

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

Officers, Directors and Board Members of Medical Malpractice Insurers

Adopted New Rules: N.J.A.C. 11:27-8

Proposed: January 18, 2005 at 37 N.J.R. 205(a)

Adopted: April 28, 2005 by Donald Bryan, Acting Commissioner, Department of Banking and Insurance

Filed: April 29, 2005 as R. 2005 d. 170, **with substantive changes** not requiring additional public notice and opportunity for comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1 and 15e, 17:30D-18 and 17:30D-31

Effective Date: June 6, 2005

Expiration Date: June 6, 2010

Summary of Public Comments and Agency Responses:

No comments were received.

Summary of Agency Initiated Changes:

To clarify the rule's text and ensure consistency with the legislative intent of N.J.S.A. 17:30D-18, upon adoption, text is being added to N.J.A.C. 11:27-8.1 as proposed. The additional text explicitly indicates that as used in this subsection, the term "professional association" does not include a professional association which is an acceptable form of practice under N.J.A.C. 13:35-6.16(f)2.

The term "professional association" can apply to a group or society of practitioners from many individual or group practices, or to a professional corporation formed pursuant to the Professional Service Corporation Act, N.J.S.A. 14A:17-1 et seq., in which one or more professionals own a practice. Pursuant to N.J.A.C. 13:35-6.16(f)2,

this latter type of professional association is an allowable form of professional practice for licensees of the Board of Medical Examiners. In accordance with N.J.S.A. 17:30D-18, officers, directors or board members of the former type of professional association are excluded from serving concurrently as an officer, director or board member of a State-domiciled medical malpractice insurer licensed in New Jersey and offering medical malpractice liability insurance, while those of a professional association formed in accordance with N.J.S.A. 14A:17-1 and N. J.A.C. 13:35-6.16(f)2 are not.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules are not subject to any Federal standards or requirements.

Full text of the adopted new rules follows (additions to proposal in boldface with asterisks

thus):

11:27-8.1 Prohibition upon concurrently serving in dual capacity

(a) No person who is an officer, director or board member of a professional association for health care providers shall serve concurrently as an officer, director or board member of a State-domiciled medical malpractice insurer that is licensed in New Jersey and offering medical malpractice insurance policies. ***For the purposes of this section, a professional association shall not include a professional association formed in accordance with N.J.S.A. 14A:17-1 et seq. and N.J.A.C. 13:35-6.16(f)2.***

(b) - (c) (No change from proposal.)

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