

EMERGENCY

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WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

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OFFICE OF THE CLERK
DEPARTMENT OF STATE

CHAPTER 33-20B
SERIES XXII

MEDICAL MALPRACTICE ANNUAL REPORTING REQUIREMENTS

- Section 1. General
- Section 2. Definitions
- Section 3. Insurers Subject To Reporting Requirements
- Section 4. Filing Deadline; Failure To Submit Information
- Section 5. Information Required To Be Reported
- Section 6. Severability

STATE OF WEST VIRGINIA



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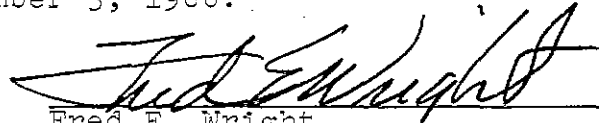
ARCH A. MOORE, JR.
GOVERNOR

NOTICE OF EMERGENCY RULE

RULE TITLE: Medical Malpractice Annual Reporting Requirements

The referenced rule is filed as an emergency rule pursuant to West Virginia Code §29A-3-15(g) in order to comply with the time limitations established by West Virginia Code §33-20B-6(b).

Section 33-20B-6(b) mandates promulgation of this rule within one hundred eighty days of the effective date of the passage of Article 20B of Chapter 33. Article 20B became effective on June 6, 1986 (see West Virginia Code §55-7B-10), and accordingly, this rule must be promulgated by December 3, 1986.


Fred E. Wright
Insurance Commissioner of
the State of West Virginia

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WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

DEPARTMENT OF STATE
SECRETARY OF STATE

CHAPTER 33-20B
SERIES XXII

MEDICAL MALPRACTICE ANNUAL REPORTING REQUIREMENTS

Section 1. General

1.1 Scope - This legislative rule establishes guidelines and procedures under which every insurer providing five percent or more of the medical malpractice insurance coverage in West Virginia shall report to the Insurance Commissioner on an annual basis certain specified information concerning such medical malpractice insurance coverage.

1.2 Authority - West Virginia Code §§ 33-20B-6(b), 33-2-13.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Definitions - As used in this legislative rule:

2.1 Annual Financial Statement - Shall mean the financial statement required to be filed annually with the Commissioner pursuant to West Virginia Code §§ 33-3-14 and 33-4-14.

2.2 Commissioner - Shall mean the Insurance Commissioner of the State of West Virginia.

2.3 Insurer - Shall mean any insurance company licensed by the Commissioner and authorized to write medical malpractice insurance coverage in the State of West Virginia.

Section 3. Insurers Subject To Reporting Requirements

3.1 Insurers Subject To Annual Reporting Requirements - This rule shall apply to every insurer which provided five percent or more of the medical malpractice insurance coverage in West Virginia during the preceding calendar year.

3.2 Notification By Commissioner - The Commissioner shall annually, on or before May 1, notify in writing those insurers which he has determined provided five percent or more of the medical malpractice insurance coverage in West Virginia during the preceding calendar year of their obligation to report to the Commissioner the information specified in Section 5 of this rule.

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3.3 Method Of Determination - The Commissioner's determination pursuant to sub-section 3.2 shall be based upon a proportionate comparison of every insurer's gross direct written malpractice premiums in West Virginia during the preceding calendar year as reflected in the insurer's annual financial statement for that calendar year.

Section 4. Filing Deadline; Failure To Submit Information

4.1 Filing Deadline - Insurers shall submit all information specified in Section 5 of this rule to the Commissioner on or before August 1 immediately succeeding notification by the Commissioner pursuant to sub-section 3.2.

4.2 Failure To Submit Information - Any insurer which fails to timely submit any and all information specified in Section 5 of this rule to the Commissioner shall be fined ten thousand dollars for each of the first five such failures per year and shall be fined one hundred thousand dollars for the sixth and each subsequent such failure per year.

Section 5. Information Required To Be Reported

5.1 Information Required To Be Reported - The information required to be reported to the Commissioner shall be that specified in the Annual Medical Malpractice Reporting Form, attached to and made a part of this rule as Exhibit A.

5.2 Information By Individual Coverage Classifications - A separate Annual Medical Malpractice Reporting Form must be filed for each and every individual coverage classification written by the insurer in West Virginia.

Section 6. Severability

6.1 Severability - If any provision of this legislative rule is held invalid, the remainder of the rule shall not be affected thereby.

EXHIBIT A

ANNUAL MEDICAL MALPRACTICE REPORTING FORM

1. Company Name _____
 Part of group: _____

2. Coverage Classification _____

3. a) Term of policies written _____

b) Is this coverage written on a claims-made or occurrence basis?

Claims-Made _____ Occurrence _____

c) Company written premium (latest calendar year)

West Virginia _____ Countrywide _____

4. Number of West Virginia policies in force in each of the last five years.

	# of Policies	% Change
5th Prior Year 19____	_____	_____
4th Prior Year 19____	_____	_____
3rd Prior Year 19____	_____	_____
2nd Prior Year 19____	_____	_____
1st Prior Year 19____	_____	_____
Report Year 19____	_____	_____

5. Provide the following information:

WEST VIRGINIA

	Earned Premium (000)	Incurred Losses (000)	Change in IBNR (000)	Loss Ratio
5th Prior Year 19____	_____	_____	_____	_____

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4th Prior Year 19__	_____	_____	_____	_____
3rd Prior Year 19__	_____	_____	_____	_____
2nd Prior Year 19__	_____	_____	_____	_____
1st Prior Year 19__	_____	_____	_____	_____
Report Year 19__	_____	_____	_____	_____
TOTAL	_____	_____	_____	_____

COUNTRYWIDE

	Earned Premium (000)	Incurred Losses (000)	Change in IBNR (000)	Loss Ratio
5th Prior Year 19__	_____	_____	_____	_____
4th Prior Year 19__	_____	_____	_____	_____
3rd Prior Year 19__	_____	_____	_____	_____
2nd Prior Year 19__	_____	_____	_____	_____
1st Prior Year 19__	_____	_____	_____	_____
Report Year 19__	_____	_____	_____	_____
TOTAL	_____	_____	_____	_____

6. Relative to No. 5 above, address in narrative form the following requests for information. If the ratemaking methodology changed from one year to the next, explain the specific change(s) and the year(s) in which the methodology changed.
- a) Explain loss development and loss adjustment expenses. Provide detailed data showing the quantification and formulation of loss development and loss adjustment expenses, along with an explanation of the methodology used to determine such costs. Provide a clear indication of the cost components of these expenses by significant categories.
 - b) Explain trending methods used. Provide trended loss data (by significant loss category) and provide a clear

explanation of the trending methodology and mathematics. Provide all formulas and calculations used in formulation of the trended data.

- c) Explain the manner in which credibility of data is considered in your ratemaking process. Show all formulas, applications and methodology used to formulate credibility measurements.
 - d) Explain your permissible loss ratio including the manner in which this value was determined. Provide formulas, budgets, etc. which show the formulation of this ratio.
 - e) Explain your indicated rate level. Provide all mathematical formulas and calculations which show the complete deliniation of the method used to calculate the indicated rate level.
 - f) Explain the manner in which investment income is considered when a final rate level is selected. Provide a complete breakdown of the formulas, variables and methodology used to calculate investment income yield. Further, provide a breakdown of all variables, methodology and calculations which apply the calculated investment income to the ratemaking process. Explain the manner in which investment income is used as a variable during the formulation of the indicated rate levels.
 - g) Provide an Actuarial Memorandum showing all of the above.
7. Provide a summary of the developed data and experience in No. 6 as follows:

	Current Level Earned Premium	Trended Developed Incurred Losses	Loss Ratio
5th Prior Year 19__	_____	_____	_____
4th Prior Year 19__	_____	_____	_____
3rd Prior Year 19__	_____	_____	_____

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2nd Prior Year 19	_____	_____	_____
1st Prior Year 19	_____	_____	_____
Report Year 19	_____	_____	_____
TOTAL	_____	_____	_____

Provide all calculations, formulas and data utilized to calculate the trended developed incurred losses, referred to above.

8. Provide the following information in regard to business expense provisions which are used to determine a permissible loss ratio.

Commission and Brokerage	_____	%
New Acquisition	_____	
General	_____	
Taxes, Licenses, Fees, Etc.	_____	
Other	_____	
Profit and Contingencies	_____	
TOTAL EXPENSES	_____	
Pure Permissible Loss Ratio		_____
Loss Adjustment Expense		_____
Allocated		_____
Unallocated		_____
TOTAL PERMISSIBLE LOSS AND LOSS ADJUSTMENT EXPENSE RATIO		_____

- a) Provide all factors, vectors, allocators, variables and considerations which would assign the stated costs and revenues requirements to West Virginia operations.

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b) Provide a breakdown of the calculations, variables or managerial policies which would show the details of the delineation of the value placed in the profit and contingency blank of the annual financial statement.

9. Provide the following information in regard to an insurance expense exhibit and incurred ratios (%) on a written premium basis.

	19__	19__	19__	19__	19__	Combined Average
a) Commission and Brokerage	_____	_____	_____	_____	_____	_____
b) New Acquisition	_____	_____	_____	_____	_____	_____
c) General	_____	_____	_____	_____	_____	_____
d) Taxes, etc.	_____	_____	_____	_____	_____	_____
e) SUBTOTAL (a) + (b) + (c) + (d)	_____	_____	_____	_____	_____	_____
f) West Virginia Loss Ratio (Ques.9)	_____	_____	_____	_____	_____	_____
g) Combined Ratio (e) + (f)	_____	_____	_____	_____	_____	_____
h) Investment Gain/(Loss)	_____	_____	_____	_____	_____	_____

10. Provide the following information in regard to specific claims, underwriting and investment results for the reporting year.

a) The number of claims filed per category	_____
b) The number of civil actions filed	_____
c) The number of civil actions compromised or settled	_____
d) The number of verdicts in civil actions	_____
e) The number of civil actions appealed	_____

Ins. Commissioner
 Leg. Rule 33-20B
 Series XXII, Sec. 5
 EMERGENCY

- f) The number of civil actions dismissed _____
- g) a) The total dollar amount paid in claims
 compromised or settled \$ _____
- b) Show separately structured settlements
 from ordinary payments. \$ _____
- h) The total dollar amount paid pursuant to
 verdicts in civil actions. \$ _____
- i) The number of claims closed without
 payment and the amount held in reserve
 for all such claims by vintage year \$ _____
- j) The total dollar amount expended for loss
 adjustment expenses, commission and
 brokerage expense:
 - Loss Adjustment Expense \$ _____
 - Commissions \$ _____
 - Brokerage Expenses \$ _____
 - TOTAL _____
- k) The total dollar amount expended in
 defense and litigation of claims \$ _____
- l) The total dollar amount held in reserve
 for anticipated claims:
 - Incurred & Reported \$ _____
 - Incurred But Not Reported \$ _____
 - TOTAL \$ _____
- m) New profit or loss _____

- n) Investment and other income on net realized capital gains and loss reserves and unearned premiums
- o) The number of malpractice insurance policies canceled for reasons other than nonpayment of premiums

Explanatory notes for #10 above:

- a) 10(i) This dollar figure is the reserve released when a claim involving no payment to the plaintiff is closed.
- b) 10(m) This amount is determined by using your West Virginia premium, claims and expense data in exactly the same manner as required in the annual financial statement, Underwriting and Investment Exhibit's section on "Underwriting Income." The calculation of this figure must be included as Exhibit A to accompany this report.
- c) 10(n) If your company has not separately accounted for investment income including net realized capital gains, and other income derived from assets representing loss reserves and unearned premium reserves on medical malpractice business you wrote in West Virginia, you must calculate the required figure in the following manner:
 - i. Divide the sum of loss reserves, including loss adjustment expense reserves, and unearned premium reserves on West Virginia medical malpractice business by the total of all liabilities and that portion of your surplus in excess of your minimum capital and surplus requirement.
 - ii. Determine the investment income and other income including capital gains attributable to your West Virginia medical malpractice business by multiplying each figure in the "Investment Income" and "Other Income" sections of the Underwriting and Investment Exhibit of your annual financial statement for the preceding calendar year by the ratio calculated in (a) above.

Ins. Commissioner
Leg. Rule 33-20B
Series XXII, Sec. 5
EMERGENCY

11. Attach as Exhibit B a copy of all rules, rates and rating plans currently in effect in West Virginia for this individual coverage classification.
12. Attach as Exhibit C your loss experience in West Virginia for this individual coverage classification during the preceding calendar year using the same format as Schedule P of the annual financial statement.
13. Attach as Exhibit D your West Virginia experience for this individual coverage classification using the same format as the Underwriting and Investment Exhibit of the annual financial statement.

The above information is correct to the best of my knowledge and belief.

Name (type or print)

Title

Address

Telephone Number

Signature



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
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Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

January 14, 1987

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Insurance Commission

RULE: New Rule, Series 22, Medical Malpractice Annual Reporting Requirements

DATE FILED AS AN EMERGENCY RULE: December 3, 1986

DECISION NO. 1-87

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

KEN HECHLER
Secretary of State

OFFICE OF THE SECRETARY OF STATE
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Secretary of State

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Special Assistant

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Charleston 25305

DECISION

Emergency Rule Decision
(ERD 1-87)

AGENCY: Insurance Commission
RULE: New Rule, Series 22, Medical Malpractice Annual
Reporting Requirements

DATE FILED AS AN EMERGENCY RULE: December 3, 1986

- par. 1 The Insurance Commission has filed as emergency rule a new rule, above titled, as an emergency rule.
- par. 2 This legislative rule establishes guidelines and procedures under which every insurer providing five percent or more of the medical malpractice insurance coverage in West Virginia shall report to the Insurance Commissioner on an annual basis certain specified information concerning such medical malpractice insurance coverage.
- par. 3 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 4 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 5 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 6 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 7 The Insurance Commission has filed this emergency rule with supporting documents with the Secretary of State on December 3, 1986.

par. 8 It is the determination of the Secretary of State that the Insurance Commission has complied with the procedural requirements of WV Code §29A-3-15.

par. 9 (B) Statutory Authority -- WV Code §33-20B-6 reads in part:

(b) Within one hundred eighty days of the effective date of this article, the commissioner shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code, establishing procedures whereby each insurer providing five percent or more of the malpractice insurance coverage in this state annually shall submit to the commissioner the following information:

par. 10 It is the determination of the Secretary of State that the Insurance Commission has not exceeded its statutory authority by adopting this rule.

par. 11 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 12 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 13 The Insurance Commission claims this rule is necessary to comply with a "time limitation established by this code."

par. 14 The facts and circumstances as presented by the Insurance Commission are as follows:

The referenced rule is filed as an emergency rule pursuant to West Virginia Code §29A-3-15(g) in order to comply with the time limitations established by West Virginia Code §33-20B-6(b).

Section 33-20B-6(b) mandates promulgation of this rule within one hundred eighty days of the effective date of the passage of Article 20B of Chapter 33. Article 20B became effective on June 6, 1986 (see WV Code §55-7B-10), and accordingly, this rule must be promulgated by December 3, 1986.

par. 17 It is the decision of the Secretary of State that this proposal by the Insurance Commission is in procedural compliance with WV Code 29A-3-15; does not exceed the statutory authority of the Insurance Commission; and that the facts and circumstances presented constitute an emergency. Therefore, the Secretary of State decides that this emergency rule should be approved.

par. 18 This decision shall be cited as Emergency Rule Decision 1-87 or ERD 1-87 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Insurance Commission, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

Entered _____

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OFFICE OF THE SECRETARY OF STATE



KEN HECHLER
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help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

NOTICE OF THE EXPIRATION OF AN EMERGENCY RULE

AGENCY: INSURANCE COMMISSIONER
RULE: MEDICAL MALPRACTICE ANNUAL REPORTING REQUIREMENTS
DATE FILED AS AN EMERGENCY RULE: DECEMBER 3, 1986

THE ABOVE EMERGENCY RULE EXPIRES ON MARCH 3, 1988 WITH THE EXPIRATION OF THE FIFTEENTH MONTH AS REQUIRED BY WEST VIRGINIA CODE 29A-3-15. THIS EMERGENCY RULE WAS IN EFFECT FROM DECEMBER 3, 1986 UNTIL MARCH 3, 1988.

Rich O. Hartman, Dir.

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SECRETARY OF STATE