

## CORRECTIONS

(a)

## THE COMMISSIONER

## Notice of Readoption

## Inmate Access to Courts

## Readoption: N.J.A.C. 10A:6

Authority: N.J.S.A. 30:1B-6, 30:1B-10, 30:4-16 et seq., 30:4-140 et seq., and 52:27EE-26; and 28 U.S.C. § 1915.

Authorized By: Marcus O. Hicks, Esq., Acting Commissioner,  
Department of Corrections.

Effective Date: July 10, 2018.

New Expiration Date: July 10, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10A:6, Inmate Access to Courts, is readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on September 2, 2018. The Department of Corrections has reviewed the rules and has determined that the rules should be readopted without amendment because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated.

Chapter 6, Inmate Access to Courts, sets forth rules for:

- Inmate access to courts;
- Inmate legal services, availability of legal services;
- Inmate law library;
- Inmate paralegal training course and services;
- Legal photocopying services, legal telephone calls, related supplies, forms, materials and notary public service;
- Legal assistance;
- Inmate responsibilities;
- Inmate handbook;
- Filing fees for civil action or proceeding in Federal and State court;
- Forfeiture of commutation credits; and
- Civil action money judgment; use of funds.

In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

## INSURANCE

(b)

## DEPARTMENT OF BANKING AND INSURANCE

## DIVISION OF INSURANCE

## Insurance Group

## Readoption with Amendments: N.J.A.C. 11:2

Proposed: December 4, 2017, at 49 N.J.R. 3650(a).

Adopted: June 29, 2018, by Marlene Caride, Commissioner,  
Department of Banking and Insurance.

Filed: June 29, 2018, as R.2018 d.147, without change.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 et seq., 17B:17-1 et seq., 34:15-77, and 54:18A-1 et seq.

Effective Date: June 29, 2018, Readoption;  
August 6, 2018, Amendments.

Expiration Date: June 29, 2025.

## Summary of Public Comment and Agency Response

No comments were received.

## Federal Standards Statement

A Federal standards analysis is not required as the rules set forth in this chapter and the adopted amendments are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:2

Full text of the adopted amendments follows:

## SUBCHAPTER 1. ADMISSION REQUIREMENTS FOR FOREIGN AND ALIEN LIFE AND HEALTH INSURERS

## 11:2-1.4 General eligibility requirements

(a) In order for a foreign or alien insurer to be admitted as a life and health insurer in this State, the requirements in this section shall be satisfied in addition to any other requirements in this subchapter or any other provision of law.

1.-4. (No change.)

5. The applicant shall satisfy the following seasoning requirements:

i.-ii. (No change.)

iii. The Commissioner may, upon request of an applicant, on a case by case basis, waive in the case of (a)5iii(1), (2), and (3) below, or reduce in the case of (a)5iii(4) through (7) below, the five-year seasoning requirements of (a)5i and ii above. In determining whether a reduction or waiver is appropriate in a particular case, the Commissioner shall consider whether the requirements of this section have been satisfied, and, in addition, whether any of the requirements described in (a)5iii(1) through (7) below have been satisfied to permit waiver or reduction of the seasoning requirements. These requirements relate, respectively, to the following circumstances:

(1) The applicant is a wholly-owned subsidiary of a life and health insurer that has been authorized to transact the business of insurance in this State for at least five years or is an affiliate of an insurer that has the same ultimate parent and that has been authorized to transact the business of insurance in this State for at least five years. The Commissioner shall be satisfied as to the financial condition and methods of operation of the authorized insurer who shall effectively guarantee, by a resolution in a form prescribed by the Commissioner and passed by its board of directors, the minimum capital and surplus requirements required by law of the applicant during the first 10 years of its operation in this State. In the case of an authorized affiliate with the same ultimate parent, the Commissioner may require that the guarantee be provided by the ultimate parent. The applicant shall also be required to demonstrate a sound plan of operation and that surplus has not decreased over the five-year period in question, or such shorter time as the applicant has been operating under current control, except as provided in (a)5ii(2) above.

(2) The applicant is a wholly-owned subsidiary of an insurer that has been authorized to transact the business of insurance in this State for at least one year, and secured admission into this State by having been in operation for at least five years pursuant to (a)5i and ii above. The Commissioner shall be satisfied as to the financial condition and methods of operation of the authorized insurer, which shall effectively guaranty, by a resolution in a form prescribed by the Commissioner and passed by its board of directors, the minimum capital and surplus requirements required by law of the applicant during the first 10 years of its operation in this State. The insurer parent shall also be required to have either an evaluation acceptable to the Department from Dun and Bradstreet, or one of the top two ratings from at least one of the following: Standard and Poor's, Duff and Phelps, Moody's, A.M. Best, or other nationally recognized rating agency.

(3) The applicant is the continuing corporation resulting from a merger or consolidation of insurers, at least one of which has been authorized in this State to transact the kind(s) of insurance business for which the applicant seeks a New Jersey certificate of authority and has been actively engaged in such insurance business for at least five years and is currently in good standing. The applicant shall also be required to demonstrate a sound plan of operation.

(4) The applicant, being an insurance company with a non-insurance company parent, has completed three full years of operation without a change in control, and, subsequent to its first two years of operation, has available a filed examination report conducted by its state of domicile, which report is in accordance with Department standards for examinations. The first two full years of operation covered by the examination report shall be sufficient to make the report useful and meaningful to the Department. The applicant shall also be required to have experienced profitable operations in two of the three years,

including the most current year of business, and shall demonstrate a sound plan of operation. Additionally, the applicant shall obtain or satisfy all of the following:

(A)-(C) (No change.)

(D) The ultimate parent shall have a net worth of at least \$25,000,000, excluding investments in insurance or insurance related subsidiaries, which amount shall be set by the Commissioner upon his or her consideration of the general financial condition of the parent and relevant underwriting factors such as, but not limited to, the volume to be written and the type of risk, and any other factors that the Commissioner, in his or her discretion, shall consider to be appropriate;

(5) The applicant is a licensed health insurer writing Medicare Part D business only. The applicant shall have completed at least one full year of operation and experienced a profitable operation for that year;

(6) Whether the applicant demonstrates to the Commissioner that a line or lines of insurance in this State for which the applicant is seeking authority is underserved in this State at the time the request for waiver is made. For purposes of this provision, "line of insurance" shall be construed to mean a sub-line of business or category of business within the line and shall not be construed to mean an entire line of business. Any applicant seeking a waiver of the five-year seasoning requirement set forth in (a)5i and ii above pursuant to this provision shall submit a written request for such waiver, which shall include the following:

(A) Such information and documentation as may be necessary to demonstrate to the Commissioner that there is no reasonable or adequate market among authorized insurers for the type of insurance coverage involved. In making this showing, the applicant shall demonstrate that there is, in fact, a market for the type of coverage involved in the request, it is presently underserved, and the applicant will serve that market;

(B) Documentation that the applicant possesses the requisite underwriting, managerial, and financial capability and expertise to write the particular business involved in the request, to the extent the original application for admission does not so demonstrate; and

(C) A certification that the applicant acknowledges that if the request is granted and the applicant is admitted to transact business under such waiver, the applicant's authority to transact business shall be limited only to the type of coverage involved in the request, and that the applicant may not write any other business, so long as it does not satisfy the seasoning requirements set forth in (a)5i and ii above, or any waiver therefrom set forth in (a)5iii(1) through (5) above. This shall not be construed to limit the ability of the applicant to request that the Commissioner remove the restriction upon a showing that it satisfies the seasoning requirements pursuant to (a)5i and ii above, or waiver therefrom set forth in (a)5iii(1) through (5) above, and that it is otherwise qualified to write such business pursuant to law, including, but not limited to, this subchapter; or

(7) Whether the Commissioner finds that admission of the applicant would assist the Commissioner in helping to prevent or ameliorate disruptions in the life/health insurance market. In making this determination, the Commissioner may consider relevant factors in support of such a finding, including, but not limited to, the financial strength of the applicant as evidenced by such factors as its level of capitalization, RBC score, and whether the applicant is part of a holding company system the members of which have been successfully engaged in the business of insurance, excessive marketplace volatility, inadequate competition, trends in restrictions in underwriting or acceptance criteria, or limitations or restrictions in coverage by companies admitted to transact the relevant line(s) of insurance.

iv. (No change.)

6. (No change.)

(b) (No change.)

#### SUBCHAPTER 18. READABLE POLICIES

##### 11:2-18.1 Purpose

The Plain Language Law, N.J.S.A. 56:12-1 et seq., requires certain insurance policies to be written in a "simple, clear, understandable and easily readable way." N.J.S.A. 39:6A-23.g requires that each buyer's guide and coverage selection form required by that section to be issued

to insureds and prospective insureds for automobile insurance be written in plain language. This subchapter provides rules for the implementation of these provisions.

##### 11:2-18.4 Minimum readability standards

(a) (No change.)

(b) A policy, Buyer's Guide, and Coverage Selection Form shall be printed in legible type style with adequate contrast between paper and ink. Captions, headings, and spacing shall be used to increase overall readability.

(c) (No change.)

(d) Applications to be signed by the applicant shall be printed in not less than 8-point type, one point leading. Provided, however, that conditions or exceptions to the main promise of the agreement contained in an application shall be printed in at least 10-point type. (Sec N.J.S.A. 56:12-10.b(3).)

1. (No change.)

(e)-(j) (No change.)

##### 11:2-18.5 Procedures for requesting an opinion of compliance with the Plain Language Law

(a)-(d) (No change.)

(e) Pursuant to N.J.S.A. 56:12-8.b, an insurer need not request an opinion as to compliance with the Plain Language Law for policy forms identical to those that have already been certified for some other insurer or rating organization.

(f) (No change.)

#### SUBCHAPTER 28. CREDIT FOR REINSURANCE

##### 11:2-28.4 Reinsurer accredited in New Jersey

(a)-(g) (No change.)

(h) The Department shall maintain and publish a current list of accredited reinsurers on the Department's website: [www.dobi.nj.gov](http://www.dobi.nj.gov).

(i) (No change.)

##### 11:2-28.7B Certification procedure

(a) The Commissioner shall issue a written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with N.J.A.C. 11:2-28.7A. The Department shall publish a list on its website of all certified reinsurers and their ratings.

1. Promptly upon its receipt of an application from an insurer to be designated as a certified reinsurer pursuant to this section, the Department shall post on its website notice of such application. Interested parties may respond in writing to the application within 30 days of the date of such posting, directed to: Chief Insurance Examiner, 20 West State St., PO Box 325, Trenton, NJ 08625-0325, or via e-mail at [dobi.reinsurance@dobi.nj.gov](mailto:dobi.reinsurance@dobi.nj.gov). The Department shall take no action on an application for certification prior to the expiration of the 30-day period referenced above.

(b)-(j) (No change.)

#### SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

##### 11:2-29.3 Informational filing withdrawals

(a)-(b) (No change.)

(c) An informational filing shall contain the following:

1.-4. (No change.)

5. The insurer's market share by line and, in addition, for private passenger automobile insurance, exposures by territory, and for homeowners' insurance, exposures as reported pursuant to the reports required by N.J.A.C. 11:2-42.10 and, separately, any additional zip codes that fall within the insurer's definition of "coastal area";

6.-7. (No change.)

(d)-(g) (No change.)

(h) The minimum requirements for the Notice of Intent to Withdraw and non-renewal notices referenced in this section are set forth below. A sample of the notices shall be posted on the Department's web site at [www.dobi.nj.gov](http://www.dobi.nj.gov), as may be modified from time to time.

1. (No change.)
2. The one-year non-renewal notice and final notices of non-renewal shall:
  - i-iv. (No change.)
  - v. Include the following statement: "For information that will assist you in shopping for coverage, you may contact your insurance agent, as well as the New Jersey Department of Banking and Insurance at 1-800-446-SHOP (7467) or visit the Department on the web at [www.dobi.nj.gov](http://www.dobi.nj.gov)"; and
  - vi. (No change.)
3. (No change.)
  - (i)-(j) (No change.)

## LABOR AND WORKFORCE DEVELOPMENT

### (a)

#### DIVISION OF WAGE AND HOUR COMPLIANCE

##### Notice of Readoption Wage and Hour Rules

##### Readoption: N.J.A.C. 12:56

Authorized By: Robert Asaro-Angelo, Commissioner, Department of Labor and Workforce Development.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:2-21.64, and 34:11-56a et seq., specifically, 34:11-56a5 and 34:11-56a19.

Effective Date: June 29, 2018.

New Expiration Date: June 29, 2025.

Take notice that pursuant to the provisions of N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 12:56 were scheduled to expire on August 4, 2018.

A summary of the sections proposed for readoption follows:

N.J.A.C. 12:56-1 sets forth the general provisions, purpose and scope, violations, administrative penalties and fees, interest, hearings, and discharge or discrimination against an employee making a complaint.

N.J.A.C. 12:56-2 defines the words and terms used throughout the chapter.

N.J.A.C. 12:56-3 sets forth the minimum wage rates, as well as exemptions therefrom.

N.J.A.C. 12:56-4 concerns records that must be kept by employers pertaining to timekeeping, working schedules, gratuities, food, lodging, and additions to wages.

N.J.A.C. 12:56-5 addresses payment for hours worked, and sets forth information concerning how the workweek is construed, accounting for irregular hours, and on-call time computation.

N.J.A.C. 12:56-6 sets forth overtime requirements, interprets "regular hourly wage," and states how overtime is paid.

N.J.A.C. 12:56-7 lists classes of employees exempted from overtime.

N.J.A.C. 12:56-8 concerns gratuities, food, and lodging and offers methods for determining the fair value of these benefits.

N.J.A.C. 12:56-9 addresses the employment of individuals with disabilities and the method of obtaining a permit for hiring individuals with disabilities at wages less than minimum wage rates.

N.J.A.C. 12:56-10 is reserved.

N.J.A.C. 12:56-11 concerns employment in the first processing of farm products occupations and sets forth the minimum wage and overtime rates to be paid to employees.

N.J.A.C. 12:56-12 addresses employment in seasonal amusement occupations.

N.J.A.C. 12:56-13 relates to employment in hotel and motel occupations.

N.J.A.C. 12:56-14 concerns employment in food service occupations.

N.J.A.C. 12:56-15 applies to employment in the air carrier industry.

N.J.A.C. 12:56-16 sets forth the criteria to be used when determining independent contractor status.

N.J.A.C. 12:56-17 addresses the purchasing and upkeep of uniforms.

N.J.A.C. 12:56-18 delineates the requirements of the school-to-work program.

N.J.A.C. 12:56-19 defines "trucking industry employer" and sets forth the minimum wage and overtime rates to be paid those engaged in the trucking industry.

N.J.A.C. 12:56-20 defines "skilled mechanic," and addresses the minimum wage and overtime rates to be paid to those so employed.

N.J.A.C. 12:56 Appendix A indicates the means by which one may obtain the standards referred to throughout this chapter.

The Department is also currently in the process of undertaking a thorough review of the chapter for purposes of assessing whether amendments are needed in order to reflect changes in law or policy. That review includes a particularly close examination of the provisions within Subchapter 7, pertaining to exemptions from overtime, including an examination of the State's overtime exemption rules relative to analogous provisions within the Federal overtime regulations. The Department intends to complete its review within the next several months and, where the Department determines that amendments are necessary, a notice of proposal containing those amendments will appear in a future issue of the New Jersey Register.

The Department of Labor and Workforce Development has reviewed these rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to P.L. 2011 c. 45, these rules are readopted and shall continue in effect for a seven-year period.

### (b)

#### DIVISION OF WORKERS' COMPENSATION

##### Notice of Administrative Correction Enforcement

##### N.J.A.C. 12:235-3.8

Take notice that the Department of Labor and Workforce Development (Department) discovered an error in the text of N.J.A.C. 12:235-3.8(i). Effective October 5, 2009, the Department adopted the repeal of then-existing N.J.A.C. 12:235-3.14, Enforcement, and replaced it with proposed new N.J.A.C. 12:235-3.16, Enforcement, to enact reforms to the New Jersey Workers' Compensation law (see 41 N.J.R. 1935(a); 3807(a)). As part of this rulemaking, the Department inadvertently neglected to update the existing cross-reference of N.J.A.C. 12:235-3.14 to 3.16 at N.J.A.C. 12:235-3.8(i). That oversight is corrected herein.

This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface thus; deletion indicated in brackets [thus]):

#### SUBCHAPTER 3. FORMAL CLAIMS

##### 12:235-3.8 Discovery

###### (a)-(h) (No change.)

(i) If timely response to a discovery demand has not been provided under this rule and no motion for an extension has been made, the party entitled to the discovery may move, on notice, for an order dismissing the claim petition for lack of prosecution or suppressing the defenses of the delinquent party which are pertinent to the unanswered interrogatories. See N.J.A.C. 12:235-3.3. Such noncompliance may also be the subject of an enforcement action under N.J.A.C. 12:235-3.14[3.16]. Failure to move to dismiss the claim petition or suppress defenses, as appropriate, prior to the first trial date shall be deemed a waiver of a discovery demand.