

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

Insurance Producer Standards of Conduct

Readoptions with Amendments: N.J.A.C. 11:17A, 11:17B, 11:17C and 11:17D

Proposed: February 7, 2005 at 37 N.J.R. 413(a)

Adopted: June 21, 2005 by Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Filed: June 21, 2005 as R. 2005 d. 237, without change.

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

Effective Date: June 21, 2005, Readoptions;
July 18, 2005, Amendments.

Expiration Date: June 21, 2010

Summary of Public Comments and Agency Responses:

Comments were received from the Independent Insurance Agents & Brokers of New Jersey, the New Jersey Land Title Association, and GEICO.

COMMENT: One commenter expressed its support of the proposed readoption and amendments.

RESPONSE: The Department thanks the commenter for its support.

COMMENT: One commenter encouraged the Department to "monitor the use of 'gifts' with a monetary value not to exceed to exceed \$25 (as opposed to the previous \$20.)" The commenter stated that while the increase in value may be warranted based on inflation, they believed it was

important for consumers to make the right choice for coverage to meet their needs and not simply purchase insurance based upon the availability of a "free gift."

RESPONSE: As the commenter noted, the change in monetary value was made because of inflation. The Department agrees with the commenter that it is important for consumers to make the right choice according to their needs. The Department will continue to enforce the rules and provide education to consumers in order to assist them in making informed and appropriate choices as to coverage.

COMMENT: One commenter proposed amending N.J.A.C. 11:17A-4.5 by adding the provision that "nothing contained herein shall be construed to prohibit an insurance producer from disclosing or soliciting the disclosure of information related to matters affecting title to real property in connection with the issuance of policies of title insurance." The commenter states this is a necessary exception in furtherance of the exception found in N.J.S.A. 17:23A-1d. The commenter further states that the inability to share information would have an adverse impact on the free alienability of interests in real property in New Jersey and a harmful effect on the stability of land titles.

RESPONSE: The Department does not believe that the additional language is necessary. N.J.A.C. 11:17A-4.5 clearly states that transactions which conform to N.J.S.A. 17:23A-1 et seq. are excepted.

COMMENT: One commenter expressed concern with N.J.A.C. 11:17A-4.2, which requires an insurance producer to witness an applicant's signature, if the purpose of the section was other than to address when an insurer requires such a signature.

RESPONSE: The commenter is correct in the assumption that N.J.A.C. 11:17A-4.2 does address when an insurer requires a signature. Therefore, the commenter need not be concerned.

COMMENT: One commenter expressed concern with N.J.A.C. 11:17A-4.3, which requires that written confirmation of insurance transactions that modify the terms of an existing contract or the terms of an application for insurance be provided to the policyholder or applicant. The commenter believed that if the information is being provided directly to the insurer via the Internet or being inputted while the individual supplying the information is on the telephone, the requirement to provide written confirmation would not be applicable. The commenter stated the requirement fails to consider those transacting business via the Internet; that it is the individual who is online submitting the application or changes and that it adds unnecessary costs.

RESPONSE: N.J.A.C. 11:17A-4.3 applies to insurance transactions between a customer and an insurance producer. Furthermore, the Department has addressed insurance transactions done via telephone and the Internet. N.J.A.C. 11:1-47, which became effective March 7, 2005, states that "[t]o the extent any statute or rule requires that a transaction or record related thereto between a carrier or a producer and an applicant, insured or other party be in writing, with or without a signature, such transaction or record may be made electronically, provided the requirements of

N.J.S.A. 12A:12-1 et seq. with respect to the use of electronic transactions, are satisfied."
N.J.A.C. 11:1-47.3(a).

COMMENT: One commenter objected to the requirements of N.J.A.C. 11:17A-1.4 which outlines what activities would require a license. The commenter stated that their company utilizes customer service representatives who undergo extensive training prior to being placed on the telephone to serve its customers. They stated that there are a number of activities for which these customer service representatives are trained but are unable to perform because of the requirements. The commenter also noted that use of the customer service representatives allows them to provide product in many cases at a lower cost.

RESPONSE: The Department notes the commenter's concerns. The Department's prelicensing, testing and continuing education requirements applicable to insurance producers, coupled with regulatory provisions, including sanctions, governing insurance producers, help create standards of competence and accountability that may not apply in the case of unlicensed individuals, assisting in insurance transactions. In addition, any change involving the activities for which a license is necessary would be a substantive change requiring further notice and an additional comment period and, therefore, cannot be made on adoption.

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules and amendments are not subject to any Federal standards or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:17A, 11:17B, 11:17C and 11:17D.

Full text of the adopted amendments follows:

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