



State of New Jersey
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BULLETIN NO. 05-11

TO: ALL INTERESTED PARTIES

**FROM: DONALD BRYAN, ACTING COMMISSIONER
NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE**

**SUBJECT: NEW RULES N.J.A.C. 11:27-5 and 6 and AMENDED RULE N.J.A.C.
11:1-20.2, EFFECTIVE JUNE 6, 2005, IMPLEMENTING PORTIONS OF
THE NEW JERSEY MEDICAL CARE ACCESS AND RESPONSIBILITY
AND PATIENTS FIRST ACT, P.L. 2004, c. 17**

The New Jersey Department of Banking and Insurance (Department) is issuing this Bulletin in conjunction with the adoption of new rules N.J.A.C. 11:27-5 and 6 and amendments to N.J.A.C. 11:1-20.2, which became effective on June 6, 2005, upon publication in the New Jersey Register. These rules implement provisions of the New Jersey Medical Care Access and Responsibility and Patients First Act, P.L. 2004, c. 17 ("the Act") enacted last year. This Bulletin is especially intended for medical malpractice insurers in order that they may understand the necessity for immediate compliance.

Bulletin 04-13, issued July 26, 2004, informed insurers that Section 17 of the Act, which prohibits authorized medical malpractice liability insurers from increasing the premium on a medical malpractice policy on the basis of a medical negligence of malpractice claim if the insured was dismissed from a civil action based upon that claim within 180 days of the filing of

the last responsive pleading in the action, became effective on September 5, 2004. Consequently, as that Bulletin indicated, all medical malpractice policies written or renewed on or after that date were subject to that statutory prohibition.

Insurers authorized to transact medical malpractice liability insurance in this State are reminded of the requirement to file with the Department a manual rule with respect to this prohibition, as set forth in N.J.A.C. 11:27-5.3(c). The manual rule will confirm that the company's underwriting manual contains the prohibition on increasing the premium on any medical malpractice liability insurance policy set forth in Section 17 of the Act, with which insurers have been statutorily required to comply since September 5, 2004.

In addition, Bulletin 04-13 informed insurers that Section 19 of the Act, which requires that each notice of renewal or non-renewal of a medical malpractice liability insurance policy issued by an authorized insurer in New Jersey be mailed or delivered to the insured not less than 60-days prior to the expiration date of the policy and, in the case of a non-renewal, contain the reason for the non-renewal, also became effective on September 5, 2004. That Bulletin further indicated that the minimum 60-day notice requirement would be applicable to all renewal and non-renewal notices issued on medical malpractice policies issued on or after that effective date and, accordingly, policies expiring on or after November 5, 2004 would be subject to the 60-day notice requirement.

Insurers authorized to transact medical malpractice liability insurance in this State are reminded that, if they have not previously done so, they should promptly update any forms now on file with the Department to reflect that, in accordance with the Act, they are providing the required notice to insureds 60 days prior to the renewal or nonrenewal of a medical malpractice policy. Insurers should review the new rule at N.J.A.C. 11:27-6.1 and the amendments to N.J.A.C. 11:1-20.2 for further guidance.

As the filings discussed in this Bulletin relate to statutory requirements that have been in effect since September 5, 2004, insurers are advised that all revised manual rules and updated forms must be filed with the Department by July 1, 2005.

Any questions about this Bulletin may be directed to William G. Rader, Assistant Commissioner, Office of Property and Casualty, Department of Banking and Insurance, 20 West State Street, P.O. Box 325, Trenton, New Jersey 08625-0325.

6/8/05
Date

/s/ Donald Bryan
Donald Bryan
Acting Commissioner

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