



**The State of New Hampshire
Insurance Department**

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Roger A. Sevigny
Commissioner

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Deputy Commissioner

BULLETIN

Docket No.: INS-15-003-AB

TO: All Licensed Producers and Insurers
FROM: Roger A. Sevigny, Insurance Commissioner
DATE: February 18, 2015
RE: Permissible Forms of Insurance Producer Compensation



The purpose of this bulletin is to provide licensed New Hampshire insurance producers with guidance regarding the forms of compensation¹ they may receive for services provided.

I. Compensation for the sale, solicitation and negotiation of insurance

Under New Hampshire law, insurance companies are permitted to pay -- and licensed New Hampshire insurance producers are permitted to receive -- compensation for the sale, solicitation, or negotiation of insurance by way of a commission, service fee, brokerage, or other valuable consideration. See RSA 402-J:13, I. The Legislature's use of the disjunctive "or" in the list of permissible forms of compensation means that there can only be one form of compensation for each sale, solicitation, or negotiation of an insurance contract in New Hampshire. If an insurance producer receives a commission for the sale, solicitation, or negotiation of an insurance contract, the producer would be precluded from also charging a service fee for the sale, solicitation, or negotiation activity.

¹ This bulletin does not address the issue of producers acting as consultants under RSA 405:44-a.

II. Compensation under producer agreements for incidental services provided in connection with the sale, solicitation, or negotiation of insurance

Insurance companies and licensed New Hampshire insurance producers may enter into producer agreements that provide for services that are incidental to the sale, negotiation, or solicitation of an insurance contract. A producer is not permitted to receive compensation from the insurance company for such incidental services while also seeking compensation from the insured for the service. To do so would be a violation of NH RSA 417:4, I (f)(g)&(h), as it would be an illegal misrepresentation under those provisions, due to the fact that the producer would be compensated twice for the same services.

III. Compensation for non-insurer compensated services.

A licensed New Hampshire insurance producer may seek compensation from an insured for services that are not directly associated with the sale, solicitation, or negotiation of an insurance contract and for which the producer is not receiving compensation from an insurance company. Producers may enter into separate written contracts with insureds for such services, which could include a separate fee. However, to the extent these additional services are provided free of charge, producers must comply with New Hampshire's anti-rebating statute, RSA 402:39. The anti-rebating statute, RSA 402:39, prohibits insurers and producers from giving anything away of value to insureds that falls outside the terms of the contract of insurance unless it falls within one of the RSA 402:41 anti-rebating law exemptions.