

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #6

Do Not Mark In this Box

FILED

1992 MAY 19 AM 2:15

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

AMENDMENT TO AN EXISTING RULE: YES X, NO     

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15

TITLE OF RULE BEING AMENDED: Examiners' Compensation,  
Qualifications and Classification

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:                     

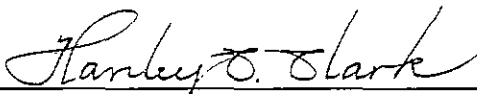
TITLE OF RULE BEING PROPOSED:   

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 1

SECTION 64-7-2 (m), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: May 19, 1992

  
Hanley C. Clark  
Insurance Commissioner

2.80

EMERGENCY

FILED

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

1977 JAN 13 PM 3:45

RECEIVED  
LEGISLATIVE COUNCIL

CHAPTER 33-2  
SERIES 15

EXAMINERS' COMPENSATION, QUALIFICATIONS  
AND CLASSIFICATION

- Section 1. General
- Section 2. Definitions
- Section 3. Travel and Living Expenses
- Section 4. Accredited Examiners' Compensation and Accrued Time
- Section 5. Examination, Analysis, and Review Activities and Funding
- Section 6. Examiner Reporting Requirements

EMERGENCY  
WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

FILED  
JAN 13 PM 3:45

CHAPTER 33-2  
SERIES 15

EXAMINERS' COMPENSATION, QUALIFICATIONS  
AND CLASSIFICATION

Section 1. General

1.1 Scope. This legislative rule establishes standards for the compensation, qualifications and classification of persons who conduct or participate in any analysis, review or examination provided for in West Virginia Code §33-2-9.

1.2 Authority. - West Virginia Code §§33-2-9, 33-2-10

1.3 Filing Date. - June 28, 1991

1.4 Effective Date. - July 1, 1991

1.5 This legislative rule repeals and replaces Title 114, Series 15, Examiners' Compensation, Qualification and Classification, which became effective on July 1, 1987.

Section 2. Definitions

As used in this legislative rule:

2.1 "Commissioner" means the Insurance Commissioner of the State of West Virginia.

2.2 "Deputy" means any individual appointed by the Commissioner as Deputy or Special Deputy Commissioner of Insurance.

2.3 "Other Employee" means any individual who is an employee of the Department of Insurance of the State of West Virginia, excluding the Commissioner's Accredited Examiners.

2.4 "Accredited Examiner" or "Examiner" means a person who is an employee of the Department of Insurance and has been classified according to his or her qualifications as either Insurance Company Examiner, Supervising Insurance Company Examiner, Market Conduct Examiner or Supervising Market Conduct Examiner pursuant to the classification plan of the West Virginia Division of Personnel or such other equivalent classification plan as the State of West Virginia may adopt.

2.5 "Other Individual" means any individual who is not an employee of the Department of Insurance, to include, but not be limited to independent certified public accountants, independent

Insurance Commissioner  
Leg. Rule 33-2  
Series 15, Sec. 3  
EMERGENCY

actuaries, qualified insurance examiners or other individuals with particular skills or areas of expertise, deemed competent by the Commissioner to conduct or participate in any examination, analysis or review as allowed by West Virginia Code §33-2-9 or this regulation.

2.6 "Examination Assessment Fee" means the annual fee due on or before July 1 of every year, as specified in West Virginia Code §33-2-9.

2.7 "Additional Examination Assessment Fee" means any additional or increased examination assessment fee levied by order of the Commissioner in excess of the annual examination assessment fee as allowed by the provisions of West Virginia Code §33-2-9.

### Section 3. Examination, Analysis and Review Activities and Funding

3.1 Every entity subject to the provisions of West Virginia Code §33-2-9 shall remit the examination assessment fee specified by the Code or as increased by the Commissioner on or before July 1 of each year.

3.2 Every entity subject to the provisions of West Virginia Code §33-2-9 shall remit any additional examination assessment fee ordered by the Commissioner on or before the date specified by such order.

3.3 The monies collected by the Commissioner from the examination assessment fee and any additional examination assessment fee shall be deposited as specified in West Virginia Code §33-2-9. Such monies so deposited into the Commissioner's Examination Revolving Fund may be used for any of the following:

(A) Salaries and expenses of the Insurance Department's Accredited Examiners as specified in this regulation for any activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

(B) Salaries and/or expenses of the Insurance Department's Special Deputies or other employees for activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

(C) Salaries and/or expenses of other individuals for activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

Insurance Commissioner  
Leg. Rule 33-2  
Series 15, Sec. 4  
EMERGENCY

(D) Equipment, supplies, travel, education, and training and other incidental expenses for the Commissioner, his deputies, other employees and accredited examiners as deemed necessary by the Commissioner for the performance of the duties and activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

3.4 Examination, analysis and review activities shall include the following as they relate to the operation of entities, individuals or persons subject to the provisions of West Virginia Code §33-2-9:

(A) Examination of the financial condition or market conduct practices of any such entity, individual or person.

(B) On-site analysis or review of any practice or condition affecting the entity, individual or person.

(C) Review of any statements, reports, or reviews of an entity, individual or person's financial condition, performance or market conduct practices including the review or development of any forecasts or projections or any type of filing made or intended to be made with the Department of Insurance. This shall include but not be limited to the review or investigation of any audited financial report, compilation or review performed by a certified public accountant, actuarial statement or certification, documents submitted in application for licensure or registration in the State, or other matters or materials deemed necessary by the Commissioner to fulfill his statutory obligations.

3.5 Other individuals may, as the Commissioner deems necessary, bill and receive payments directly from the entities subject to the provisions of West Virginia Code §33-2-9 and this regulation for their work, travel and living expenses at rates approved by the Commissioner while involved in any of the aforementioned activities.

#### Section 4 Compensation and Accrued Time of Accredited Examiners

4.1 Salary - Subject to the Commissioner's approval, Supervising Insurance Company Examiners and Supervising Market Conduct Examiners shall receive the salary recommended by the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners for Supervising Insurance Examiners. Subject to the Commissioners approval, Insurance Company Examiners and Market Conduct Examiners shall receive the salary recommended by the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners for Insurance Company Examiners.

Insurance Commissioner  
Leg. Rule 33-2  
Series 15, Sec. 5  
EMERGENCY

4.2 Examiners salary shall be calculated based upon a five-day work week.

4.3 Accrued Time - Annual leave and sick leave shall accrue at the rates and in the manner established by current West Virginia Division of Personnel regulations for state employees or by such other equivalent method as may be adopted by the State of West Virginia.

(A) On any West Virginia state or national holiday that a company being examined chooses to remain open and an examiner chooses to work, such examiner shall be properly compensated.

(B) Approval - Annual leave may be taken by the Examiner only upon written approval by the Commissioner, Deputy Commissioner or Chief Examiner. Approval must be requested at least as far in advance of leave as the length of leave requested. i.e., for four (4) days leave, the request must be submitted at least four (4) days in advance. In a case of emergency, the requirement periods for advance request may be waived by the Commissioner, Deputy Commissioner or Chief Examiner.

(C) Examiners shall not be reimbursed for travel or living expenses for any day authorized as annual leave.

(D) On any day that the examiner is absent due to sickness, said examiner shall telephone and inform the Chief Examiner directly of his or her planned absence before 9:30 a.m. on the day of the absence. In cases in which sick leave extends beyond three (3) working days, the reason for such absence shall be verified by a physician's statement. An examiner will be subject to the appropriate disciplinary action for failure to comply with these notification and physician's statement requirements.

(E) Examiners shall continue to be reimbursed for living expenses during times of sick leave as long as the examiner does not travel to his or her place of residence as a result of the illness.

## Section 5. Travel and Living Expenses

5.1 Travel - Travel by Examiners in connection with activities conducted pursuant to West Virginia Code §33-2-9 or this regulation shall not be undertaken unless authorized by the Commissioner, Deputy Commissioner or Chief Examiner. Travel expenses shall be subject to the following limitations:

(A) All travel shall be by automobile unless otherwise authorized by the Commissioner, Deputy Commissioner or Chief Examiner.

Insurance Commissioner  
Leg. Rule 33-2  
Series 15, Sec. 5  
EMERGENCY

(1) Examiners shall be compensated for the actual mileage traveled ~~and such compensation shall be computed at the rate currently mandated~~ and other incidental expenses as allowed by the Governor's travel regulations or equivalent compensation plan adopted by the State of West Virginia.

(2) When an automobile is used, the distance traveled shall be not less than 400 miles per day as determined by the Rand McNally road map; Provided, That examiners shall be compensated for actual mileage traveled if the distance to an examination or to an assignment is less than four hundred (400) miles.

(B) When air travel is authorized, a maximum of one day's travel time shall be allowed and the examiner shall be reimbursed for actual travel expenses incurred.

5.2 Examiners shall be reimbursed for living expenses on a basis of seven (7) days per week for the duration of the on-site examination or assignment as follows:

(A) Living expenses may be reimbursed by any one of the following three methods as authorized by the Commissioner:

(1) Actual living expenses, provided that expenditures can be adequately substantiated and are approved by the Commissioner.

(2) A per diem allowance selected by the Commissioner.

(i) The street address of the facility housing the examiners during their assignment shall be used in determining the per diem allowance.

(ii) Changes in this per diem allowance due to the examiners performing work in connection with an assignment at a different street address shall only be authorized if the street address of the new facility is in excess of fifty (50) miles from the previous facility and if the examiner shall be housed in the new facility in excess of three (3) days.

(3) The method recommended by the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners.

(B) Living expenses shall not be authorized if the examination takes place in a location within fifty (50) miles (one way) of an examiner's residence. However, the examiner shall be compensated for actual mileage traveled ~~at the rate currently mandated~~ and other incidental expenses as allowed by the Governor's travel regulations or equivalent compensation plan adopted by the State of West Virginia.

Insurance Commissioner  
Leg. Rule 33-2  
Series 15, Sec. 6  
EMERGENCY

(C) Examiners and other employees may, with the approval of the Commissioner or Deputy Commissioner, be compensated for travel and living expenses in accordance with the Governor's travel regulations or equivalent compensation plan adopted by the State of West Virginia when attending training, educational courses, conferences, seminars or other activities authorized by the Commissioner. Registration fees shall be included as expenses that can be reimbursed to the examiners or other employees.

(D) Examiners may, with the Commissioner's approval, be reimbursed for examination fees incurred as a consequence of examination for designation as a Certified Financial Examiner, provided that a passing score is achieved on the examinations. Other expenses incurred in connection with the examination, including travel, lodging and meals, shall not be reimbursed.

(E) Other individuals involved in activities conducted pursuant to West Virginia Code §33-2-9 or this regulation who are billing directly as authorized in Section 3.4 of this regulation shall file a schedule of their fees and charges with the Commissioner prior to incurring any charges. Such other individuals shall submit copies of their billings to the Commissioner simultaneously with their submission to the billed entity, individual or person.

(F) An examiner shall be authorized to return to his or her place of residence twice in any one fiscal year. The examiner shall be reimbursed the lesser of air fare or mileage in lieu of living expenses. An examiner shall utilize his or her accrued leave time for such travel. It is understood that such travel will be done with a minimum amount of work time lost. For purposes of this subsection of this regulation, "place of residence" shall refer to an examiner's place of legal residence as on file with the Department of Insurance. An examiner shall immediately inform the department of any change in legal residence.

#### Section 6. Examiner Reporting Requirements

6.1 Each examiner shall prepare an "Examiner's Bimonthly Semimonthly Days Worked Report" to be submitted on a form prescribed by the Commissioner. Said form shall be submitted to the Commissioner within three (3) days of the end of each two-week semimonthly pay period. Such report shall contain the following information:

(A) Period of time the report covers.

(B) Name of entity, individual or person that examiner has been examining and their normal hours of operation.

(C) Mailing address and street address, including county, of the facility housing the examiner.

Insurance Commissioner  
Leg. Rule 33-2  
Series 15, Sec. 6  
EMERGENCY

(D) Telephone number and extension where the examiner can be reached at all times.

(E) The domiciliary state, if the examination is being performed on a non-domestic entity.

(F) The examiner in charge if other than the reporting examiner.

(G) A listing of any other examiners participating in the assignment and their domicile or zone representation.

(H) A description of the phases of the examination or assignment that the examiner worked on during the reporting period.

(I) Comments on any unusual or controversial items.

(J) Tentative closing date of the assignment.

(K) A schedule of each of the days in the reporting period and the examiners status on that day, to include the following work status categories:

(1) Work day, annual day, sick day, expense day.

(2) Each category shall be totalled at the bottom of the schedule.

(L) The examiners name, signature and a statement that the information provided is true and correct.

(M) The name and signature of the examiner in charge, if other than the reporting examiner, verifying the information.

6.2 The information identified in Section 6.1 of this regulation is necessary to satisfy the substantiation of business expenses requirement of the Internal Revenue Service placed upon the Insurance Department as an employer. Failure on the part of the examiner to provide any of the information could require the Insurance Department to report expense amounts as income of the examiner to the Internal Revenue Service.

6.3 An examiner shall report changes to his or her telephone number and extension to the Commissioner between reporting periods. Failure to report such changes could affect the Insurance Department's ability to consider an examiners business expenses as substantiated.

Bill Insurance, Examiners compensation 114-15

1  
2  
3  
4  
5  
6  
7  
8  
9

H. B. 4293

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the  
Committee on Banking and Insurance then the  
Judiciary)

10 A BILL to amend and reenact section two, article seven, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 insurance commissioner to promulgate legislative rules  
14 relating to examiners' compensation, qualifications and  
15 classification.

16 **Be it enacted by the Legislature of West Virginia:**

17 That section two, article seven, chapter sixty-four of the  
18 code of West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended and reenacted, to read as follows:

20 **ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO**  
21 **PROMULGATE LEGISLATIVE RULES.**

22 **§64-7-2. Agency of insurance commissioner.**

23 (a) The legislative rules filed in the state register on the  
24 eighteenth day of October, one thousand nine hundred

114-15

1 eighty-three, relating to the insurance commissioner (excess line  
2 brokers), are authorized.

3 (b) The legislative rules filed in the state register on the  
4 eighteenth day of August, one thousand nine hundred eighty-six,  
5 modified by the insurance commissioner to meet the objections of  
6 the legislative rule-making review committee and refiled in the  
7 state register on the twelfth day of December, one thousand nine  
8 hundred eighty-six, relating to the insurance commissioner  
9 (examiners' compensation, qualification and classification), are  
10 authorized.

11 (c) The legislative rules filed in the state register on the  
12 twentieth day of February, one thousand nine hundred  
13 eighty-seven, relating to the insurance commissioner (West  
14 Virginia essential property insurance association), are  
15 authorized.

16 (d) The legislative rules filed in the state register on the  
17 twenty-ninth day of May, one thousand nine hundred eighty-seven,  
18 relating to the insurance commissioner (medical malpractice  
19 annual reporting requirements), are authorized.

20 (e) The legislative rules filed in the state register on the  
21 thirty-first day of July, one thousand nine hundred eighty-seven,  
22 modified by the insurance commissioner to meet the objections of  
23 the legislative rule-making review committee and refiled in the  
24 state register on the seventh day of November, one thousand nine  
25 hundred eighty-seven, relating to the insurance commissioner

1 (medical malpractice loss experience and loss expense reporting  
2 requirements), are authorized.

3 (f) The legislative rules filed in the state register on the  
4 thirtieth day of November, one thousand nine hundred  
5 eighty-eight, modified by the insurance commissioner to meet the  
6 objections of the legislative rule-making review committee and  
7 refiled in the state register on the twenty-first day of  
8 February, one thousand nine hundred eighty-nine, relating to the  
9 insurance commissioner (transitional requirements for the  
10 conversion of Medicare supplement insurance benefits and premiums  
11 to conform to medicare program revisions), are authorized.

12 (g) The legislative rules filed in the state register on the  
13 twenty-sixth day of May, one thousand nine hundred eighty-nine,  
14 modified by the insurance commissioner to meet the objections of  
15 the legislative rule-making review committee and refiled in the  
16 state register on the twenty-eighth day of September, one  
17 thousand nine hundred eighty-nine, relating to the insurance  
18 commissioner (insurance adjusters), are authorized.

19 (h) The legislative rules filed in the state register on the  
20 second day of February, one thousand nine hundred ninety,  
21 modified by the insurance commissioner to meet the objections of  
22 the legislative rule-making review committee and refiled in the  
23 state register on the twenty-ninth day of May, one thousand nine  
24 hundred ninety, relating to the insurance commissioner (accident  
25 and sickness rate filing), are authorized.

1 (i) The legislative rules filed in the state register on the  
2 tenth day of August, one thousand nine hundred ninety, modified  
3 by the insurance commissioner to meet the objections of the  
4 legislative rule-making review committee and refiled in the state  
5 register on the ninth day of October, one thousand nine hundred  
6 ninety, relating to the insurance commissioner (group  
7 coordination of benefits), are authorized.

8 (j) The legislative rules filed in the state register on the  
9 tenth day of August, one thousand nine hundred ninety, modified  
10 by the insurance commissioner to meet the objections of the  
11 legislative rule-making review committee and refiled in the state  
12 register on the seventeenth day of January, one thousand nine  
13 hundred ninety-one, relating to the insurance commissioner (AIDS  
14 regulations), are authorized.

15 (k) The legislative rules filed in the state register on the  
16 third day of December, one thousand nine hundred ninety,  
17 relating to the insurance commissioner (health insurance benefits  
18 for temporomandibular and craniomandibular disorders), are  
19 authorized.

20 (l) The legislative rules filed in the state register on the  
21 ninth day of August, one thousand nine hundred ninety-one,  
22 modified by the insurance commissioner to meet the objections of  
23 the legislative rule-making review committee and refiled in the  
24 state register on the thirteenth day of January, one thousand  
25 nine hundred ninety-two, relating to the insurance commissioner

1 (examiners' compensation, qualifications and classification), are  
2 authorized.

3

4 NOTE: The purpose of this bill is to authorize the Insurance  
5 Commissioner to promulgate legislative rules relating to  
6 examiners' compensation, qualifications and classification.

7  
8 Strike-throughs indicate language that would be stricken from  
9 the present law, and underscoring indicates new language that  
10 would be added.



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

**STATE OF WEST VIRGINIA**  
**SECRETARY OF STATE**  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

TO: Linda Gay

AGENCY: Insurance Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: February 23, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 15 TITLE: 114 Insurance Commission

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Linda Gay

TITLE OF PERSON SIGNING: Assoc. Counsel, WV Insurance Comm'n

DATE: March 5, 1993

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.