

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Bulletin 2018-12-INS

In the matter of

Insurance Sliding
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Issued and entered
This 8th day of May 2018
by Patrick M. McPharlin, Director

This bulletin supersedes Bulletin 2018-10-INS, issued April 19, 2018.

It has come to the Director's attention that some insurance producers are engaging in insurance "sliding." "Sliding" is defined as an agent's failure to fully disclose all the details of, and obtain informed consent to, the purchase of all products and services being included in an insurance transaction. When engaging in sliding, an agent, without disclosure to the customer, combines the charge for additional products or coverages with the premium charged for insurance. This results in an excessive charge to the customer for the sale of an insurance product. The Director has concluded that sliding is a form of misrepresentation and is therefore prohibited under the Insurance Code of 1956 ("Code"). See Final Decision in *DIFS v Sinan Jamil, ProStar Insurance Agency, Inc.*, Docket No. 15-064706 (June 19, 2017).

In *DIFS v Jamil*, the Director found that failure to fully disclose the details and costs of each product being sold in an insurance transaction constitutes an omission of material fact that misrepresents the terms, benefits, advantages, or conditions of an insurance policy, and thus violates Sections 2005(a), 1239(1)(e), and 1239(1)(h) of the Code. See Final Decision, *supra*, p. 3. In addition, failing to remit payments for insurance to an insurer is a violation of Section 1207(1) of the Code, and failure to accurately record funds is a violation of Section 1207(2). *Id.*

Examples of misrepresentations, commonly referred to as sliding, that are prohibited under the Code include, but are not limited to, the following:

- representing to an applicant that a roadside assistance product is part of a DIFS-approved insurance product when, in fact, it is not;
- representing to an applicant that a roadside assistance product is required for the purchase of automobile insurance, when it is not;
- representing to an applicant that any ancillary coverage or product is required in conjunction with the purchase of insurance when such coverage or product is not required;
- enticing customers into signing up for an auto club membership by failing to fully explain and disclose what is being signed or agreed to;
- enticing customers into signing up for insurance coverage without fully explaining all coverages included and the cost for each;
- representing to an applicant that an ancillary coverage, service, or product is included as part of an insurance product or without additional charge, when it is not or when such charge is in fact required;
- failing to accurately disclose the cost of insurance as charged by the insurer;
- failing to fully explain the details and separate cost of any ancillary product offered in conjunction with the sale of insurance; and

- charging an applicant for an ancillary coverage or product, in addition to the cost of the insurance coverage being applied for, without the informed consent of the applicant.

These activities violate numerous sections of the Code, including but not limited to Section 2005, Section 1207(1), Section 1207(2), and Section 1239(1)(d), (e), and (h).

In addition, these activities also violate Section 1239(1)(h), which provides that the Director may take action against a producer who engages in "fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."

Finally, if these activities are knowingly committed by a person with an intent to injure, defraud or deceive, then they would also violate Section 4503(g) and (i) of the Code.

Pursuant to Sections 1242 and 1244 of the Code, MCL 500.1242 and 500.1244, and the Michigan Administrative Procedures Act, the Director will commence administrative proceedings against producers who, at any time, have engaged in any form of sliding or otherwise made misrepresentations in connection with an insurance-related transaction. Through such proceedings, the Director is authorized to impose penalties including restitution, fines, and the suspension or revocation of a producer and/or agency license.

Any questions concerning this bulletin should be directed to:

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