

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

Producer Licensing

Readoption with Amendments: N.J.A.C. 11:17

Proposed: May 19, 2003 at 35 N.J.R. 2159(a)

Adopted: October 10, 2003 By Holly C. Bakke, Commissioner, Department of Banking and Insurance

Filed: October 10, 2003 as R. 2003, d. 441 **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1 and 15e and 17:22A-26 et seq.

Effective Date: October 10, 2003, Readoption;
November 3, 2003, Amendments

Expiration Date: October 10, 2008

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance received timely comments from a law firm representing corporations doing business in New Jersey, (Drinker Biddle & Reath representing ELRAC, Inc. and ELCOP, Inc.); three insurance trade organizations, (New Jersey Auto Agents Alliance, New Jersey Professional Insurance Agents and the Independent Insurance Agents of New Jersey); a New Jersey insurance company, (New Jersey Manufacturers Insurance Group); a managed care organization, (Health Net of the Northeast, Inc.), and John A. Cannito, a pre-licensing instructor.

COMMENT: Several commenters commended the Department for its continuing efforts to adopt regulations pursuant to the enactment of the Insurance Producer Licensing Act of 2001,

N.J.S.A. 17:22A-26 et seq. Several commenters believed that the use of special lecturers or guest speakers, as set forth in N.J.A.C. 11:17-3.2(a)4, is an excellent proposal which will raise educational instruction to a higher level and ease the burden on insurance education providers in finding qualified instructors, while maintaining high standards to guarantee that insurance producers receive their education from competent instructors. One commenter stated its appreciation of the Department's consideration of its comments on the initial proposal of these rules in 2002 by providing for more flexibility with respect to the qualifications of insurance instructors, speakers and lecturers in the amendments included with the proposed readoption.

RESPONSE: The Department thanks the commenters for their support.

COMMENT: Two commenters suggested that N.J.A.C. 11:17-3.6(a) be further amended to clarify how many credits for fraud and ethics courses are included in the 24 credits of continuing education required to be taken in approved courses in the authorities for which the producer is licensed. The commenters stated that the proposal clarified the first reference in subsection (a) to the number of fraud and ethics credits in the subsection with the addition of the phrase "of those 24." However, the second reference in subsection (a) to six credits in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner remains confusing and should also be clarified in the same manner.

RESPONSE: The Department thanks the commenters for their comments and agrees that further clarification of this rule is necessary. Therefore, the Department is adding the suggested language on adoption.

COMMENT: One commenter sought clarification of the amendment to N.J.A.C. 11:17-2.8(a) pertaining to the requirement to file with the Department a branch office registration form. The commenter stated that it was their understanding that the entirety of N.J.A.C. 11:17-2.8, not just N.J.A.C. 11:17-2.8(a), was inapplicable to licensees with authority only in ticket insurance, group mortgage cancellation insurance, legal insurance, credit insurance or self storage personal property insurance.

RESPONSE: As was stated in the Summary to the proposed readoption: “N.J.A.C. 11:17-2.8 is amended to provide that licensees with authority in only ticket insurance, group mortgage cancellation insurance, legal insurance, credit insurance, or self-storage personal property insurance are not required to register their branch offices.” Because they are not required to register their branch offices, the provisions in N.J.A.C. 11:17-2.8(b) through (e), which apply to branch office registration forms, and to the closing, hours of operation, and supervision of branch offices registered with the Department, are not applicable to the unregistered branch offices of licensees with authority only in the limited lines specified in N.J.A.C. 11:17-2.8(a) as amended. Since this amendment affects only the requirements pertinent to branch offices set forth in this rule, the excepted lines of authority are required to continue to comply with all other applicable statutes and regulations.

COMMENT: One commenter stated that it was their understanding that the counter-agents of a car rental company who perform certain duties enumerated by the commenter fall within the exception to the producer licensing requirement for “clerical duties” set forth in N.J.A.C. 11:17A. The same commenter sought clarification on how the new rules would apply to car

agencies and their counter-agents, and stated that collision damage waivers are not viewed as insurance.

RESPONSE: The commenter's concerns, including his observation on collision damage waivers, which are considered a form of ticket insurance by the Department, have been addressed in a separate proposal. For clarification on the application of the rules to car agencies and their counter-agents, please refer to the definition of "clerical duties" in the pending proposal: "Insurance Producer Standards of Conduct: Marketing – Activities for Which a Person Must Be Licensed as an Insurance Producer or Registered as a Limited Insurance Representative," published September 15, 2003 at 35 N.J.R. 4169(a).

COMMENT: One commenter suggested that, when approving courses for a certain number of credits, the Department specify the number of credits to be applied for each licensing authority.

RESPONSE: The Department thanks the commenter for its comment. The "provider request for course approval" form, available on the Department's website, itemizes the lines of authority for which the provider seeks approval of the course. In addition, the section completed by the Department conferring its approval of a course specifies the lines of authority for which the course is approved. Producers should, therefore, be able to obtain this information from the provider who offers the course.

COMMENT: One commenter suggested that a space for approval of a course for fraud and ethics credits be included on the Continuing Education Course Approval Request Form.

RESPONSE: The Department thanks the commenter for its comments and will make the change when the form is revised.

COMMENT: One commenter stated their support of the readoption, since the amendments would not have an impact on the way their licensed producers qualify for their licenses or meet the continuing education requirements. The commenter requested a clarification of whether continuing education credits need to be earned evenly over the four-year period, or could they all be obtained in a single year. For example, the commenter inquired as to whether 48 credits must be earned at the rate of 12 credits per year, or whether the applicant could earn all 48 in a single year.

RESPONSE: N.J.A.C. 11:17-3.6(a) states that “[n]o resident individual insurance producer...shall be renewed unless the renewal applicant demonstrates that he or she has completed 48 credit hours of approved continuing education courses during the previous four years. . .”. There are no stated requirements on when during those four years the courses must be taken.

COMMENT: One commenter requested clarification on the question of the time in which a producer must inform the Department of an address change. The commenter pointed out that N.J.S.A. 17:22A-33f requires notification within 30 days, and that N.J.A.C. 11:17-2.7(f)2 and N.J.A.C. 11:17D-2.4(a)1 retain the 20-day notification period, consistent with the old Producer Licensing Act.

RESPONSE: The Department agrees that the statutory provision is controlling. Consequently, it is amending N.J.A.C. 11:17-2.7(f) on adoption so as to render it consistent with N.J.S.A. 17:22A-33f. As N.J.A.C. 11:17D-2.4(a)1 is not included in this readoption, the Department will separately propose an amendment to that rule in the near future.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal standards or requirements.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 11:17.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

11:17-2.7 Legal and business names; addresses

(a) – (e) (No change.)

(f) The requirements for business addresses and notification of change of business mailing or location address and residence address are as follows:

1. (No change.)

2. All licensees shall provide in the format prescribed by the Department notification of any change of business mailing or location address and residence address within *[20]* ***30*** days of the change and maintain a proof of notification for five years or until receipt of a new or renewed license or other documentation from the Department showing the new address.

3. (No change.)

(g) (No change.)

11:17-3.6 Continuing education

(a) No resident individual insurance producer licensed with life, accident and health or sickness, property, casualty, surplus lines, title, variable life and variable annuity or personal lines authority shall be renewed unless the renewal applicant demonstrates that he or she has completed 48 credits hours of approved continuing education courses during the previous four years, 24 of which shall be in approved courses in the authorities for which the producer is licensed and six of those 24 which shall be in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers. Producers licensed as of November 4, 2002 shall have until the second renewal following November 4, 2002 to comply with the requirement to obtain 24 credits in the authorities for which the producer is licensed **[and]** ****, with* six *of those 24**** credits in approved courses related to insurance fraud, professional ethics or any other subject matter required by the Commissioner for the protection of consumers.

(b) - (l) (No change)

g:\inoregs\prodreadam2