

3. Whenever a licensee participates in a promotion or offering of free, discounted, or other services or products that confers upon the recipient a monetary benefit of greater than \$1,000 retail, the licensee shall provide written disclosure to the recipient of the promotional material or offering. The disclosure shall state in a clear and conspicuous manner:

i. Whether the consumer is required to perform any action to qualify to receive the free, discounted, or other services or products offered and, if so, what specific action(s) the consumer must perform in order to do so. For the purposes of this paragraph, a consumer's attendance at any listing presentation, informational session, or other meeting is considered to be an action by the consumer;

ii. If the delivery of the offered services or products does not occur at the time that the disclosure is provided to the consumer, the date by which the services or products will be delivered to the consumer if the offer is accepted. If the delivery date is unknown to the licensee at the time the offer or promotion is extended to the consumer, the written disclosure to be provided by the licensee to the consumer shall so state; and

iii. If a licensee has received, or will receive, compensation for participating in a promotion or offering of free, discounted, or other services or products, the disclosure shall also state the compensation the licensee has received or will receive. Should the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. §§ 2601 et seq., be applicable to the arrangement between the broker and the person paying the compensation to the broker, the disclosure shall be in the form and substance required by that Act.

4. The written disclosure referenced at (m)3 above shall be provided to consumers no later than when the promotion or offer is extended to the licensee to the consumer.

i. For the purposes of this subsection, an offer or promotion is extended to a consumer when the free or discounted product or service is delivered to the consumer, or when written confirmation of the consumer's right to receive the free or discounted product or service at some future time is delivered to the consumer.

5. No licensee may utilize a marketing or promotional program that requires, as a condition of the consumer's receipt of a free or discounted product or service, the taking of any action by the consumer prior to the delivery of the disclosure(s) referenced at (m)3 above, other than an action necessary to accomplish the delivery of the disclosure to the consumer.

(a)

DEPARTMENT OF BANKING AND INSURANCE

Notice of Readoption Producer Licensing

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

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:22A-26 through 57.

Authorized By: Justin Zimmerman, Acting Commissioner,
Department of Banking and Insurance.

Effective Dates: July 15, 2024, Readoption;
August 19, 2024, Technical Changes.

New Expiration Date: July 15, 2031.

Take notice that pursuant to the provisions at N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 11:17A, 11:17B, 11:17C, and 11:17D were scheduled to expire on August 14, 2024. These rules were originally adopted in December 1989, and amended thereafter, to reflect the current standards and practices required by the Department of Banking and Insurance (Department) for insurance producers licensed in this State. These rules continue to provide insurance producers with a clear set of performance guidelines and standards of conduct concerning their daily operations and interaction with the Department and the public.

N.J.A.C. 11:17A defines activities for which one must be licensed as an insurance producer; specifies certain prohibited unfair trade practices; and sets forth marketing and related requirements.

N.J.A.C. 11:17B sets forth the rules concerning commissions and fees that may be paid to or charged by insurance producers.

N.J.A.C. 11:17C sets forth standards for licensed insurance producers concerning the management of funds and general recordkeeping for insurance-related transactions.

N.J.A.C. 11:17D sets forth procedures for reinstating suspended or revoked licenses and for imposing administrative penalties, and includes a schedule of fines for violations of certain provisions of Title 17 and 17B of the New Jersey Statutes and rules adopted or orders issued by the Commissioner.

The Department has reviewed N.J.A.C. 11:17A, 17B, 17C, and 17D and has determined that the existing rules continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Accordingly, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period, with the following technical changes to correct the Department's website, update addresses, and correct cross-references. Specifically, the following technical changes are made:

At N.J.A.C. 11:17A-1.2, a change is made to the cross-reference N.J.A.C. 11:3-2.2 to reflect the correct cross-reference to N.J.A.C. 11:3-2A.2.

At N.J.A.C. 11:17A-2.6(b), the Department's website address is corrected to www.dobi.nj.gov.

At N.J.A.C. 11:17D-2.1(d)1, the contact information of the Manager of Enforcement is updated to the Chief of Investigations.

At N.J.A.C. 11:17D-2.4(a)1 and 4, changes are made to the cross-references to N.J.A.C. 11:17-2.7(f) and (c), respectively, to reflect the correct cross-references to N.J.A.C. 11:17-2.8(f) and (c), respectively.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 17A INSURANCE PRODUCER STANDARDS OF CONDUCT; MARKETING

SUBCHAPTER 1. ACTIVITIES FOR WHICH A PERSON MUST BE LICENSED AS AN INSURANCE PRODUCER

11:17A-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

...
"Insurer" means any company that underwrites or issues an insurance policy or contract including fraternal benefit societies as defined at N.J.S.A. 17:44B-1 et seq., risk retention groups and purchasing groups as defined at 15 U.S.C. § 3901 and N.J.S.A. 17:47A-1 et seq., limited assignment distribution (LAD) carriers as defined at N.J.A.C. 11:3-[2.2]**2A.2**, and organizations and/or groups formed [under] **pursuant to** N.J.A.C. 11:2-36.

SUBCHAPTER 2. UNFAIR TRADE PRACTICES

11:17A-2.6 Identification of insurance producer

(a) (No change.)

(b) In addition to (a)1 [through], **2, and** 3 above, an insurance producer shall maintain evidence that he or she holds an active producer license in this State at the business address on file with the Department and shall provide proof of licensure to an insured or prospective insured upon the person's request. Evidence of licensure includes verification available through the National Insurance Producer Registry (NIPR) or the Department's online licensee search on the Department's [web site www.njdoib.org] **website at www.dobi.nj.gov**.

CHAPTER 17D INSURANCE PRODUCER STANDARDS OF CONDUCT; ADMINISTRATIVE PROCEDURES AND PENALTIES

SUBCHAPTER 2. ADMINISTRATIVE PENALTIES AND PROCEDURES

11:17D-2.1 Procedures for the imposition of administrative penalties

(a)-(c) (No change.)

(d) Rules concerning a request by an alleged violator for a hearing follow:

1. An alleged violator shall have 20 calendar days from service of the notice of intent to impose an administrative penalty within which to deliver a written request for a hearing to: [Manager of Enforcement] **Chief of Investigations**, New Jersey Department of Banking and Insurance, PO Box 329, Trenton, New Jersey 08625-0329, or faxed to the Department at (609) 292-5337.

2.-6. (No change.)

11:17D-2.4 Schedules of fines for certain insurance producer licensing violations

(a) The Department shall impose fines for certain insurance producer violations in accordance with the following schedule:

1. Failure to maintain on file with the Department a complete and accurate business or home address or to notify the Department of a change of business or home address within 30 calendar days as required [by] **at** N.J.A.C. 11:17-[2.7(f)]**2.8(f)**: \$250.00, except where notification is delayed beyond 60 calendar days, including the aforesaid 30 days, in which case, the violator is subject to the maximum penalty provided by law;

2.-3. (No change.)

4. Failure to obtain approval for the use of a business name from the Department prior to conducting business under that name as required [by] **at** N.J.A.C. 11:17-[2.7(c)]**2.8(c)**: \$250.00;

5.-7. (No change.)

(b) (No change.)

(a)

DIVISION OF INSURANCE

Notice of Readoption

Medical Malpractice Liability Insurance

Readoption with Technical Changes: N.J.A.C. 11:27

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 through 20, 17:23-1 through 26, 17:29AA-1 through 34, 17:30D-1 through 31, and 17:32-1 through 2.

Authorized By: Justin Zimmerman, Acting Commissioner, New Jersey Department of Banking and Insurance.

Effective Dates: July 15, 2024, Readoption;
August 19, 2024, Technical Changes.

New Expiration Date: July 15, 2031.

Take notice that pursuant to the provisions at N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 11:27 were scheduled expire on August 14, 2024. The chapter sets forth rules that govern medical malpractice liability insurance policies and insurance companies offering/underwriting the same in the State of New Jersey. The rules govern the contents of medical malpractice liability insurance policies, the composition of the corporate structure of companies offering such insurance policies, premium rates, premium payment methods, and related subject matters. The rules to be readopted continue to provide standards to implement specific provisions of the New Jersey Medical Care Access and Responsibility and Patients First Act, P.L. 2004, c. 17 (the Act). These rules also ensure access to high-quality health care by residents of this State.

N.J.A.C. 11:27-1 sets forth general provisions regarding the purpose, scope, and separability of the rules.

N.J.A.C. 11:27-2 outlines the option of an insured to waive the “consent to settle” provisions in a medical malpractice liability insurance policy. N.J.A.C. 11:27-2 further states that an insurer is required to provide a premium reduction reflecting any savings or reduced costs if the endorsement providing for a waiver of “consent to settle” provision is selected.

N.J.A.C. 11:27-3 specifies the requirements applicable to mandatory deductibles that shall be offered by all authorized medical malpractice liability insurers on medical malpractice liability insurance policies issued in this State.

N.J.A.C. 11:27-4 provides minimum standards for optional premium payment installments.

N.J.A.C. 11:27-5 prohibits increases in premiums upon the renewal of New Jersey medical malpractice liability policies on the basis of claims filed against insureds where the insured is dismissed from a civil action based upon that claim at an early stage of the civil proceeding.

N.J.A.C. 11:27-6 provides that medical malpractice liability insurers shall comply with N.J.A.C. 11:1-20 with regard to notices of renewal and non-renewal of medical malpractice liability insurance policies.

N.J.A.C. 11:27-7 sets forth procedures for the establishment of the Medical Malpractice Liability Insurance Premium Assistance Fund (Fund).

N.J.A.C. 11:27-8 sets forth prohibitions upon concurrently serving as an officer, director, or board member of a professional association of health care providers and in such a capacity with a domestic medical malpractice liability insurer.

N.J.A.C. 11:27-9 establishes rules for the formation and operation of medical malpractice liability insurance purchasing alliances.

N.J.A.C. 11:27-10 sets forth the requirements for structured settlements and the furnishing of a bond or security.

N.J.A.C. 11:27-11 sets forth reporting requirements regarding reinsurance agreements and loss reserves established by insurers that are writing medical malpractice liability insurance in this State.

N.J.A.C. 11:27-12 sets forth minimum requirements for the independence of the board of directors and the committees of the board of directors of an insurer that is writing medical malpractice liability insurance in this State.

N.J.A.C. 11:27-13 provides for the biannual reporting of information related to rate modifiers used by medical malpractice liability insurers writing physicians and surgeons coverage in this State.

N.J.A.C. 11:27-14 sets forth the procedures to establish the designated range of annual rate change pursuant to N.J.S.A. 17:29AA-5.1; the filing requirements for changes in rates for medical malpractice liability insurance; and the procedures to review medical malpractice liability insurance rates subject to prior approval.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period, with the following technical changes to reflect the Department of Banking and Insurance’s current website.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 7. MEDICAL MALPRACTICE LIABILITY INSURANCE PREMIUM ASSISTANCE FUND- PREMIUM SUBSIDY

11:27-7.5 Determination of eligibility

(a)-(e) (No change.)

(f) The certification of eligible classes and determination of practitioner and healthcare provider eligibility shall be made annually as set forth below.

1. The Department shall issue a public notice on or about January 31 of each year setting forth those classes of specialties and subspecialties proposed to be eligible to apply to receive a subsidy from the Fund, the amount available for distribution or projected to be available, and, if applicable, the proposed amounts of increases in premium and funding obligations referenced, respectively, [in] **at** (b)1 and 2 above. The public notice shall be disseminated to those interested parties on the Department’s distribution list utilized pursuant to N.J.A.C. 1:30-5.2(a)6 and shall also be posted on the Department’s website: [www.njdobi.org] www.nj.gov/dobi. In addition, the public notice shall be published in the New Jersey Register. The public notice shall also provide that interested parties shall have 30 days from the date of posting on the Department’s website to provide written comments on the Department’s determination.

2. After giving due consideration to any comments received, the Commissioner shall thereafter issue an Order establishing the classes eligible, and, if applicable, the amounts of the qualifying increases and funding obligations to be utilized as set forth [in] **at** (b)1 and 2 above. The Order shall be disseminated to those interested parties on the Department’s distribution list utilized pursuant to N.J.A.C. 1:30-5.2(a)6,