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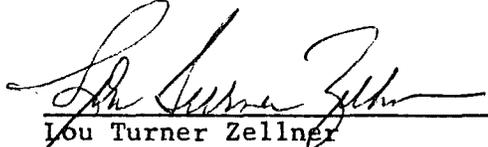
STATE OF WISCONSIN)
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Lou Turner Zellner, Deputy Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order amending a rule relating to the Wisconsin Health Care Liability Insurance Plan was issued by this office on March 26, 1985.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 26th day of March, 1985.



Lou Turner Zellner
Deputy Commissioner of Insurance

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STATE OF WISCONSIN
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DOUGLAS LA FOLLETTE
SECRETARY OF STATE

6-1-85

ORDER OF THE COMMISSIONER OF INSURANCE

AMENDING RULE

STATE OF WISCONSIN
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To amend Ins 17.25 (1) (b), (2), (4) (c), (5) (a), (10) (a), (12) (a) 3. through (12) (a) 12., and (15) relating to the Wisconsin Health Care Liability Insurance Plan.

DOUGLAS LA FOLLETTE
SECRETARY OF STATE

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

The purpose of these changes is to correct a previous oversight and to incorporate partnerships and corporations comprised of and owned by physicians, podiatrists, and nurse anesthetists as qualified health care providers authorized to participate in the Wisconsin Health Care Liability Insurance Plan. The changes also implement revisions made to ss. 619.01 and 619.04 by 1983 Wis. Act 158 and revisions adopted by the Board of Governors to the rate of commission paid an agent. Ins 17.25 implements and interprets Chapters 619 and 655.

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Pursuant to the authority vested in the Commissioner of Insurance by ss. 601.41 (3), 619.01 (1), 619.04 (10) and 655.003, Stats., the Commissioner hereby amends rules interpreting Chapters 619 and 655, Stats., as follows:

SECTION 1. Ins 17.25 (1) (b), (2), (4) (c), (5) (a), (10) (a), and (12) (a) 3. and 4. are amended to read:

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(1) (b) Health care liability insurance is not readily available in the voluntary market for medical or osteopathic physicians or podiatrists, licensed under ch. 448, Stats., and nurse anesthetists licensed under ch. 441, Stats., who practice in this state; for partnerships comprised of such physicians, podiatrists or nurse anesthetists; for corporations owned by such physicians, podiatrists or nurse anesthetists and operated for the purposes of providing medical services; and for operating cooperative sickness care plans organized under ss. 185.981 to 185.985, Stats., which directly provide services in their own facilities with salaried employees; and for properly accredited teaching facilities conducting approved training programs for medical or osteopathic physicians licensed or to be licensed under ch. 448, Stats., or for nurses licensed or to be licensed under ch. 441, Stats., ~~is not readily available in the voluntary market.~~ Health care liability insurance and liability coverage normally incidental to health care liability insurance for hospitals as defined by s. 50.33 (1) (a) and (c), Stats., but excluding, except as otherwise provided herein, those facilities exempted by s. 50.39 (3), Stats., which operate in this state are not readily available in the voluntary market. Health care liability insurance and liability coverage normally incidental to health care liability insurance for those nursing homes as defined in s. 50.01 (3) (a), Stats., which operate in this state and whose functional operations are combined with a hospital as herein defined as a single entity, whether or not the nursing home operations are physically separate from the hospital operations, are not readily available in the voluntary

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market. Health care liability insurance and liability coverage normally incidental to health care liability insurance for health care facilities owned or operated by a political subdivision of the state of Wisconsin are not readily available in the voluntary market.

(2) PURPOSE. This rule is intended to implement and interpret ch. 619, Stats., for the purpose of establishing procedures and requirements for a mandatory risk sharing plan to provide health care liability insurance coverage on a self-supporting basis for medical or osteopathic physicians or podiatrists licensed under ch. 448, Stats., and nurse anesthetists licensed under ch. 441, Stats., who practice in this state; partnerships comprised of such physicians, podiatrists or nurse anesthetists; corporations owned by such physicians, podiatrists or nurse anesthetists and operated for the purposes of providing medical services; for operating cooperative sickness care plans organized under ss. 185.981 to 185.985, Stats., which directly provide service in their own facilities with salaried employes; and for properly accredited teaching facilities conducting approved training programs for medical or osteopathic physicians licensed or to be licensed under ch. 448, Stats., or for nurses licensed or to be licensed under ch. 441, Stats.; and to provide health care liability insurance coverage and liability coverages normally incidental to health care liability insurance on a self-supporting basis for all hospitals as defined by s. 50.33 (1) (a) and (c), Stats., but excluding those facilities exempted by s. 50.39 (3), Stats., except as otherwise provided herein, which operate in this state. Health care liability insurance coverage and liability coverages normally incidental to health care liability insurance on a

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self-supporting basis for those nursing homes as defined in s. 50.01 (3) (a), Stats., which operate in the state and whose functional operations are combined with a hospital as herein defined as a single entity, whether or not the nursing home operations are physically separate from the hospital operations is also provided. Health care liability insurance coverage and liability coverage normally incidental to health care liability insurance on a self-supporting basis for those health care facilities owned or operated by a political subdivision of the state of Wisconsin is also provided. Health care liability insurance coverage for allied health care personnel employed by any of these health care providers while working within scope of such employment may also be provided. This rule is also intended to encourage the improvement in reasonable loss prevention measures and to encourage the maximum use of the existing voluntary market.

(4) (c) Health care liability insurance means insurance against loss, expense and liability resulting from errors, omissions or neglect in the performance of any professional service by any medical or osteopathic physician or podiatrist licensed under ch. 448, Stats., and nurse anesthetists licensed under ch. 441, Stats., who practice in the state; by a partnership comprised of such physicians, podiatrists or nurse anesthetists; by a corporation owned by such physicians, podiatrists or nurse anesthetists and operated for the purposes of providing medical services; by operating cooperative sickness care plans organized under ss. 185.981 to 185.985, Stats., which directly provide services in their own facilities with salaried employees; by properly accredited teaching facilities conducting approved training programs for

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medical or osteopathic physicians licensed or to be licensed under ch. 448, Stats., or for nurses licensed or to be licensed under ch. 441, Stats.; by all hospitals as defined by s. 50.33 (1) (a) and (c), Stats., but excluding those facilities exempted by s. 50.39 (3), Stats., except as otherwise provided; by those nursing homes as defined in s. 50.01 (3) (a), Stats., whose functional operations are combined with a hospital as herein defined as a single entity, whether or not nursing home operations are physically separate from the hospital operations, which operate in this state; and by health care facilities owned or operated by a political subdivision of the state of Wisconsin.

(5) INSURANCE COVERAGE. (a) All of the following which operate in this state and are equitably entitled to but are otherwise unable to obtain suitable health care liability insurance in the voluntary market shall be eligible to apply for insurance under this plan:

1. All medical or osteopathic physicians or podiatrists licensed under ch. 448, Stats.;

2. Nurse anesthetists licensed under ch. 441, Stats.;

3. Partnerships comprised of physicians, podiatrists or nurse anesthetists;

4. Corporations owned by physicians, podiatrists or nurse anesthetists and operated for the purposes of providing medical services;

~~3~~ 5. Operating cooperative sickness case-care plans organized under s. 185.981 to 185.985, Stats., which directly provide services in their own facilities with salaried employees;

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~~4~~ 6. Properly accredited teaching facilities conducting approved training programs for medical or osteopathic physicians licensed or to be licensed under ch. 448, Stats., or for nurses licensed or to be licensed under ch. 441, Stats.;

~~5~~ 7. All hospitals as defined by s. 50.33 (1) (a) and (c), Stats., but excluding those facilities exempted by s. 50.39 (3), Stats., except as otherwise provided herein;

~~6~~ 8. Nursing homes defined in s. 50.01 (3) (a), Stats., whose functional operations are combined with a hospital as a single entity, whether or not the nursing home operations are physically separate from the hospital operations;

~~7~~ 9. Health care facilities owned or operated by a political subdivision of the state of Wisconsin.

~~8~~ 10. Corporations organized to manage approved training programs for medical or osteopathic physicians licensed under ch. 448, Stats.

~~9~~ 11. Upon request of an insured under subds. 1 to ~~8~~-10 allied health care personnel employed by such insured and working within the scope of such employment.

(10) APPLICATION FOR INSURANCE. (a) Any medical or osteopathic physician, podiatrist, nurse anesthetist; partnership comprised of such physicians, podiatrists or nurse anesthetists; corporation owned by such physicians, podiatrists or nurse anesthetist and operated for the purposes of providing medical services; operating cooperative sickness care plan, teaching facility, hospital, nursing home, or health care facility owned or operated by a political subdivision of the state of

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Wisconsin eligible for insurance under this plan may submit an application for insurance by the plan directly or through any licensed agent. Such application may include requests for coverage of allied health care providers while working within the scope of such employment.

(12) (a) 3. Rates shall be calculated on a basis which will make the plan self-supporting. ~~and Rates~~ shall be presumed to be excessive if they produce a long run ~~profit or surplus excess funds~~ for the Plan over unpaid losses and, unpaid loss adjustment expenses, and loss reserves (including contingency reserves) any additions to the compulsory or security surplus established for the Plan by direction of the commissioner pursuant to s. 619.01 (1) (c) 2., Stats., and acting under ss. 623.11 and 623.12, Stats., the premium assessment imposed each year by s. 619.01 (8m), Stats., and other expenses.

(12) (a) 4. Any deficit incurred by the Plan in any one year shall be recouped by actuarially sound rate increases applicable prospectively which take into account any Plan surplus as defined in subd. 5., or any surplus over the loss reserves of the Plan in any one year shall be distributed by rate decreases applicable prospectively.

SECTION 2. Ins 17.25 (12) (a) 5. through Ins 17.25 (12) (a) 10. are renumbered Ins 17.25 (12) (a) 7. through Ins 17.25 (12) (a) 12.

SECTION 3. Ins 17.25 (12) (a) 5. and 6. are created to read:

5. The Plan shall maintain a compulsory surplus and a security surplus as determined by the commissioner acting under ss. 623.11 and

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623.12, Stats. For purposes of this section, the terms "compulsory surplus" and "security surplus" are defined in s. Ins 14.02.

6. Excess funds shall be distributed as follows:

a. If the Plan accumulates funds in excess of the surplus required under s. 619.01 (1) (c) 2., Stats., and incurred liabilities, including reserves for claims incurred but not yet reported, the board of governors shall return those excess funds to the insureds by means of refunds or prospective rate decreases.

b. The board of governors shall annually determine whether excess funds have accumulated.

c. If it determines that excess funds have accumulated, the board of governors shall specify the method and formula for distributing the excess funds.

SECTION 4. Ins 17.25 (12) (a) 11. is repealed.

SECTION 5. Ins 17.25 (12) (a) 12 is renumbered Ins 17.25 (12) (a) 13.

SECTION 6. Ins 17.25 (15) (a) is amended to read:

(15) COMMISSION. Commission to the licensed agent designated by the applicant shall be ~~\$125.00~~ 15% for each new or renewal policy issued to medical or osteopathic physicians; ~~\$15.00-for-each-new-or-renewal-policy-issued-to~~ nurse anesthetists; ~~\$40-for-each-new-or-renewal-policy-issued-to~~ podiatrists; and partnerships comprised of or corporations owned by physicians, podiatrists or nurse anesthetists subject to a maximum of \$150 per policy; and 5% of the annual premium for each new or

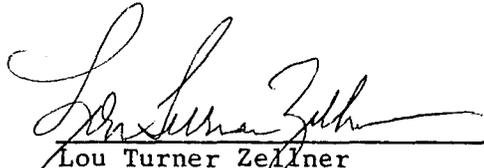
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renewal policy issued to operating cooperative sickness care plans, or to teaching facilities, or to hospitals, or to health care facilities owned and operated by a political subdivision of the state of Wisconsin, not to exceed \$2,500.00 per policy period. The agent need not be licensed with the servicing company.

The changes, amendments and repeals contained in this order shall take effect on the first day of the month following its publication in the Wisconsin Administrative Register as provided in s. 227.026 (1), Stats.

Dated at Madison, Wisconsin, this 26th day of March, 1985.



Lou Turner Zepfner
Deputy Commissioner of Insurance

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The State of Wisconsin
Office of the Commissioner of Insurance

Thomas P. Fox
Commissioner
(608) 266-3585

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DATE: March 26, 1985
TO: Gary Poulson
FROM: M. E. Van Cleave
Assistant Deputy Commissioner of Insurance
SUBJECT: Ins 17.25, Clearinghouse No. 84-255

A handwritten signature in dark ink, appearing to be "M. E. Van Cleave", written over the "FROM" line of the memo.

Enclosed are two copies of an Order of the Commissioner of Insurance amending Ins 17.25 relating to the Wisconsin Health Care Liability Insurance Plan.

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Enclosure
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