

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

Form #4

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NOV -6 AM 10:16  
STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY West Virginia Code §§ 33-20B-6(a) and 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: Series 23

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

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-20B  
SERIES 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

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

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CHAPTER 33-20B  
SERIES 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), 33-2-10.

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.

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 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.

#### 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



**WEST VIRGINIA LEGISLATURE**  
**LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**  
 Room M-438, State Capitol  
 Charleston, West Virginia 25305  
 (304) 340-3286

*Senator Larry A. Tucker, Co-Chairman*  
*Delegate Thomas A. Knight, Co-Chairman*

October 28, 1987

*M. E. Mowery, Counsel*  
*Debra A. Graham, Associate Counsel*  
*Marie Nickerson, Receiving Clerk*

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Commissioner Fred E. Wright  
 Offices of Insurance Commissioner  
 2100 Washington Street, East  
 Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

OCT 29 1987  
 10:28 AM  
 FILED

PROPOSED RULE: Medical Malpractice Loss Experience and Loss  
 Experience Annual Reporting, Series XXIII

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed
  - (b) as modified by the agency     X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Cheryl L. Davis, Esq.  
 Legal Division