

## Report From Agency

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
AND THE  
BOARD OF GOVERNORS OF THE INJURED PATIENTS AND FAMILIES  
COMPENSATION FUND  
AMENDING A RULE**

The office of the commissioner of insurance and the board of governors of the injured patients and families compensation fund propose an order to amend ss. Ins 17. 01 (3) and 17.28 (6) (intro.), (6) (k) 2., (6) (L) 2., (6) m)2., (6) (n) 3., (6) (q) 2., Wis. Adm. Code, relating to annual patients compensation fund and mediation panel fees for the fiscal year beginning July 1, 2008.

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### **ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)**

**1. Statutes interpreted:**

ss. 655.27 (3), and 655.61, Wis. Stats.

**2. Statutory authority:**

ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61 (2), Wis. Stats.

**3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:**

The commissioner of insurance, with the approval of the board of governors (board) of the injured patients and families compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund and the annual fee due for the operation of the medical mediation panel.

**4. Related statutes or rules:**

None

**5. The plain language analysis and summary of the proposed rule:**

This rule establishes the fees which participating health care providers must pay to the fund for the fiscal year beginning July 1, 2008. These fees represent a 0% change with fees paid for the 2007-08 fiscal year. The board approved these fees at its meeting on December 12, 2007, based on the recommendation of the board's actuarial and underwriting committee and reports of the fund's actuaries.

The board is also required to promulgate by rule the annual fees for the operation of the injured patients and families compensation mediation system, based on the recommendation of the director of state courts. The recommendation of the director of state courts was reviewed by the board's actuarial and underwriting committee. This rule implements the funding level approved by the board by establishing mediation panel fees for the next fiscal year at \$18.00 for physicians and \$2.50 per occupied bed for hospitals, representing an increase of \$1.00 per physician and \$1.50 per occupied bed for hospitals from 2007-08 fiscal year mediation panel fees.

This rule also clarifies the fees charged to employers for employed allied health care professionals. The fees charged are based upon the number of full-time equivalents (FTEs) as of the most recent survey completed by the employer and submitted to the Fund.

**6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

To the fund board's and OCI's knowledge there is no existing or proposed federal regulation that is intended to address patient compensation fund rates, administration or activities.

**7. Comparison of similar rules in adjacent states as found by OCI:**

To the fund board's and OCI's knowledge there are no similar rules in the adjacent states to compare this rule to as none of these states have a patients compensation fund created by statute where rates are directed to be established yearly by rule as is true in Wisconsin.

**8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:**

None. This rule establishes annual fund fees pursuant to the requirements of the above-noted Wisconsin statutes.

**9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:**

This increase in mediation panel fees will have an effect on some small businesses in Wisconsin. The mediation panel fee is assessed only on physicians and hospitals, not on corporations or other health care entities. The increase will affect only those small business that pay the mediation panel fees on behalf of their employed physicians. However, the increase in the mediation panel fee will not have a significant effect nor should it negatively affect the small business's ability to compete with other providers.

**10. See the attached Private Sector Fiscal Analysis.**

The increase in fees promulgated by this rule does not result in a significant fiscal effect on the private sector. The cost of mediation panel fees is a very small portion of the expenses incurred by health care providers. Although a health care provider may pass this increase on to its patients, there will not be a significant fiscal effect on the private sector as a result of this proposed rule.

**11. A description of the Effect on Small Business:**

This rule will have little or no effect on small businesses. The increase contained in the proposed rule will require providers to pay an increased mediation panel fee which will increase the operational expenses for the providers. However, this increase is very minimal and will have no effect on the provider's competitive abilities.

**12. Agency contact person:**

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: **<http://oci.wi.gov/ocirules.htm>**

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110  
Email: [inger.williams@wisconsin.gov](mailto:inger.williams@wisconsin.gov)  
Address: 125 South Webster St – 2<sup>nd</sup> Floor, Madison WI 53703-3474  
Mail: PO Box 7873, Madison, WI 53707-7873

**13. Place where comments are to be submitted and deadline for submission:**

The deadline for submitting comments is 4:00 p.m. on the 14<sup>th</sup> day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

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**The proposed rule changes are:**

**SECTION 1. Ins 17.01 (3) is amended to read:**

Ins 17.01 (3) FEE SCHEDULE. The following fee schedule shall be effective July 1, ~~2007~~2008:

- (a) For physicians-- \$~~17.00~~18.00
- (b) For hospitals, per occupied bed-- \$~~1.00~~2.50

**SECTION 2. Ins 17.28 (6) (intro.), (k) 2., (L) 2., (m) 2., (n) 3., (q) 2. is amended to read:**

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, ~~2007~~ 2008 to June 30, ~~2008~~2009:

(6) (k) 2. The following fee for each full-time equivalent allied health care professional of the following employees employed by the partnership as of July 1, ~~2007~~ as of the most recent completed survey submitted:

Employed Health Care Persons	<del>July 1, 2007</del> Fund Fee
Nurse Practitioners	\$ 282
Advanced Nurse Practitioners	395
Nurse Midwives	2,482
Advanced Nurse Midwives	2,594
Advanced Practice Nurse Prescribers	395
Chiropractors	451
Dentists	226
Oral Surgeons	1,692
Podiatrists-Surgical	4,794

Optometrists	226
Physician Assistants	226

(6) (L) 2. The following fee for each full-time equivalent allied health care professional of the following employees employed by the corporation ~~as of July 1, 2007~~ as of the most recent completed survey submitted:

Employed Health Care Persons	<del>July 1, 2007</del> Fund Fee
Nurse Practitioners	\$ 282
Advanced Nurse Practitioners	395
Nurse Midwives	2,482
Advanced Nurse Midwives	2,594
Advanced Practice Nurse Prescribers	395
Chiropractors	451
Dentists	226
Oral Surgeons	1,692
Podiatrists-Surgical	4,794
Optometrists	226
Physician Assistants	226

(6) (m) 2. The following fee for each full-time equivalent allied health care professional of the following employees employed by the corporation ~~as of July 1, 2007~~ as of the most recent completed survey submitted:

Employed Health Care Persons	<del>July 1, 2007</del> Fund Fee
Nurse Practitioners	\$ 282
Advanced Nurse Practitioners	395
Nurse Midwives	2,482

Advanced Nurse Midwives	2,594
Advanced Practice Nurse Prescribers	395
Chiropractors	451
Dentists	226
Oral Surgeons	1,692
Podiatrists-Surgical	4,794
Optometrists	226
Physician Assistants	226

(6) (n) 3. The following fee for each full-time equivalent allied health care professional of the following employees employed by the operational cooperative sickness plan ~~as of July 1, 2007~~ as of the most recent completed survey submitted:

Employed Health Care Persons	July 1, 2007 Fund Fee
Nurse Practitioners	\$ 282
Advanced Nurse Practitioners	395
Nurse Midwives	2,482
Advanced Nurse Midwives	2,594
Advanced Practice Nurse Prescribers	395
Chiropractors	451
Dentists	226
Oral Surgeons	1,692
Podiatrists-Surgical	4,794
Optometrists	226
Physician Assistants	226

(6) (q) 2. The following for each full-time equivalent allied health care professional of the following employees employed by the organization or enterprise not specified as a

partnership or corporation as of July 1, 2007 as of the most recent completed survey submitted:

Employed Health Care Persons	July 1, 2007 Fund Fee
Nurse Practitioners	\$ 282
Advanced Nurse Practitioners	395
Nurse Midwives	2,482
Advanced Nurse Midwives	2,594
Advanced Practice Nurse Prescribers	395
Chiropractors	451
Dentists	226
Oral Surgeons	1,692
Podiatrists-Surgical	4,794
Optometrists	226
Physician Assistants	226

**SECTION 3. EFFECTIVE DATE.** This rule will take effect on July 1, 2008.

Dated at Madison, Wisconsin, this \_\_\_ day of \_\_\_\_\_ 2008.

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Sean Dilweg  
Commissioner of Insurance

**Section 1.**

**Office of the Commissioner of Insurance  
Private Sector Fiscal Analysis**

for Section Ins 17.01 (3) and 17.28 (6) relating to fund fees and mediation panel fees for fiscal year 2009 and affecting small business beginning July 1, 2008

This rule will have little or no effect on small businesses. The increase contained in the proposed rule will require providers to pay an increased mediation panel fee which will increase the operational expenses for the providers. However, this increase is very minimal and will have no effect on the provider's competitive abilities.



**Wisconsin Department of Administration**

Division of Executive Budget and Finance

DOA-2047 (R10/2000)

**FISCAL ESTIMATE WORKSHEET**

**Detailed Estimate of Annual Fiscal Effect**

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 17.28</b>

**Subject** annual injured patients and families compensation fund fees and mediation panel fees for fiscal year beginning July 1, 2008

**One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**  
**None**

Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes		\$ 0	\$ -0
(FTE Position Changes)		(0 FTE)	(-0 FTE)
State Operations - Other Costs		0	-0
Local Assistance		0	-0
Aids to Individuals or Organizations		0	-0
TOTAL State Costs by Category		\$ 0	\$ -0
<b>B. State Costs by Source of Funds</b>			
GPR		\$ 0	\$ -0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
<b>C. State Revenues</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		<b>Increased Rev.</b>	<b>Decreased Rev.</b>
GPR Taxes		\$ 0	\$ -0
GPR Earned		0	-0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
TOTAL State Revenues		\$ 0 None	\$ -0 None

**NET ANNUALIZED FISCAL IMPACT**

		<u>STATE</u>		<u>LOCAL</u>
NET CHANGE IN COSTS	\$	None 0	\$	None 0
NET CHANGE IN REVENUES	\$	None 0	\$	None 0

<b>Prepared by:</b> Theresa Wedekind	<b>Telephone No.</b> 608-266-0953	<b>Agency</b> IPFCF/OCII
<b>Authorized Signature:</b>	<b>Telephone No.</b>	<b>Date (mm/dd/ccyy)</b> 1/9/2008



**FISCAL ESTIMATE**

- ORIGINAL                       UPDATED  
  
 CORRECTED                       SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number <b>INS 17.28</b>

**Subject**  
annual injured patients and families compensation fund fees and mediation panel fees for fiscal year beginning July 1, 2008

**Fiscal Effect**  
State:  No State Fiscal Effect  
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.  
 Increase Existing Appropriation                       Increase Existing Revenues  
 Decrease Existing Appropriation                       Decrease Existing Revenues  
 Create New Appropriation  
  
 Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No  
  
 Decrease Costs

Local:  No local government costs  
1.  Increase Costs  
     Permissive    Mandatory  
2.  Decrease Costs  
     Permissive    Mandatory  
3.  Increase Revenues  
     Permissive    Mandatory  
4.  Decrease Revenues  
     Permissive    Mandatory  
5. Types of Local Governmental Units Affected:  
     Towns        Villages        Cities  
     Counties    Others \_\_\_\_\_  
     School Districts    WTCS Districts

Fund Sources Affected                      Affected Chapter 20 Appropriations  
 GPR    FED    PRO    PRS    SEG    SEG-S

Assumptions Used in Arriving at Fiscal Estimate

The Injured Patients and Families Compensation Fund (IPFCF or Fund) is a segregated fund. Annual Fund fees are established to become effective each July 1 based on actuarial estimates of the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board of Governors at its December 12, 2007 meeting.

The Fund is a unique fund; there are no other funds like it in the country. The WI Fund provides unlimited liability coverage and participation is mandatory. These two features make this Fund unique compared to funds in other states. The only persons who will be affected by this rule change are the Fund participants themselves as the IPFCF is fully funded through assessments paid by Fund participants.

There is no effect on GPR.

**Long-Range Fiscal Implications**

**None**

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