

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #3

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1987 JUL 31 3:31

SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY West Virginia Code §§ 33-20B-6(a), 33-2-10

AMENDMENT TO AN EXISTING RULE: YES  NO

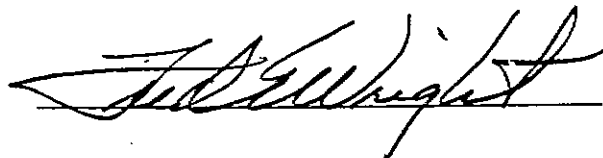
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 23

TITLE OF RULE BEING PROPOSED: Medical Malpractice Loss Experience  
And Loss Expense Annual Reporting Requirements

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



FISCAL NOTE FOR PROPOSED RULES

Rule Title: Medical Malpractice Loss Experience And Loss Expense Reporting Requirements

Type of Rule:  Legislative  Interpretive  Procedural

Agency Insurance Commissioner Address 2100 Washington Street, East, Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		Current	FISCAL YEAR	
	Increase	Decrease		Next	Thereafter
Estimated Total Cost	\$5,000.00	\$ -0-	\$ -0-	\$5,000.00	\$5,000.00
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	\$5,000.00	-0-	-0-	\$5,000.00	\$5,000.00
Repairs & Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates:

Services of a consultant will be required to analyze data filed with the Insurance Department as a consequence of this rule.

3. Objectives of these rules:

To establish guidelines and format for annual filing of information with the Insurance Department by medical malpractice insurers pursuant to §33-20B-6(a).

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries;  
Specific groups of citizens.

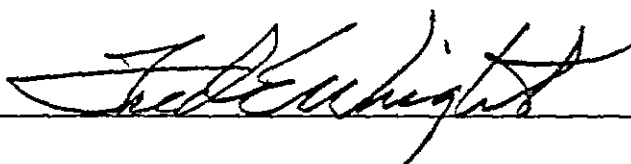
Medical malpractice insurers may incur minimal costs in compiling data required to be filed with the Insurance Department under this rule.

C. Economic Impact on Citizens/Public at Large.

Data generated pursuant to this rule should allow more thorough review of medical malpractice rates by the Insurance Department and result in more equitable malpractice rates for medical professionals in West Virginia.

Date: 7-31-87

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_

DATE: July 31, 1987

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: FRED E. WRIGHT, INSURANCE COMMISSIONER

LEGISLATIVE RULE TITLE: MEDICAL MALPRACTICE LOSS EXPERIENCE  
AND LOSS EXPENSE REPORTING REQUIREMENTS

1. Authorizing statute(s) citation West Virginia Code  
§§ 33-20B-6(a), 33-2-10
2. a. Date filed in State Register with Notice of Hearing:  
March 11, 1987
- b. What other notice, including advertising, did you give  
of the hearing?  
NONE
- c. Date of hearing(s): April 24, 1987 (A period for  
written comment, rather than a public hearing, was  
used in regard to the proposed rule.
- d. Attach list of persons who appeared at hearing,  
comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received X  
No amendments were made to the proposed rule.
- e. Date you filed in State Register the agency approved  
proposed Legislative Rule following public hearing:  
(be exact)  
\_\_\_\_\_
- f. Name and phone number of agency person to contact for  
additional information:  
Cheryl L. Davis  
General Counsel  
348-0401

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

b. Date of hearing: Not applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

DESCRIPTION OF PROPOSED RULE

RULE TITLE: Medical Malpractice Loss Experience And  
Loss Expense Reporting Requirements

West Virginia Code §33-20B-6(b) requires the Insurance Commissioner to promulgate a rule which establishes "... procedures for the fair and appropriate evaluation and determination of the past loss experience and prospective or projected loss experience of insurers within and without this state, actual past expenses incurred in this state and demonstrable prospective or projected expenses applicable to this state.

This proposed rule establishes guidelines and procedures for reporting of information which will be used by the Insurance Commissioner to make the determinations required by §33-20B-6(a). A detailed Reporting Form is established. Standards for determination of those insurers subject to the Rule's reporting requirements and filing deadlines are provided. Penalties for non-compliance with the filing requirements as established by §33-20B-6(b) are repeated in the Rule.

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-20B  
SERIES ~~XXXX~~23

MEDICAL MALPRACTICE LOSS EXPERIENCE AND  
LOSS EXPENSE 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. Evaluation By Commissioner
- Section 7. Severability

SECRETARY

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WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-20B  
SERIES ~~XXXX~~23

MEDICAL MALPRACTICE LOSS EXPERIENCE AND LOSS  
EXPENSE ANNUAL REPORTING REQUIREMENTS

Section 1. General

1.1 Scope - This legislative rule establishes guidelines and procedures under which each 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 loss experience and loss expense in regard to such medical malpractice insurance coverage.

1.2 Authority - West Virginia Code §§ 33-20B-6(a),  
33-2-~~13~~10.

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 the 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.

Ins. Commissioner  
Leg. Rule 33-20B  
Series 23, Sec. 3

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.

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 - 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 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 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.

#### Section 6. Evaluation By Commissioner

Ins. Commissioner  
Leg. Rule 33-20B  
Series 23, Sec. 6

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.

Section 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

Ins. Commissioner  
Leg. Rule 33-20B  
Series 23

preceding ninety six months. Provide formulas used in the methodology and a narrative explanation and justification of use of the particular methodology.

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

\_\_\_\_\_  
Name (type of print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Signature

STATE OF WEST VIRGINIA



FRED E. WRIGHT  
INSURANCE COMMISSIONER

OFFICES OF THE  
**INSURANCE COMMISSIONER**  
LEGAL DIVISION  
2100 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA 25305  
TELEPHONE (304) 348-0401  
July 31, 1987

ARCH A. MOORE, JR.  
GOVERNOR

Ms Debra Graham, Assistant Counsel  
Legislative Rule-Making Review Committee  
Room 438, Main Unit State Capitol  
Charleston, WV 25305

Re: Medical Malpractice Loss Experience  
And Loss Reporting Requirements  
Proposed Legislative Rule Of The Insurance Commissioner

Dear Ms Graham:

Enclosed for filing please find fifteen (15) copies of each of the following:

- 1) proposed legislative rule
- 2) description of proposed rule
- 3) fiscal note
- 4) copy of agency approval and submission to Legislative Rule-Making Review Committee
- 5) Legislative Rule-Making Review Committee questionnaire

Please contact me if further information is required.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl L. Davis".

Cheryl L. Davis  
General Counsel

CLD/pss

Enclosure

cc: Richard O. Hartman, Director  
Administrative Law Division  
Office of the Secretary of State

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