety bond for the protection of the insurer contracting with the managing general agent. The bond shall be in the amount of \$100,000 or 10 percent up to \$500,000 of the direct premium written by the insurer for the previous

calendar year that is attributable to the managing general agent, whichever is greater.

1. The bond amount shall be adjusted accordingly on or before April 1st of each year.

2. The bond shall be executed by an admitted company authorized to transact fidelity and surety business in New Jersey. The bond shall not be written by the insurer or an affiliate of the insurer contracting with the managing general agent.

3. The executed bond shall be submitted to the insurance company contracting with the MGA.

(d) All managing general agents shall acquire and maintain an errors and omissions insurance policy. The policy coverage limits shall be set at \$100,000 or 10 percent up to \$500,000 of the direct premium written by an insurer for the previous calendar year that is attributable to the MGA, whichever is greater.

1. The policy coverage limits shall be adjusted accordingly on or before April 1st of each year.

2. The errors and omissions policy shall be issued by an insurer admitted to do business in New Jersey or an eligible surplus lines insurer. The policy shall not be written by the insurer or an affiliate of the insurer contracting with the MGA.

3. Proof of an errors and omissions insurance policy shall be submitted to the insurance company contracting with the MGA.

(e) The obligations of the MGA to maintain in force a bond and errors and omissions insurance as provided in this section shall continue until Notice of Termination of Managing General Agent Contract is filed with the Department as provided in this subchapter.

Amended by R.1993 d.563, effective November 15, 1993.

See: 25 N.J.R. 4318(a), 25 N.J.R. 5229(c).

Amended by R.2002 d.123, effective April 15, 2002.

See: 33 N.J.R. 3868(a), 34 N.J.R. 1538(a).

In (c) and (d), substituted "10" for "25" preceding "percent" and "\$500,000" for "\$10,000,000" preceding "of the direct premium" in the introductory paragraphs.

11:17-6.4 Insurer requirements

(a) No insurer shall appoint or continue to use the services of any MGA to act for it in this State, either directly or indirectly through sub-agents of the MGA, unless the managing general agent is qualified to act as an MGA in this State pursuant to N.J.A.C. 11:17-6.3.

(b) The insurer shall maintain and make available to the Commissioner upon request a copy of the following:

1. An executed contract between the MGA and the insurer;

2. An executed bond in accordance with N.J.A.C. 11:17-6.3(e); and

3. Proof of the MGA's errors and omissions coverage in accordance with N.J.A.C. 11:17-6.3(d).

(c) Thirty days of entering into, or within 15 days of terminating, a contract with an MGA, the insurer shall provide written notification of the appointment or termination of the MGA to the Commissioner.

11:17-6.5 Filing requirements

(a) No person, firm, association or corporation shall act as an MGA with respect to risks located in this State for an insurer licensed or domiciled in this State, unless the MGA and the insurer have notified the Commissioner as provided (b) below.

(b) Insurers and MGAs required to notify the Commissioner as provided in (a) above shall file a Notice of Managing General Agent Contract in the form set forth as Form A in the Appendix to this subchapter incorporated herein by reference by completing and jointly executing the form and sending it to the Department at the following address:

Attn: License Processing

New Jersey Department of Banking and Insurance

PO Box 327

Trenton, NJ 08625-0327

(c) The Commissioner may refuse to file any Notice of Managing General Agent Contract that is incomplete. The Commissioner shall notify the insurer of a determination that the Notice is incomplete, and the actions that must be taken or the items that must be submitted in order to make a complete filing.

Amended by R.1998 d.233, effective May 18, 1998.

See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

In (b), updated the address information.

11:17-6.6 Claim processing requirements

(a) If the contract between the MGA and the insurer permits the MGA to settle claims on behalf of the insurer the MGA shall comply with the requirements governing the settlement of claims set forth in N.J.S.A. 17:29B-4, 17B:30-13.1 and 17B:30-13.2 as applicable and any regulations promulgated by the Commissioner thereunder. In addition:

1. All claims shall be reported to the company within 30 days of a claim being reported to the MGA, unless otherwise specified with the insurer; and

2. A copy of the claim file shall be sent to the insurer at its request or as soon as it becomes known that the claim:

i. Has the potential to exceed \$1,000,000 or exceeds the limit set by the insurer, whichever is less;

ii. Involves a coverage dispute;

- iii. May exceed the managing general agent's claims settlement authority;

- iv. Is open for more than six months; or
- v. Is closed by payment of \$1,000,000 or an amount set by the insurer, whichever is less.

11:17-6.7 Record maintenance

(a) All policy and claim files shall be the joint property of the insurer and MGA. Upon termination of the MGA appointment for this State, all original policy and claim files shall be returned to the insurer. The MGA may retain copies of these files.

(b) All books and records of account shall be maintained by the managing general agent for a period of five years after the termination of the contract.

(c) All records, books and documents required to be maintained by the managing general agent in accordance with the provisions of this subchapter shall, upon his or her request, be produced for examination by the Commissioner or his or her duly authorized representatives.

(d) The books and records required by this subchapter to be maintained may be maintained electronically if the following conditions are met:

1. That all the elements required by this chapter to be maintained are contained in the electronic system;
2. That, upon the request of the Department, the electronically kept records can be reproduced in hardcopy; and
3. That, at least every 30 days, the records maintained electronically are reproduced in hardcopy and maintained on file for a period of five years after the termination of coverage for an insured, or, alternatively, are maintained for said period of five years on an electronic system that is, in the opinion of the Commissioner, unalterable. Such a determination of unalterability shall be made by the Commissioner, in writing, before any electronic system may be used for storage beyond 30 days.

11:17-6.8 Penalties

(a) If the Commissioner finds, after notice and opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. as implemented by the Uniform Administrative Procedure Rules,

N.J.A.C. 1:1, that any person has violated any provision of N.J.S.A. 17:22C-1 et seq., or this subchapter, the Commissioner may refuse to issue or renew the insurance producer's license, or may revoke or suspend the insurance producer's license.

(b) In addition, or as an alternative to any other penalty, the Commissioner may:

1. Impose a fine of up to \$5,000 for the first violation, and not exceeding \$10,000 for each subsequent violation, and in appropriate circumstances order restitution of moneys owed to any person and reimbursement of the costs of investigation and prosecution.

2. Order the MGA to reimburse the insurer, the rehabilitator or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this act committed by the managing general agent.

(c) If the Commissioner finds that the interests of the public require that immediate action be taken prior to completion of the hearing, the making of a determination and the entry of a final order, he may enter an appropriate order to be effective pending completion of the hearing and entry of a final order. These orders may be entered on ex parte proofs if the proofs indicate that the Commissioner's withholding of any action until completion of a full hearing will be harmful to the public interest. Orders issued pursuant to this subsection shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the ex parte order shall be held in any event within 20 days after it is entered. In the alternative, or in addition, the Commissioner is authorized to institute a proceeding in the Superior Court, to be conducted in a summary manner, for an injunction against specified acts or conduct in aid of the proceedings pending before him, including temporary injunctions and interim restraints.

Amended by R.1998 d.233, effective May 18, 1998.
See: 30 N.J.R. 779(a), 30 N.J.R. 1833(a).

In (a), substituted an N.J.S.A. reference for a Public Law reference.

Case Notes

Insurance producer who misappropriated over one million dollars of insurance premiums would have his license revoked and would be compelled to make restitution payments based on his gross income. Department of Insurance v. Universal Brokerage Corporation, 96 N.J.A.R.2d (INS) 83.

APPENDIX

FORM A

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
License Processing
PO BOX 327
Trenton, New Jersey 08625-0327

NOTICE OF MANAGING GENERAL AGENT CONTRACT

To: Commissioner of Insurance, State of New Jersey

From: [Company Reference No.] [Name of Company]

The following producer gives notice of the establishment of an agency contract between this company and the insurance producer named below:

[Insurance Producer Reference No.] THIS INFORMATION MAY NOT BE OMITTED

PRINT Name of Insurance Producer (Last, First, Middle)

[Date of Birth: month, day, Year] THIS INFORMATION MAY NOT BE OMITTED IF AN INDIVIDUAL PRODUCER

as its Managing General Agent in New Jersey commencing [Contract Date: month, day, year] for:

all types of insurance for which the company and producer are jointly authorized. The above producer has filed with this company a bond and Errors and Omissions policy in accordance with N.J.A.C. 11:_____

I have determined that the insurance producer named holds a current New Jersey insurance license, authorizing transaction of the kinds of insurance covered by this contract. We understand that the bond and E&O policy must be updated yearly.

Authorized Company Signature, Date, Phone Number, Print Name and Title, Office Address, Date, Insurance Producer Signature, Date

Attach a \$20.00 company check made payable to: STATE TREASURER OF NEW JERSEY DT630/INABROP/m/1