

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Insurance Producer to Witness Signature of Insured

Adopted Amendment: N.J.A.C. 11:17A-4.2

Proposed: November 2, 2009 at 41 N.J.R. 4055(a).

Adopted: June 23, 2010 by Thomas B. Considine, Commissioner, Department of Banking and Insurance.

Filed: June 24, 2010 as R 2010 d. 158, **without change**.

Authority: N.J.S.A. 17:1-8.1 and 17:1-15e.

Effective Date: July 19, 2010.

Expiration Date: December 18, 2010.

Summary of Public Comments and Agency Responses

The Department of Banking and Insurance (Department) received written comments from William R. Vowteras, CPIA, President of the Professional Insurance Agents of New Jersey; and Jeanne M. Heisler, CPCU, CLU, AAI, AIS, Government Affairs Representative of Independent Insurance Agents and Brokers of New Jersey.

COMMENT: The commenter applauds the Department's recognition of the ongoing trend toward conducting insurance business electronically which increases the efficiency and speed of such transactions and the commenter expresses support for the amendment.

RESPONSE: The Department appreciates the commenter's expression of support for the rule.

COMMENT: The commenter fully supports the amendment and agrees that the current requirement for a producer to witness the signature of the insured (unless waived by the

insurance company in writing) is outdated and an inconvenience for many consumers, producers and insurers. The commenter believes that the proposal does not permit an insurance company to demand that the application be completed in person and that the insurance company may only require the witnessing of the signature if the consumer chooses to complete the insurance application in a face to face meeting with the producer.

RESPONSE: The Department appreciates the commenter's expression of support for the rule. However, the Department disagrees with the commenter's belief that the rule does not permit an insurer to require that an application be completed in-person and that the insurer may only require the producer to witness the applicant's signature if the application is signed during an in-person meeting held as a result of the consumer choosing to submit the application in that manner. The adopted amendment was not intended to restrict an insurer's ability to require face-to-face execution of applications pursuant to its business plan or contracts with its producers. Unless waived by the insurer, the adopted amendment requires the producer to witness the signature of the applicant if the application is signed during a face-to-face meeting between the producer and the applicant. This requirement applies regardless of whether the meeting is held as a result of a preference of the consumer or a directive of the insurer. The effect of the amendment is to further provide that, if the insurer permits applications to be completed through other means, for example, electronically, the insurer cannot require the producer to witness the signature of an applicant who uses that methodology to complete and sign an application.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include

in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required in this instance because the amendment adopted enhances the State's regulation of licensed insurance professionals and the companies they represent and no Federal standards or requirements are exceeded. There are no Federal standards or requirements applicable to the adopted amendment.

Full text of the adoption follows:

(TEXT)