

Chapter Ins 3

CASUALTY INSURANCE

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Ins 3.01 Accumulation benefit riders attached to health and accident policies. Except where such rider is used only on a policy replacing the company's own policy, and so recites, no rider providing for accumulations of benefits will be approved for use upon any policy of health and accident insurance, whether it is proposed to issue such rider with or without an additional premium. Such rider operates as an aid to twisting the policies of another company in such manner as to make its use a direct encouragement of this practice.

Ins 3.02 Automobile fleets, vehicles not included in. Individually owned motor vehicles cannot be included or covered by fleet rates. The determining factor for inclusion under fleet coverage must be ownership and not management or use.

Ins 3.04 Dividends not deducted from premiums in computing loss reserves. Premiums returned to policyholders as dividends may not be deducted from the earned premiums in computing loss reserves under section 204.28, Wis. Stats.

Ins 3.07 Rules in chapter 4, fire and allied lines insurance, applicable to casualty insurance. The following captioned rules under chapter 4, FIRE AND ALLIED LINES INSURANCE, are applicable to casualty insurance:

(1) Mutual insurance companies operating on a post mortem assessment plan cannot limit assessments to a specified amount.

(2) Nonassessable policies of mutual companies.

(3) Policy, inspection and similar fees.

Ins 3.09 Mortgage guaranty insurance. (1) **PURPOSE.** This rule implements and interprets, including but not limited to, sections 201.04 (19), 611.02, 611.24, 618.01, 618.21, 620.02 and 623.04, Wis. Stats., for the purpose of establishing minimum requirements for the transaction of mortgage guaranty insurance.

(2) **SCOPE.** This rule shall apply to the underwriting, investment, marketing, rating, accounting and reserving activities of insurers which write the type of insurance authorized by section 201.04 (19), Wis. Stats.

(3) **DEFINITIONS.** (a) Mortgage guaranty insurance is that kind of insurance authorized by section 201.04 (19), Wis. Stats., and includes the guarantee of the payment of rentals under leases of real estate in which the lease extends for 3 years or longer.

(b) As used in this rule, "person" means any individual, corporation, association, partnership or any other legal entity.

(4) **DISCRIMINATION.** No mortgage guaranty insurer may discriminate in the issuance or extension of mortgage guaranty insurance on the basis of the applicant's sex, marital status, race, color, creed or national origin.

(5) **LIMITATION OF TOTAL LIABILITY ASSUMED.** A mortgage guaranty insurer shall not at any time have outstanding a total liability under its aggregate insurance policies, computed on the basis of its election to limit coverage and net of reinsurance assumed and of reinsurance ceded to an insurer authorized to transact such reinsurance in this state, exceeding 25 times the sum of its contingency reserve established under subsection (14) and its surplus as regards policyholders.

(6) **LIMITATION ON INVESTMENT.** A mortgage guaranty insurer shall not invest in notes or other evidences of indebtedness secured by mortgage or other lien upon real property. This section shall not apply to obligations secured by real property, or contracts for the sale of real property, which obligations or contracts of sale are acquired in the course of the good faith settlement of claims under policies of insurance issued by the mortgage guaranty insurer, or in the good faith disposition of real property so acquired.

(7) **LIMITATION ON ASSUMPTION OF RISKS.** A mortgage guaranty insurer shall not insure loans secured by properties in a single or contiguous housing or commercial tract in excess of 10% of the insurer's admitted assets. A mortgage guaranty insurer shall not insure a loan secured by a single risk in excess of 10% of the insurer's admitted assets. In determining the amount of such risk or risks, the insurer's liability shall be computed on the basis of its election to limit coverage and net of reinsurance ceded to an insurer authorized to transact such reinsurance in this state. "Contiguous" for the purpose of this subsection means not separated by more than one-half mile.

(8) REINSURANCE. A mortgage guaranty insurer may, by contract, reinsure any insurance it transacts in any assuming insurer authorized to transact mortgage guaranty insurance in this state, except it shall not enter into reinsurance arrangements designed to circumvent the compensation control provisions of subsection (15) or the contingency,

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Ins 3.36 Statistical reports—health professional liability insurance. (1) **PURPOSE.** This rule is intended to interpret and implement section 625.34, Wis. Stats., and respond to the mandate of section 625.35, Wis. Stats., for the purpose of obtaining statistical data on health professional liability insurance in Wisconsin.

(2) **SCOPE.** This rule applies only to insurance issued to health care providers whose principal place of practice or operation is in Wisconsin.

(3) **DEFINITIONS.** As used in this rule, which interprets the mandate of section 625.35, Wis. Stats.: (a) Health professional liability insurance means insurance for liability arising out of the acts or omissions of any of the following health care providers whose principal place of practice or operation is in Wisconsin:

1. medical or osteopathic physicians, 2. blood banks, 3. chiroprodists, 4. chiropractors, 5. dental hygienists, 6. hearing aid service establishments, 7. medical laboratory technicians, 8. medical or x-ray laboratories, 9. nurses (registered or trained practical nurses), 10. opticians, 11. optometrists, 12. pharmacists, 13. physiotherapists, 14. x-ray laboratories, 15. x-ray technicians, 16. osteopathic hospitals, 17. drugless healing institutions, 18. clinics, dispensaries or infirmaries—out-patient treatment only, 19. convalescent or nursing homes, 20. hospitals, 21. mental-psychopathic institutions, 22. sanitariums or health institutions—not hospitals or mental-psychopathic institutions, 23. dentists, 24. surgeons, 25. radium, laboratory, pathological or x-ray therapy technicians, 26. operational cooperative sickness plans organized under sections 185.981 to 185.985, Wis. Stats., which directly provide services through salaried employes in their own facilities, 27. partnerships comprized of physicians or nurse anesthetists, 28. corporations owned by physicians or nurse anesthetists and operated for the purpose of providing medical services.

(b) Rating class means any of the classifications listed on pages 7 through 14, part III of the Uniform Statistical Plan for Medical Professional Liability Insurance published by the Insurance Services Office effective January 1, 1976, as revised January 19, 1976, plus additional classifications for osteopathic hospitals, nurse anesthetists partnership liability, nurse anesthetists corporate liability, and operational cooperative sickness plans organized under sections 185.981 to 185.985, Wis. Stats., which directly provide services through salaried employes in their own facilities. The Uniform Statistical Plan for Medical Professional Liability Insurance published by the Insurance Services Office is distributed by Insurance Services Office, 160 Water Street, New York, New York 10038. A copy of this plan is on file at the office of the commissioner of insurance, the secretary of state and the revisor of statutes.

(c) Claim means every occurrence in which a claim for damages is made or a suit is brought against the health care provider defined in paragraph (a) whether or not such claim is false, groundless or fraudulent. Incidents not resulting in a suit or claim for damages shall not constitute a claim. Claims against more than one health care provider joined in a suit shall be treated as separate claims against each health care provider.

(d) Premiums paid means premiums received by the insurer on direct business only, less returned premiums, and shall not include premiums received on account of reinsurance assumed nor shall any deductions be made for premiums ceded on account of reinsurance ceded. Insurers shall also report for each classification the direct earned premiums in Wisconsin for the calendar year of report which shall consist of the direct premiums written less the premiums unearned at the end of the calendar year plus the premiums unearned at the beginning of the calendar year.

(e) Amount of claims means claims paid during the calendar year plus the claims unpaid at the end of the calendar year and less the claims unpaid at the beginning of the calendar year, and shall be further segregated to show:

1. damages paid to claimants;
2. reserves for outstanding losses;
3. incurred but not reported losses;
4. allocated loss adjustment expenses (i.e., investigative costs, defense costs, court costs, processing costs, etc. attributable to a specific claim);
5. unallocated loss adjustment expenses (i.e., investigative costs, defense costs, processing costs, etc. not attributable to any specific claim, but rather to all professional liability claims in general).

Note: Insurers who do not compile "incurred but not reported losses" and/or "unallocated loss adjustment expenses" on a state-by-state basis may satisfy this requirement on the basis of estimates which reflect the ratio of Wisconsin losses and expenses to comparable countrywide data.

(f) Health professional liability insurance policy means a policy for which at least 50% of the total premium for the policy is for the insurance of health professional liability.

(g) Principal place of practice or operation means the place where more than 50% of the time of a health professional is spent in practice.

(4) FILING REQUIRED. Each insurer doing business in this state in health professional liability insurance shall report the following information to the commissioner on or before March 1 of each year for the previous calendar year:

(a) The total number of insureds in Wisconsin within each rating class;

(b) The total amount of premium paid by the insureds in each rating class in Wisconsin;

(c) The total number of claims filed against insureds in each rating class in Wisconsin, the year in which the incident giving rise to each claim occurred, and the total number of such claims outstanding as of December 31;

(d) The total number and amount of claims paid by the insurer for insureds in each rating class in Wisconsin and the year in which the incident giving rise to each claim occurred;

(e) The number of lawsuits filed in Wisconsin against the insurer's insureds.

Note: In compiling this information, the instructions and procedures included in the Uniform Statistical Plan for Medical Professional Liability Insurance published by the Insurance Services Office shall be used to the extent applicable.

(5) **EXCEPTIONS.** Since the statistical information required by subsection (4) may not be readily available for calendar year 1975 in the detail specified: (a) All insurers shall submit on or before March 1, 1976, the basic Wisconsin information required by line 50 of Supplement "A" to Schedule T. Exhibit of Medical Malpractice Premiums Written During Current Year Allocated by States and Territories, a part of the Annual Statement for Fire and Casualty Companies listed in Wisconsin Administrative Code section Ins 7.01 (5) (a).

(b) An insurer who cannot file for calendar year 1975 the information required by subsection (4) based on the rating classes as defined in subsection (3) (b), shall file comparable information, based on the classifications used by that insurer for rating purposes during 1975, with sufficient explanation of the make-up of each rating class so that a proper combination of insurers doing business in Wisconsin may be made.

(c) Where detailed statistical information for calendar year 1975 is not available to an insurer by March 1, 1976, that insurer may, on or before March 1, 1976, file information based on estimated data, provided that detailed information is filed by June 1, 1976.

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