

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor Connie L. O'Connell, Commissioner

June 18, 2002

121 East Wilson Street . P.O. Box 7873 Madison, Wisconsin 53707-7873 Phone: (608) 266-3585 • Fax: (608) 266-9935 E-Mail: information@oci.state.wi.us Web Address: oci.wi.gov

Wisconsin.gov

Members of the Legislature

Emergency Rule affecting Section Ins 17.28(6a), 17.25(3)(d)4, 17.25(3)(d)3, 17.01(3) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to whclip primary limits

Dear Senator or Representative to the Assembly:

I have promulgated the attached rule as an emergency rule. The rule will be published in the official State newspaper on June 19, 2002.

The attached copy of the rule includes the Finding of Emergency which required promulgation of the rule.

If you have any questions, please contact Alice M. Shuman-Johnson at (608) 266-9892 or e-mail at Alice.Shuman-Johnson@oci.state.wi.us.

Sincerely,

Connie L. O'Connell

Commissioner

CLO:AS

Attachment: 1 copy rule



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

SS

Scott McCallum, Governor

Connie L. O'Connell, Commissioner

June 13, 2002

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STATE OF WISCONSIN

Office on June 13, 2002.

OFFICE OF THE COMMISSIONER OF INSURANCE

I, Connie L. O'Connell, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 17.28(6a), 17.25(3)(d)4, 17.25(3)(d)3, 17.01(3) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to wholip primary limits, is duly approved and adopted by this

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on June 13, 2002.

Connie L. O'Connell

Commissioner

STATE OF WISCONSIN RECEIVED & FILED

JUN | 2 2002

DOUGLAS LA FOLLETTE SECRETARY OF STATE

STATE OF WISCONSIN RECEIVED & FILED

JUN 2 2002

DOUGLAS LA FOLLETTE SECRETARY OF STATE

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE

BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
REPEALING, AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to repeal s. Ins 17.28 (6a), to renumber s. Ins 17.25 (3) (d) 4, to amend s. Ins 17.01 (3) and s. Ins 17.25 (3) (d) 3, to repeal and recreate s. Ins 17.28 (6), and to create s. Ins 17.25 (3) (d) 4, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to the Wisconsin health care insurance plan's primary limits.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.61, Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2002. These fees represent a 5% decrease compared with fees paid for the 2001-02 fiscal year. The board approved these fees at its meeting on February 27, 2002, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the funding level

recommendation of the board's actuarial and underwriting committee by establishing mediation panel fees for the next fiscal year at \$ 19.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 2001-02 fiscal year mediation panel fees.

This rule also amends s. Ins. 17.25(3)(d) to reflect the increased primary limit of \$1,000,000/\$3,000,000 for occurrences on and after July 1, 1997 for the Wisconsin health care liability plan as required by s. 655.23(4)(b), Wis. Stats.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2002.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 02-035, will be filed with the secretary of state in time to take effect September 1, 2002. Because the fund fee provisions of this rule first apply on July 1, 2002, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 3, 2002.

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, 2001 2002:

- (a) For physicians-- \$38.00 19.00
- (b) For hospitals, per occupied bed-- \$2.00 1.00

SECTION 2. Ins 17.25(3)(d) 3. is amended to read:

Ins 17.25(3)(d) 3. Except as provided in subd. 4. subds. 4. and 5., for occurrences on and or after July 1, 1988, and before July 1, 1997, \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year.

SECTION 3. Ins 17.25(3)(d) 4. is renumbered Ins 17.25(3)(d) 5.

SECTION 4. Ins 17.25(3)(d) 4. is created to read:

Ins 17.25(3)(d) 4. Except as provided in subd. 5., for occurrences on or after July 1, 1997, \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in any one policy year.

SECTION 5. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2002, to and including June 30, 2003:

(a) Except as provided in pars. (b) to (f) and sub. (6e), for a physician for whom this state is a principal place of practice:

| Class 1 | \$1,461 | Class 3 | \$6,063 |
|---------|---------|---------|----------------|
| Class 2 | \$2.630 | Class 4 | \$8 766 |

(b) For a resident acting within the scope of a residency or fellowship program:

| Class 1 | \$731 | Class 3 | \$3,034 | |
|---------|---------|---------|---------|--|
| Class 2 | \$1,316 | Class 4 | \$4,386 | |

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes \$877

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1 \$584 Class 3 \$2,424

| | Class 2 | \$1,051 | Class 4 | \$3,504 | | |
|--|---|--|---|---|--|--|
| | (e) For a physician | who practices | fewer than 500 | 0 hours during the fiscal year, | | |
| limited to | o office practice and | nursing home | and house cal | ls, and who does not practice | | |
| obstetric | s or surgery or assist | in surgical p | rocedures: | \$365 | | |
| | (f) For a physician f | or whom this | state is not a p | principal place of practice: | | |
| | Class 1 | \$731 | Class 3 | \$3,034 | | |
| | Class 2 | \$1,316 | Class 4 | \$4,386 | | |
| | (g) For a nurse anes | sthetist for wh | om this state i | s a principal place of | | |
| practice: | × | | | \$359 | | |
| | (h) For a nurse anes | sthetist for wh | om this state i | s not a principal place of | | |
| practice: | | | | \$180 | | |
| | (i) For a hospital: | | | | | |
| | 1. Per occupied bed | | | \$88; plus | | |
| | 2. Per 100 outpatient visits during the last calendar year for which totals | | | | | |
| | | | 9 min impt omin. | ida your ior willour totalo | | |
| are availa | | | 8 | \$4.40 | | |
| are availa | able: | | | - · · | | |
| | able: (j) For a nursing hor | me, as describ | ed under s. 65 | \$4.40 | | |
| wholly ov | able: (j) For a nursing hor | me, as describ 7 a hospital ar | ed under s. 65 ad which has h | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance | | |
| wholly ov | able: (j) For a nursing horwood and operated by | me, as describ a hospital arbital by which | ed under s. 65 ad which has h | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance | | |
| wholly ov | able: (j) For a nursing horwood and operated by from that of the hosp Per occupied | me, as describ a hospital arbital by which dibed | ed under s. 65 nd which has h it is owned and | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance d operated: | | |
| wholly ov separate | able: (j) For a nursing horwood and operated by from that of the hosp Per occupied (k) For a partnership | me, as describ a hospital ar bital by which bed comprised of | ed under s. 65 ad which has h it is owned and f physicians or | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance d operated: \$16 | | |
| wholly over separate for the present the p | able: (j) For a nursing horwood and operated by from that of the hosp Per occupied (k) For a partnership | me, as describer a hospital are sital by which dispersion of the description of the meaning the meanin | ed under s. 65 ad which has h it is owned and f physicians or | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance d operated: \$16 nurse anesthetists, organized | | |
| wholly over separate for the present the p | able: (j) For a nursing horwhed and operated by from that of the hosp Per occupied (k) For a partnership imary purpose of prosts, all of the following | me, as describy a hospital arbital by which dibed p comprised or widing the means fees: | ed under s. 65 ad which has h it is owned and f physicians or dical services o | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance d operated: \$16 nurse anesthetists, organized | | |
| wholly over separate and for the presented anesthetic | able: (j) For a nursing horwhed and operated by from that of the hosp Per occupied (k) For a partnership imary purpose of prosts, all of the following | me, as describy a hospital arbital by which dibed p comprised or widing the means fees: | ed under s. 65 ad which has h it is owned and f physicians or dical services o | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance d operated: \$16 nurse anesthetists, organized of physicians or nurse | | |
| wholly over separate and for the presented anesthetic | (j) For a nursing horwood and operated by from that of the hosp Per occupied (k) For a partnership imary purpose of prosts, all of the following 1. a. If the total numbers is from 2 to 10 | me, as describ y a hospital ar- pital by which d bed o comprised of eviding the me ag fees: | ed under s. 65 ad which has h it is owned and f physicians or dical services of | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance d operated: \$16 nurse anesthetists, organized of physicians or nurse | | |
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| wholly over separate for the present an esthetical and esthetical an esthetical and esthetical an esthetical and esthetical | (j) For a nursing horwned and operated by from that of the hosp Per occupied (k) For a partnership imary purpose of prosts, all of the following 1. a. If the total numbers is from 2 to 10 b. If the total numbers is from 11 to 100 | me, as described a hospital are bital by which did bed by comprised or widing the means fees: The of partners are of partners. | ed under s. 65 ad which has h it is owned and f physicians or dical services of | \$4.40 55.002 (1) (j), Stats., which is ealth care liability insurance doperated: \$16 nurse anesthetists, organized of physicians or nurse ed physicians and nurse \$50 physicians and nurse | | |

2. The following fee for each of the following employees employed by the partnership as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|-------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescribers | 511 |
| Chiropractors | 584 |
| Dentists | 292 |
| Oral Surgeons | 2,192 |
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

- (L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$50
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$503
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,256
- 2. The following for each of the following employees employed by the corporation as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |

| Nurse Midwives | 3,214 |
|-------------------------------------|-------|
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescribers | 511 |
| Chiropractors | 584 |
| Dentists | 292 |
| Oral Surgeons | 2,192 |
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of employed physicians and nurse anesthetists is from 1 to 10 \$50

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$503

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,256

2. The following for each of the following employees employed by the corporation as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescriber | 511 |
| Chiropractors | 584 |
| Dentists | 292 |

| Oral Surgeons | 2,192 |
|----------------------|-------|
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

- (n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:
- 1. Per 100 outpatient visits during the last calendar year for which totals are available \$.10
- 2. 2.5% of the total annual fees assessed against all of the employed physicians.
- 3. The following for each of the following employees employed by the operational cooperative sickness plan as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|-------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescribers | 511 |
| Chiropractors | 584 |
| Dentists | 292 |
| Oral Surgeons | 2,192 |
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are available \$21

- (p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:
- 1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
- 2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 6. Ins 17.28 (6a) is repealed.

SECTION 7. EFFECTIVE DATE. This rule will take effect on July 1, 2002.

Dated at Madison, Wisconsin, this day of 2002

Connie L. O' Connell

Commissioner of Insurance



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor Connie L. O'Connell, Commissioner

June 18, 2002

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HONORABLE JUDITH ROBSON SENATE CO-CHAIRPERSON JOINT COMM FOR REVIEW OF ADM RULES SOUTH STATE CAPITOL RM 15 MADISON WI 53702

Re: Emergency Rule affecting Section Ins 17.28(6a), 17.25(3)(d)4, 17.25(3)(d)3, 17.01(3) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to wholip primary limits

Dear Senator Robson:

I am promulgating the attached rule as an emergency rule. It will be published in the official State newspaper on June 19, 2002.

If you have any questions, please contact Alice M. Shuman-Johnson at (608) 266-9892 or e-mail at Alice.Shuman-Johnson@oci.state.wi.us.

Sincerely,

Connie L. O'Connell Commissioner

CLO:AS

Attachment: 1 copy rule



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State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor Connie L. O'Connell, Commissioner

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STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

SS

I, Connie L. O'Connell, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 17.28(6a), 17.25(3)(d)4, 17.25(3)(d)3, 17.01(3) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to wholip primary limits, is duly approved and adopted by this Office on June 13, 2002.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

> IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin. on June 13, 2002.

Connie L. O'Connell

Commissioner

STATE OF WISCONSIN RECEIVED & FILED DOUGLAS LA FOLLETTE SECRETARY OF STATE



PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE

BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
REPEALING, AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to repeal s. Ins 17.28 (6a), to renumber s. Ins 17.25 (3) (d) 4, to amend s. Ins 17.01 (3) and s. Ins 17.25 (3) (d) 3, to repeal and recreate s. Ins 17.28 (6), and to create s. Ins 17.25 (3) (d) 4, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to the Wisconsin health care insurance plan's primary limits.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.61, Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2002. These fees represent a 5% decrease compared with fees paid for the 2001-02 fiscal year. The board approved these fees at its meeting on February 27, 2002, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the funding level

recommendation of the board's actuarial and underwriting committee by establishing mediation panel fees for the next fiscal year at \$ 19.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 2001-02 fiscal year mediation panel fees.

This rule also amends s. Ins. 17.25(3)(d) to reflect the increased primary limit of \$1,000,000/\$3,000,000 for occurrences on and after July 1, 1997 for the Wisconsin health care liability plan as required by s. 655.23(4)(b), Wis. Stats.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2002.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 02-035, will be filed with the secretary of state in time to take effect September 1, 2002. Because the fund fee provisions of this rule first apply on July 1, 2002, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 3, 2002.

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, $\frac{2001}{2002}$:

- (a) For physicians-- \$38.00 19.00
- (b) For hospitals, per occupied bed-- \$2.00 1.00

SECTION 2. Ins 17.25(3)(d) 3. is amended to read:

Ins 17.25(3)(d) 3. Except as provided in subd. 4. subds. 4. and 5., for occurrences on and or after July 1, 1988, and before July 1, 1997, \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year.

SECTION 3. Ins 17.25(3)(d) 4. is renumbered Ins 17.25(3)(d) 5.

SECTION 4. Ins 17.25(3)(d) 4. is created to read:

Ins 17.25(3)(d) 4. Except as provided in subd. 5., for occurrences on or after July 1, 1997, \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in any one policy year.

SECTION 5. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2002, to and including June 30, 2003:

(a) Except as provided in pars. (b) to (f) and sub. (6e), for a physician for whom this state is a principal place of practice:

| Class 1 | \$1,461 | Class 3 | \$6,063 | |
|---------|---------|---------|---------|--|
| Class 2 | \$2,630 | Class 4 | \$8,766 | |

(b) For a resident acting within the scope of a residency or fellowship program:

| Class 1 | \$731 | Class 3 | \$3,034 | |
|---------|---------|---------|---------|--|
| Class 2 | \$1.316 | Class 4 | \$4 386 | |

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes

\$877

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1

\$584

Class 3

\$2,424

| | Class 2 | \$1,051 | Class 4 | \$3,504 | |
|-------------|---------------------------|-----------------|------------------|-----------------------------------|----|
| | (e) For a physician | who practice | es fewer than | 500 hours during the fiscal yea | r, |
| limited to | o office practice and | nursing hom | e and house o | calls, and who does not practice | 9 |
| obstetric | s or surgery or assis | st in surgical | procedures: | \$365 | |
| | (f) For a physician | for whom this | s state is not a | a principal place of practice: | |
| | Class 1 | \$731 | Class 3 | \$3,034 | |
| | Class 2 | \$1,316 | Class 4 | \$4,386 | |
| | (g) For a nurse and | esthetist for w | hom this state | e is a principal place of | |
| practice: | | | | \$359 | |
| | (h) For a nurse and | esthetist for w | hom this stat | e is not a principal place of | |
| practice: | | | | \$180 | |
| | (i) For a hospital: | | | | |
| | 1. Per occupied bed | 1 | | \$88; plus | |
| | 2. Per 100 outpatie | ent visits duri | ng the last cal | lendar year for which totals | |
| are availa | ble: | | | \$4.40 | |
| | (j) For a nursing ho | me, as descri | bed under s. (| 655.002 (1) (j), Stats., which is | |
| wholly ow | ned and operated b | y a hospital a | nd which has | health care liability insurance | |
| separate i | from that of the hos | pital by which | n it is owned a | and operated: | |
| | Per occupie | d bed | | \$16 | |
| | (k) For a partnershi | p comprised | of physicians | or nurse anesthetists, organize | d |
| for the pri | mary purpose of pr | oviding the m | edical services | s of physicians or nurse | |
| anesthetis | sts, all of the following | ng fees: | | | |
| | 1. a. If the total nur | nber of partne | ers and emplo | yed physicians and nurse | |
| anesthetis | sts is from 2 to 10 | | | \$50 | |
| | b. If the total numb | er of partners | and employe | d physicians and nurse | |
| anesthetis | ts is from 11 to 100 | | | \$503 | |
| | c. If the total number | er of partners | and employed | d physicians and nurse | |
| anesthetis | ts exceeds 100 | | | \$1,256 | |
| | | | | | |

2. The following fee for each of the following employees employed by the partnership as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|-------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
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- (L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$50
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| Physician Assistants | 292 |

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

 $1.\ a.$ If the total number of employed physicians and nurse anesthetists is from 1 to 10 \$50

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$503

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,256

2. The following for each of the following employees employed by the corporation as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|-------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescribers | 511 |
| Chiropractors | 584 |
| Dentists | 292 |
| | |

| Oral Surgeons | 2,192 |
|----------------------|-------|
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

- (n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:
- 1. Per 100 outpatient visits during the last calendar year for which totals are available \$.10
- 2. 2.5% of the total annual fees assessed against all of the employed physicians.
- 3. The following for each of the following employees employed by the operational cooperative sickness plan as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|-------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescribers | 511 |
| Chiropractors | 584 |
| Dentists | 292 |
| Oral Surgeons | 2,192 |
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are available \$21

- (p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:
- 1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
- 2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 6. Ins 17.28 (6a) is repealed.

SECTION 7. EFFECTIVE DATE. This rule will take effect on July 1, 2002.

Dated at Madison, Wisconsin, this day of 200

Connie L. O' Connell

Commissioner of Insurance



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor
Connie L. O'Connell, Commissioner

June 12, 2002

121 East Wilson Street • P.O. Box 7873 Madison, Wisconsin 53707-7873 Phone: (608) 266-3585 • Fax: (608) 266-9935 E-Mail: information@oci.state.wi.us Web Address: oci.wi.gov

Wisconsin.gov

HONORABLE JUDITH ROBSON SENATE CO-CHAIRPERSON JOINT COMM FOR REVIEW OF ADM RULES SOUTH STATE CAPITOL RM 15 MADISON WI 53702

Re:

Emergency Rule affecting Section Ins 17.28(6a), 17.25(3)(d)4, 17.25(3)(d)3, 17.01(3) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to wholip primary limits

Dear Senator Robson:

I will be promulgating an emergency rule. Attached is a draft of the rule for your review. The reasons for proceeding with an emergency rule are given in the Finding of Emergency in the rule. It will be published in the official State newspaper in about a week.

If you have any questions, please contact Alice M. Shuman-Johnson at (608) 266-9892 or e-mail at Alice.Shuman-Johnson@oci.state.wi.us.

Sincerely,

Connie L. O'Connell Commissioner

CLO:AS

Attachment: 1 copy draft rule



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor Connie L. O'Connell, Commissioner Wisconsin.gov

June 13, 2002

121 East Wilson Street • P.O. Box 7873 Madison, Wisconsin 53707-7873 Phone: (608) 266-3585 • Fax: (608) 266-9935 E-Mail: information@oci.state.wi.us Web Address: oci.wi.gov

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

SS

I, Connie L. O'Connell, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 17.28(6a), 17.25(3)(d)4, 17.25(3)(d)3, 17.01(3) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to whelip primary limits, is duly approved and adopted by this Office on June 13, 2002.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on June 13, 2002.

Connie L. O'Connell

Commissioner

PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE

BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
REPEALING, AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund propose an order to repeal s. Ins 17.28 (6a), to renumber s. Ins 17.25 (3) (d) 4, to amend s. Ins 17.01 (3) and s. Ins 17.25 (3) (d) 3, to repeal and recreate s. Ins 17.28 (6), and to create s. Ins 17.25 (3) (d) 4, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to the Wisconsin health care insurance plan's primary limits.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

Statutes interpreted: ss. 655.27 (3) and 655.61, Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2002. These fees represent a 5% decrease compared with fees paid for the 2001-02 fiscal year. The board approved these fees at its meeting on February 27, 2002, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the funding level

recommendation of the board's actuarial and underwriting committee by establishing mediation panel fees for the next fiscal year at \$ 19.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 2001-02 fiscal year mediation panel fees.

This rule also amends s. Ins. 17.25(3)(d) to reflect the increased primary limit of \$1,000,000/\$3,000,000 for occurrences on and after July 1, 1997 for the Wisconsin health care liability plan as required by s. 655.23(4)(b), Wis. Stats.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2002.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 02-035, will be filed with the secretary of state in time to take effect September 1, 2002. Because the fund fee provisions of this rule first apply on July 1, 2002, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 3, 2002.

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, 2001 2002:

- (a) For physicians-- \$38.00 19.00
- (b) For hospitals, per occupied bed-- \$2.00 1.00

SECTION 2. Ins 17.25(3)(d) 3. is amended to read:

Ins 17.25(3)(d) 3. Except as provided in subd. 4. subds. 4. and 5., for occurrences on and or after July 1, 1988, and before July 1, 1997, \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year.

SECTION 3. Ins 17.25(3)(d) 4. is renumbered Ins 17.25(3)(d) 5.

SECTION 4. Ins 17.25(3)(d) 4. is created to read:

Ins 17.25(3)(d) 4. Except as provided in subd. 5., for occurrences on or after July 1, 1997, \$1,000,000 for each occurrence and \$3,000,000 for all occurrences in any one policy year.

SECTION 5. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2002, to and including June 30, 2003:

(a) Except as provided in pars. (b) to (f) and sub. (6e), for a physician for whom this state is a principal place of practice:

| Class 1 | \$1,461 | Class 3 | \$6,063 |
|---------|---------|---------|---------|
| Class 2 | \$2,630 | Class 4 | \$8,766 |

(b) For a resident acting within the scope of a residency or fellowship program:

| Class 1 | \$731 | Class 3 | \$3,034 |
|---------|---------|---------|---------|
| Class 2 | \$1.316 | Class 4 | \$4.386 |

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes

\$877

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1 \$584 Class 3 \$2,424

| | | Class 2 | \$1,051 | Class 4 | \$3,504 |
|--|-----------|---|-----------------|------------------|---------------------------------|
| | (e) For | a physician v | vho practices | fewer than 500 | hours during the fiscal year, |
| limited to office practice and nursing home and house calls, and who does not practice | | | | | |
| obstetric | s or sur | gery or assist | in surgical pr | ocedures: | \$365 |
| | (f) For | a physician fo | or whom this | state is not a p | rincipal place of practice: |
| | , | Class 1 | \$731 | Class 3 | \$3,034 |
| | | Class 2 | \$1,316 | Class 4 | \$4,386 |
| | (g) For | a nurse anes | thetist for wh | om this state is | s a principal place of |
| practice: | | | | | \$359 |
| | (h) For | a nurse anes | thetist for wh | om this state i | s not a principal place of |
| practice: | | | | | \$180 |
| | (i) For | a hospital: | | | |
| | 1. Per | occupied bed | | | \$88; plus |
| | 2. Per | 100 outpatien | t visits during | g the last calen | dar year for which totals |
| are availa | able: | | | | \$4.40 |
| | (j) For | a nursing hon | ne, as describ | ed under s. 65 | 5.002 (1) (j), Stats., which is |
| wholly ov | vned an | d operated by | a hospital an | d which has h | ealth care liability insurance |
| separate | from th | at of the hosp | ital by which | it is owned and | d operated: |
| | | Per occupied | bed | | \$16 |
| | (k) For | a partnership | comprised of | physicians or | nurse anesthetists, organized |
| for the pr | imary p | ourpose of pro | viding the me | dical services o | of physicians or nurse |
| anestheti | sts, all | of the followin | g fees: | | |
| | 1. a. If | 1. a. If the total number of partners and employed physicians and nurse | | | |
| anestheti | | | | | |
| | sts is fr | om 2 to 10 | | | \$50 |
| | | | r of partners a | and employed] | \$50 physicians and nurse |
| anesthetis | b. If the | | r of partners a | and employed j | |
| | b. If the | e total numbe | - | | physicians and nurse |
| | b. If the | e total numbe om 11 to 100 e total number | - | | physicians and nurse \$503 |

2. The following fee for each of the following employees employed by the partnership as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|-------------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |
| Nurse Midwives | 3,214 |
| Advanced Nurse Midwives | 3,360 |
| Advanced Practice Nurse Prescribers | 511 |
| Chiropractors | 584 |
| Dentists | 292 |
| Oral Surgeons | 2,192 |
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

- (L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$50
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$503
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,256
- 2. The following for each of the following employees employed by the corporation as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|------------------------------|-----------------------|
| Nurse Practitioners | \$ 365 |
| Advanced Nurse Practitioners | 511 |

| Nurse Midwives | 3,214 |
|-------------------------------------|-------|
| Advanced Nurse Midwives | 3,360 |
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| Chiropractors | 584 |
| Dentists | 292 |
| Oral Surgeons | 2,192 |
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

- (m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:
- 1. a. If the total number of employed physicians and nurse anesthetists is from 1 to 10 \$50
- b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$503
- c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,256
- 2. The following for each of the following employees employed by the corporation as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fee |
|------------------------------------|-----------------------|
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|----------------------|-------|
| Podiatrists-Surgical | 6,209 |
| Optometrists | 292 |
| Physician Assistants | 292 |

- (n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:
- 1. Per 100 outpatient visits during the last calendar year for which totals are available \$.10
- 2. 2.5% of the total annual fees assessed against all of the employed physicians.
- 3. The following for each of the following employees employed by the operational cooperative sickness plan as of July 1, 2002:

| Employed Health Care Persons | July 1, 2002 Fund Fe | e |
|---|----------------------|---|
| Nurse Practitioners | \$ 365 | |
| Advanced Nurse Practitioners | 511 | |
| Nurse Midwives Advanced Nurse Midwives | 3,214 3,360 | |
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| Podiatrists-Surgical | 6,209 | |
| Optometrists | 292 | |
| Physician Assistants | 292 | |
| | | |

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are available \$21

- (p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:
- 1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
- 2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 6. Ins 17.28 (6a) is repealed.

SECTION 7. EFFECTIVE DATE. This rule will take effect on July 1, 2002.

Dated at Madison, Wisconsin, this day of 2002

Connie L. O' Connell

Commissioner of Insurance