

CHAPTER 17A
INSURANCE PRODUCER STANDARDS
OF CONDUCT; MARKETING

Authority

N.J.S.A. 17:1-8.1, 17:1-15e and 17:22A-26 et seq.

Source and Effective Date

R.2005 d.237, effective June 21, 2005.
 See: 37 N.J.R. 413(a), 37 N.J.R. 2691(c).

Chapter Expiration Date

Chapter 17A, Insurance Producer Standards of Conduct; Marketing, expires on June 21, 2010.

Chapter Historical Note

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

Petition for Rulemaking. See: 23 N.J.R. 3659(a).

Pursuant to Executive Order No. 66(1978), Chapter 17A, Insurance Producer and Limited Insurance Representative Standards of Conduct: Marketing, was readopted as R.1995 d.60, effective December 30, 1994. See: 26 N.J.R. 4307, 27 N.J.R. 562(a).

Pursuant to Executive Order No. 66(1978), Chapter 17A, Insurance Producer and Limited Insurance Representative Standards of Conduct: Marketing, was readopted as R.2000 d.44, effective December 30, 1999. See: 31 N.J.R. 3583(a), 32 N.J.R. 499(a).

Chapter 17A, Insurance Producer Standards of Conduct; Marketing, was readopted as R.2005 d.237, effective June 21, 2005. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ACTIVITIES FOR WHICH A PERSON MUST BE LICENSED AS AN INSURANCE PRODUCER

11:17A-1.1 Purpose; scope

(a) The purpose of this subchapter is to implement the provisions of N.J.S.A. 17:22A-26 et seq. generally, and 17:22A-29 in particular, by identifying the insurance-related activities that require licensure as an insurance producer.

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

Amended by R.2002 d.354, effective November 4, 2002. See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a), amended the N.J.S.A. references and deleted "or registration as a limited insurance representative" following "insurance producer".

11:17A-1.2 Definitions

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

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

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

1. Receiving requests for coverage for transmittal to a licensed insurance producer or for processing through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer;

2. Mailing billings;

3. Scheduling appointments with insurance producers;

4. Office filing;

5. Marketing research or prospecting so long as no attempt is made to solicit or to discuss a specific insurance product or to encourage replacement of an existing policy;

6. Receiving and recording information from an applicant or policyholder and preparing for an insurance producer’s review and signature all binders, certificates, endorsements, identification cards or policies pursuant to instructions from the insurance producer;

7. Receiving and recording information from an applicant or policyholder and preparing an application for insurance pursuant to instructions from and for the review of an insurance producer;

8. Receiving and recording information from a policyholder or prospective policyholder to give to an insurance producer for his or her response, or transmitting information to a policyholder or prospective policyholder under the supervision of an insurance producer;

Example: An unlicensed sales representative in a car dealership collects information from a car buyer that is given to a licensee to complete a credit insurance transaction.

9. Receiving and recording an insured’s request concerning any additions or deletions to an existing policy and preparing the appropriate endorsements or processing the appropriate changes through an automated system developed and maintained under the supervision of an insurer or licensed insurance producer and notifying the insurance producer of the endorsements or changes;

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

10. Opening mail;

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

12. Taking factual information relative to a claim;

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

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

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

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

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

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

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

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

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

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

(f) No insurance producer engaged in a business other than the business of insurance shall engage in any conduct which reasonably could result in or which results in coercing an applicant or policyholder into purchasing insurance as a condition precedent, concurrent or subsequent to securing any other good or service.

(g) No insurance producer shall restrict the sale or issuance of an insurance policy, or participate in the restriction of the sale or issuance of an insurance policy, to persons who enter into, or agree to enter into, premium financing agreements with any particular premium finance service company.

(h) No insurance producer acting as a motor club representative or who receives any compensation, directly or indirectly, for or on account of the sale of a motor club service contract, shall require the purchase of a motor club contract as a condition to securing an insurance contract and/or premium finance agreement.

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

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

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a)2, inserted "or her" preceding "choice," in the Disclosure Notice; in (d)2, substituted "selling" for "effecting" preceding "insurance business"; deleted references to limited insurance representatives throughout.

11:17A-2.6 Identification of insurance producer

(a) An insurance producer who solicits insurance shall be required to identify the following information to the person he or she is soliciting prior to commencing his or her solicitation:

1. His or her name as it appears on his or her insurance producer license;
2. The name of the insurer, if known, or insurance producer, that he or she is representing; and
3. The nature of the relationship between the insurance producer and the insurer or insurance producer being represented.

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

11:17A-2.7 Unfair discrimination

No insurance producer shall refuse to take an application from a policyholder or prospective policyholder for any reason based in whole or in part upon the race, color, creed, religion, sex, marital status or physical impairments of an applicant or policyholder, or for any arbitrary, capricious, or unfairly discriminatory reason, or for any reason which is contrary to Federal or State law. Nothing in this section shall prohibit an insurance producer from refusing to submit

an application to an insurer where there exists a contractual arrangement with an insurer to perform underwriting pursuant to established and legally permissible written underwriting guidelines and the refusal is based on these guidelines.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted "or limited insurance representative" following "No insurance producer".

11:17A-2.8 "Twisting" prohibited

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

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

Deleted "or limited insurance representative" following "No insurance producer".

11:17A-2.9 Notice to purchasers of self-storage personal property insurance

(a) Insurance producers that market self-storage personal property insurance as defined in N.J.A.C. 11:17-1.2 shall provide potential purchasers with written notice:

1. That the renter's or lessee's homeowner's, renter's or business insurance policy may provide coverage for the loss or damage to property located on the self-storage premises and that the purchase of such insurance is not required under the lease terms between the self-storage facility and the renter or lessee; and
2. That the coverage may be cancelled within 30 days and a full refund made to the purchaser upon written notice to the producer who sold the self-storage insurance contract or the insurer.

New Rule, R.1997 d.278, effective July 7, 1997.

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

Former section recodified to N.J.A.C. 11:17A-2.10.

Amended by R.2002 d.354, effective November 4, 2002.

See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a), substituted "Insurance producers" for "Limited insurance representatives" in the introductory paragraph and substituted "the producer who sold the self-storage insurance contract" for "either the limited insurance representative" in 2.

11:17A-2.10 Penalty

(a) The Commissioner shall impose penalties for violations of this subchapter in accordance with the provisions of N.J.S.A. 17B:30-1 et seq., 17:29B-1 et seq. and 17:22A-26 et seq.

(b) For the purpose of determining the existence of a violation and assessing a penalty under this subchapter, a separate violation shall be deemed to exist and a separate penalty therefore shall be assessed for each violation of the provisions of this subchapter.

Recodified from 11:17A-2.9 by R.1997 d.278, effective July 7, 1997.
See: 28 N.J.R. 4707(a), 29 N.J.R. 2853(a).

Former section recodified to N.J.A.C. 11:17A-2.11
Amended by R.2002 d.354, effective November 4, 2002.
See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).
In (a), amended the final N.J.S.A. reference.

11:17A-2.11 Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the remainder of the subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Recodified from 11:17A-2.10 by R.1997 d.278, effective July 7, 1997.
See: 28 N.J.R. 4707(a), 29 N.J.R. 2853(a).

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

11:17A-3.1 Incorporation of other rules

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

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

Amended by R.2002 d.354, effective November 4, 2002.
See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).

In (a), deleted "and limited insurance representatives" in the introductory paragraph.

SUBCHAPTER 4. MISCELLANEOUS MARKETING AND RELATED REQUIREMENTS

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

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

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

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

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

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

11:17A-4.3 Confirmation of underwriting information

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

1. The requirement in (a) above shall apply to all insurance policies, certificates, binders and endorsements.
2. The requirement in (a) above shall not apply when the request for such modification is required to be submitted by the policyholder or applicant to the insurance producer in writing.

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

11:17A-4.4 Special underwriting associations

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

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

Amended by R.1995 d.60, effective February 6, 1995.
See: 26 N.J.R. 4307(a), 27 N.J.R. 562(a).
Amended by R.2002 d.354, effective November 4, 2002.
See: 34 N.J.R. 2286(a), 34 N.J.R. 2549(b), 34 N.J.R. 3839(a).
Substituted references to sell for effect throughout.