

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

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2002 APR -8 P 1:48

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

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

AGENCY: Insurance Commission TITLE NUMBER: 114

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 23

TITLE OF RULE BEING AMENDED: Medical Malpractice Loss Experience
and Loss Expense Annual Reporting Requirements

IF NO, SERIES NUMBER OF 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) S.B. 397

SECTION 64-7-2(a), PASSED ON March 9, 2002

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: April 8, 2002



Authorized Signature

SCANNED

PROMULGATION HISTORY

WEST VIRGINIA INSURANCE COMMISSION

TITLE

MEDICAL MALPRACTICE LOSS EXPERIENCE AND LOSS EXPENSE
ANNUAL REPORTING REQUIREMENTS

TITLE 114, SERIES 23

06/06/01	Notice of Comment Period Filed
07/06/01	Last Date Comments Were Received
07/25/01	Agency Approved Legislative Rule Filed
12/10/01	Date Reviewed by Legislative Rule-Making Review Committee
04/08/02	Filing Date
04/08/02	Effective Date



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Legal Division

BOB WISE
Governor

JANE L. CLINE
Insurance Commissioner

April 8, 2002

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, West Virginia 25305

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Dear Ms. Cooper:

Attached for filing with your office is the "final filing" form for the rule Series 23 titled "Medical Malpractice Loss Experience and Loss Expense Annual Reporting Requirements." This rule was authorized in Senate Bill 397 and passed by the Legislature on March 9, 2002.

We are also providing your office with a computer disk containing the aforementioned rule and a hard copy of the promulgation history of that rule. The filing date and effective date have already been inserted onto the computer disk.

If you have any questions about the enclosed forms or the computer disk, please do not hesitate to call me.

Sincerely,

Mary Jane Pickens
Associate Counsel

MJP/jz
Attachments

114CSR23

**WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER**

SERIES 23

**MEDICAL MALPRACTICE LOSS EXPERIENCE
AND LOSS EXPENSE ANNUAL REPORTING REQUIREMENTS**

Section

- 114-23-1. General.
- 114-23-2. Definitions.
- 114-23-3. Insurers Subject to Reporting Requirements.
- 114-23-4. Filing Deadline; Failure to Submit Information.
- 114-23-5. Information Required to Be Reported.
- 114-23-6. Evaluation By Commissioner.
- 114-23-7. Severability.

114CSR23

**WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER**

SERIES 23

**MEDICAL MALPRACTICE LOSS EXPERIENCE
AND LOSS EXPENSE ANNUAL REPORTING REQUIREMENTS**

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SECRETARY OF STATE

§114-23-1. General.

1.1. Scope. -- This legislative rule establishes guidelines and procedures under which each insurer providing five percent (5%) 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 loss experience and loss expense in regard to such medical malpractice insurance coverage.

1.2. Authority. -- W. Va. Code §33-20B-6(a) and §33-2-10.

1.3. Filing Date. -- April 8, 2002

1.4. Effective Date. -- April 8, 2002

§114-23-2. 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 W. Va. 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 the insurance company licensed by the Commissioner and authorized to write medical malpractice insurance coverage in the state of West Virginia.

§114-23-3. Insurers Subject To Reporting Requirements.

3.1. Insurers subject to annual reporting requirements. This rule shall apply to every insurer which provided five percent (5%) 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 (5%) 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.

3.3. Method of determination. The Commissioner's determination pursuant to subsection 3.2 shall be based upon a comparison of every insurer's gross direct written malpractice premiums in West Virginia during the preceding calendar year to the total gross direct written malpractice premium in West Virginia for that calendar year.

§114-23-4. 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 subsection 3.2.

4.2. Failure to submit information. Pursuant to West Virginia Code §33-20B-6(b), 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 (\$10,000.00) for each of the first five (5) such failures per year and shall be fined one hundred thousand dollars (\$100,000.00) for the sixth (6th) and each subsequent such failure per year.

§114-23-5. 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 Loss Experience and Loss Expense Reporting Form, attached to and made a part of this rule as Exhibit A.

5.2. Information by individual coverage classifications. A separate Annual Loss Experience and Loss Expense Reporting Form must be filed for each and every individual coverage classification written by the insurer in West Virginia.

§114-23-6. Evaluation By Commissioner.

6.1. Evaluation by Commissioner. The Commissioner shall evaluate the information reported pursuant to section 5 of the rule in order to determine whether the filing insurers have fairly and accurately determined the loss experience and loss expense data in the filing.

§114-23-7. Severability.

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

Exhibit A

Annual Loss Experience and Loss Expense Reporting Form

(Note: Attach Additional Sheets For Answers When Necessary)

1. Company Name: _____

If part of a group, specify group name:

2. Coverage Classification: _____
3. Provide, on a West Virginia basis and on a countrywide basis, the following information by twelve-month accident year for the preceding ninety-six months:
 - a. paid losses;
 - b. accumulated paid losses;
 - c. paid loss adjustment expenses; and,
 - d. incurred but not reported losses.
4. Provide, on a West Virginia basis and on a countrywide basis, the calculation of loss development factors by twelve-month accident year for the preceding ninety-six months for the following:
 - a. paid losses;
 - b. accumulated paid losses;
 - c. paid loss adjustment expenses; and,
 - d. incurred but not reported losses.
5. Provide, on a West Virginia basis and a countrywide basis, the ratio of accumulated paid losses to earned premiums by twelve-month accident year for the preceding ninety-six months.
6. Provide, on a West Virginia basis and a countrywide basis, the number of policies in force and the paid losses per policy by twelve-month accident year for the preceding ninety-six months.
7. Provide a comparison of allocated West Virginia operating expenses and actual West Virginia operating expenses by twelve-month accident year for the preceding ninety-six months.
8. Provide, on a West Virginia basis and on a countrywide basis, a linear trend analysis which shows the indicated projected trended development factors for paid losses, accumulated paid loss, paid loss adjustment expenses and incurred but not reported losses. Provide the R squared results of the linear models.

9. Provide the methodology by which the credibility of West Virginia data in relationship to countrywide data is weighted in calculating an indicated percentage of premium rate increase by twelve-month accident year for the preceding ninety-six months. Provide formulas used in the methodology and a narrative explanation and justification of use of the particular methodology.
10. Provide the following information with regard to actual expenses:
 - a. Actual paid claims by policy type by year (please separate underlying tort payments from bad faith, unfair claims practices and other extra contractual payments).
 - b. Actual legal fees by policy type by year.
 - c. Actual administrative costs paid by policy type by year.
11. Provide audited financial statements inclusive of income statements and balance sheets, statements of cash flow and footnotes to financials.

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

Name (type or print)

Title

Address

Telephone Number

Signature