

§1420-N. Notification to superintendent of termination

1. Termination for cause. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the superintendent within 30 days following the effective date of the termination, using a format prescribed by the superintendent, if the reason for termination is one of the reasons set forth in section 1420-K or the insurer has knowledge the producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities in section 1420-K. Upon the written request of the superintendent, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.
[PL 2001, c. 259, §24 (NEW).]

2. Termination without cause. An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with a producer for any reason not set forth in section 1420-K shall notify the superintendent within 30 days following the effective date of the termination, using a format prescribed by the superintendent. Upon written request of the superintendent, the insurer shall provide additional information, documents, records or other data pertaining to the termination.
[PL 2001, c. 259, §24 (NEW).]

3. Ongoing notification requirement. The insurer or the authorized representative of the insurer shall promptly notify the superintendent in a format acceptable to the superintendent if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the superintendent in accordance with subsection 1 had the insurer then known of its existence.
[PL 2001, c. 259, §24 (NEW).]

4. Copy of notification to be provided to producer. Notification to the producer and comments by the producer must be as follows.

A. Within 15 days after making the notification required by subsections 1, 2 and 3, the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons listed in section 1420-K, the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier. [PL 2001, c. 259, §24 (NEW).]

B. Within 30 days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the superintendent. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer and the comments become a part of the superintendent's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection 6. [PL 2001, c. 259, §24 (NEW).]

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5. Immunities. This subsection governs immunities.

A. In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the superintendent or an organization of which the superintendent is a member that compiles the information concerning the termination and makes it available to other insurance commissioners or regulatory or law enforcement agencies is not subject to civil liability for making this information available, and a civil cause of action may not arise against these entities or their respective agents or employees as a result of reporting or providing information under this section.
[PL 2001, c. 259, §24 (NEW).]

B. In any action brought against a person that may have immunity under paragraph A for making any statement required by this section or providing any information relating to any statement that

may be requested by the superintendent, the party bringing the action shall plead specifically in any allegation that paragraph A does not apply because the person making the statement or providing the information did so with actual malice. [PL 2001, c. 259, §24 (NEW).]

C. Paragraph A or B does not abrogate or modify any existing statutory or common law privileges or immunities. [PL 2001, c. 259, §24 (NEW).]
[PL 2001, c. 259, §24 (NEW).]

6. Confidentiality. Subject to limitations set out in this subsection, any documents, materials or other information in the control or possession of the bureau that is furnished by an insurer or producer or an employee or agent acting on behalf of the insurer or producer or that is obtained by the superintendent in an investigation pursuant to this section is confidential, is not subject to subpoena and is not subject to discovery or admissible in evidence in any private civil action except by a court order for good cause.

A. The superintendent is, however, authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the superintendent's duties. [PL 2001, c. 259, §24 (NEW).]

B. Neither the superintendent nor any person who received documents, materials or other information while acting under the authority of the superintendent may be permitted or required to testify in any private civil action concerning any confidential documents, materials or information except as ordered by a court for good cause. [PL 2001, c. 259, §24 (NEW).]

C. In order to assist in the performance of the superintendent's duties under this subchapter, the superintendent:

(1) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph A, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality of the documents, materials or other information;

(2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any documents, materials or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials or information; and

(3) May enter into agreements governing sharing and use of information consistent with this subsection. [PL 2001, c. 259, §24 (NEW).]

D. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information occurs as a result of disclosure to the superintendent under this section or as a result of sharing as authorized in paragraph C. [PL 2001, c. 259, §24 (NEW).]

E. Nothing in this subchapter prohibits the superintendent from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to Title 1, chapter 13, subchapter I to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries or any successor organization. [PL 2001, c. 259, §24 (NEW).]

[PL 2001, c. 259, §24 (NEW).]

7. Penalties for failing to report. An insurer, producer or an employee or agent acting on behalf of the insurer or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license suspended or revoked and may be fined in accordance with section 12-A. [PL 2001, c. 259, §24 (NEW).]

SECTION HISTORY

PL 2001, c. 259, §24 (NEW).

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