

PUBLIC NOTICE

BANKING AND INSURANCE

DIVISION OF INSURANCE

PROPERTY AND CASUALTY DIVISION

Notice of Receipt of Petition for Rulemaking

Renewal, Cancellation and Nonrenewal of Commercial and Homeowners Insurance Policies

Proposed Amendment: N.J.A.C. 11:1-20.4(a)

Petitioner: Princeton Insurance Company

Take notice that on October 14, 2005, the Department of Banking and Insurance (Department) received a petition for rulemaking from the above petitioner requesting that the Department amend its rules governing renewal, cancellation and non-renewal of commercial and homeowners insurance policies. Specifically the petitioner stated that although N.J.A.C. 11:1-20.4(e) contains the phrase "adverse loss experience," this provision does not provide a definition or specific guidance concerning the losses which carriers are permitted to include in their determination of adverse loss experience. The petitioner noted that the Department proposed a definition in 1985 that set forth a detailed mathematical formula to be used in determining the existence of adverse loss experience; but the proposal was not adopted. The petitioner stated that since then there has been little published guidance upon which carriers might rely. As a medical malpractice carrier conducting business solely in New Jersey, the petitioner believes that the market would be better served and become more competitive with additional clarification from the Department concerning losses that can be included in the determination of adverse loss experience. The petitioner further believes that the market would be better served because medical malpractice carriers would know that their adverse loss experience guidelines were developed consistent with a more detailed definition of loss experience that would likely withstand a challenge or complaint brought to the Department. The petitioner stated that consistent guidelines are more likely to attract more carriers to the New Jersey market. Furthermore, the petitioner contends that competition would be increased because the carriers writing medical malpractice insurance in New Jersey would have an

incentive and means to differentiate themselves from one another through non-renewal guidelines more or less favorable to an insured.

The full text of the petitioners' suggested amendments to N.J.A.C. 11:1-20.4(e) follows **(additions in bold):**

“(e) Any underwriting guideline or standard premised on adverse loss experience shall be limited in application to non-renewals only and shall specifically identify the type of loss experience which supports and justifies the non-renewal action. **Insurers shall be permitted to include in an adverse loss experience guideline the following types of loss experience including those occurring while insured by a prior insurer: a) indemnity payments paid on behalf of an insured; b) legal costs and/or expert witness fees paid on behalf of an insured and; c) individual case reserves established for pending lawsuits against an insured provided the insured has not been dismissed from the lawsuit within 180 days of the last responsive pleading. The adverse loss experience guidelines shall include at least one of the permitted types of loss experience and may be based upon a combination of the permitted types of loss experiences.**”

In accordance with N.J.A.C. 1:30-4.2 and 11:1-15, the Department shall subsequently mail to the petitioner, and file with the Office of Administrative Law, the notice of action on the petition.

DHT05-17/INOREGS