

CR 87-22

RECEIVED

MAY 28 1987

12:50 PM  
Revisor of Statutes  
Bureau

STATE OF WISCONSIN )  
 )  
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order repealing, renumbering, amending and creating a rule relating to making various changes in rules governing the Wisconsin Health Care Liability Insurance Plan was issued by this office May 27, 1987.

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 27th day of May, 1987.

  
\_\_\_\_\_  
Robert D. Haase  
Commissioner of Insurance

7955K-1

STATE OF WISCONSIN  
RECEIVED AND FILED

MAY 27 1987

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

8-1-87

RECEIVED

STATE OF WISCONSIN  
RECEIVED AND FILED

MAY 28 1987

Revisor of Statutes  
Bureau

MAY 27 1987

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

ORDER OF THE COMMISSIONER OF INSURANCE

CREATING A RULE

To repeal Ins 17.25 (7) (b) 1. a and b; to renumber and amend Ins 17.25 (5) (a) 11 and (b) and (7) (b) 1 (intro.); to amend Ins 17.25 (1) (b), (2), (4) (c), (5) (a) 3, 4 and 7, (7) (b) 2, 3 and 5, (10) (a), (12) (intro.), (14) (a) (intro.) and 1, and (15); and to create Ins 17.25 (5) (a) 7m and 11 and (b) 1 to 3, (7) (b) 2m and (14) (a) 3 and 4, relating to making various changes in the rules governing the Wisconsin health care liability insurance plan.

---

ANALYSIS BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

This rule makes the following eligible for health care liability coverage under the Wisconsin health care liability insurance plan (WHCLIP): cardiovascular perfusionists and entities operated in connection with one or more hospitals which assist the hospital or hospitals in providing diagnosis or treatment of, or care for, patients of the hospital, and are owned by or are affiliates of the hospital or hospitals. An affiliate of a hospital is a partnership, association or body politic or corporate which controls, is

258R1  
02/13/87

controlled by or is under common control with the hospital. It also permits general partnerships, as well as corporations, organized for the purpose of providing specified medical services, to participate in WHCLIP.

The rule also: 1) clarifies that ambulatory surgery centers are eligible to participate in WHCLIP; 2) amends several sections of the rule governing WHCLIP for consistency with statutory changes enacted in 1985 Wisconsin Act 340; and 3) deletes certain superfluous language relating to prohibiting discrimination in rate-setting and classification.

This rule implements ss. 619.01 and 619.04, Stats., and is authorized by s. 619.04 (10), Stats.

---

SECTION 1. Ins 17.25 (1) (b) is amended to read:

Ins 17.25 (1) (b) Health care liability insurance is, liability coverage normally incidental to health care liability insurance or both are not readily available in the voluntary market for ~~medical-or-osteopathic physicians-or-podiatrists,-licensed-under-ch.-448,-Stats.,-and-nurse anesthetists-or-nurse-midwives-licensed-under-ch.-441,-Stats.,-who-practice-in this-state,-for-partnerships-comprised-of-such-physicians,-podiatrists,-nurse anesthetists-or-nurse-midwives,-for-corporations-owned-by-such-physicians, podiatrists,-nurse-anesthetists-or-nurse-midwives-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-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.~~ 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 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 the persons specified in sub. (5) (a).~~

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

Ins 17.25 (2) PURPOSE. This section 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, liability coverage normally incidental to health care liability insurance or both on a self-supporting basis for medical or osteopathic physicians or podiatrists licensed under ch. 448, Stats., and nurse anesthetists or nurse midwives licensed under ch. 441, Stats., who practice in this state; partnerships comprised of such physicians, podiatrists, nurse anesthetists or nurse midwives; corporations owned by such physicians, podiatrists, nurse anesthetists or nurse midwives 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 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 licenses 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 self-supporting basis 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 physical separate from the hospital operations is also provided.--Health care liability insurance coverage and liability coverages 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 the persons specified in sub. (5) (a) and, if necessary, for allied health care personnel employed by any of these health care providers those persons while working within the scope of such employment ~~may also be provided~~. This section is also intended to encourage the improvement in reasonable loss prevention measures and to encourage the maximum use of the existing voluntary market.~~

SECTION 3. Ins 17.25 (4) (c) is amended to read:

Ins 17.25 (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 or nurse midwives licensed under ch. 441, Stats., who practice in this state; by a partnership comprised of such physicians, podiatrists, nurse anesthetists or nurse midwives; by a corporation owned by such physicians, podiatrists, nurse anesthetists or nurse midwives 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 employes; by 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.; 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~~ person specified in sub. (5) (a).

SECTION 4. Ins 17.25 (5) (a) 3, 4 and 7 are amended to read:

Ins 17.25 (5) (a) 3. Partnerships comprised of physicians, podiatrists ~~or~~, nurse anesthetists, nurse midwives or cardiovascular perfusionists;

4. Corporations ~~owned by~~ and general partnerships organized for the primary purpose of providing the medical services of physicians, podiatrists ~~or~~, nurse anesthetists and operated for the purposes of providing medical services, nurse midwives or cardiovascular perfusionists;

7. All hospitals as defined by s. 50.33 ~~(1)~~ (2) (a) and (c), Stats., including, but not limited to ambulatory surgery centers, as defined in s. HSS 123.14 (2) (a), but excluding those facilities exempted by s. 50.39 (3), Stats., except as otherwise provided herein;

SECTION 5. Ins 17.25 (5) (a) 7m is created to read:

Ins 17.25 (5) (a) 7m. An entity operated in connection with one or more hospitals, as defined in s. 50.33 (2) (a) and (c), Stats., which assists the hospital or hospitals in providing diagnosis or treatment of, or care for, patients of the hospital or hospitals, and which is owned by or is an affiliate, as defined under s. 600.03 (1), Stats., of the hospital or hospitals;

SECTION 6. Ins 17.25 (5) (a) 11 is renumbered Ins 17.25 (5) (am) and amended to read:

Ins 17.25 (5) (am) Upon request of an insured under ~~subds. 1 to 10~~ par. (a), allied health care personnel employed by ~~such~~ the insured and working within the scope of ~~such~~ employment are eligible for insurance under the plan.

SECTION 7. Ins 17.25 (5) (a) 11 is created to read:

Ins 17.25 (5) (a) 11. Cardiovascular perfusionists.

SECTION 8. Ins 17.25 (5) (b) is renumbered Ins 17.25 (5) (b) (intro.) and amended to read:

Ins 17.25 (5) (b) (intro.) The maximum limits of coverage for the type of health care liability insurance defined in sub. (4) (c) which may be placed under this Plan are ~~\$200,000-per-claim-and-\$600,000-aggregate-for-all claims-in-any-one-policy-year.~~ the following:

SECTION 9. Ins 17.25 (5) ~~(b)~~ 1 to 3 are created to read:

Ins 17.25 (5) (b) 1. For all occurrences before July 1, 1987, \$200,000 for each occurrence and \$600,000 per year for all occurrences in any one policy year.

2. For occurrences on or after July 1, 1987, and before July 1, 1988, \$300,000 for each occurrence and \$900,000 for all occurrences in any one policy year.

3. For occurrences on or after July 1, 1988, \$400,000 for each occurrence and \$1,000,000 for all occurrences in any one policy year.

SECTION 10. Ins 17.25 (7) (b) 1 (intro.) is renumbered Ins 17.25 (7) (b) 1 and amended to read:

Ins 17.25 (7) (b) 1. The commissioner shall appoint ~~5~~ 3 board members ~~from insurers who are members of the Plan~~ representing the insurance industry.

SECTION 11. Ins 17.25 (7) (b) 1. a and b are repealed.

SECTION 12. Ins 17.25 (7) (b) 2, 3 and 5 are amended to read:

Ins 17.25 (7) (b) 2. The state bar association shall appoint one board member ~~who shall be an attorney.~~

3. The Wisconsin medical society shall appoint ~~one~~ 2 board member ~~who shall be a physician~~ members.

5. The Governor shall appoint ~~2~~ 4 public board members for staggered 3-year terms who at least 2 of whom are not attorneys or physicians and ~~who~~ are not professionally affiliated with any hospital or insurance company.

SECTION 13. Ins 17.25 (7) (b) 2m is created to read:

Ins 17.25 (7) (b) 2m. The Wisconsin academy of trial lawyers shall appoint one board member.

--

SECTION 14. Ins 17.25 (10) (a) is amended to read:

Ins 17.25 (10) (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 Wisconsin eligible for insurance under this plan~~ person specified in sub. (5) (a) 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.

SECTION 15. Ins 17.25 (12) (intro.) is amended to read:

Ins 17.25 (12) (intro.) Rates, rate classifications, and filings for coverages issued by the Plan shall be generally subject to ch. 625, Stats., and specifically shall meet the requirements of ss. 619.01 (1) (c) 2., 619.04 (5), 625.11, and 625.12, Stats. ~~Rates and rate classifications shall not discriminate on the basis of the insured's sex, marital status, race, color, creed or national origin.~~ Information supporting the rates and rate classifications filed with the commissioner shall be made a part of such filing. Rates, rate classifications and filings shall be developed in accordance with the following standards or rules:

SECTION 16. Ins 17.25 (14) (a) (intro.) and 1 are amended to read:

Ins 17.25 (14) (a) (intro.) The Plan ~~shall~~ may not cancel or refuse to renew a policy issued under the Plan except for one or more of the following reasons:

1. Nonpayment of premium; ~~or.~~

SECTION 17. Ins 17.25 (14) (a) 3. and 4. are created to read:

Ins 17.25 (14) (a) 3. Revocation of accreditation, registration, certification or other approval issued to the insured by a state or federal agency or national board, association or organization.

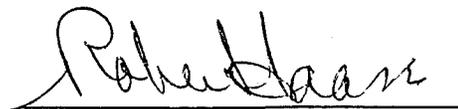
4. If the insured is not licensed, accredited, registered, certified or otherwise approved, failure to provide evidence that the insured continues to provide health care in accordance with the code of ethics applicable to the insured's profession, if the board requests such evidence.

SECTION 18. Ins 17.25 (15) is amended to read:

Ins 17.25 (15) COMMISSION. Commission to the licensed agent designated by the applicant shall be 15% for each new or renewal policy issued to medical or osteopathic physicians, nurse anesthetists, nurse midwives, cardiovascular perfusionists, podiatrists, and partnerships comprised of or corporations ~~owned by~~ or general partnerships organized for the primary purpose of providing the medical services of physicians, podiatrists or, nurse anesthetists, nurse midwives or cardiovascular perfusionists subject to a maximum of \$150 per policy; and 5% of the annual premium for each new or renewal policy issued to operating cooperative sickness care plans, or to teaching facilities, or to hospitals, or to entities specified in sub. (5) (a) 7m, 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.

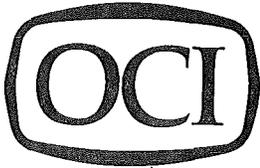
EFFECTIVE DATE. Pursuant to section 227.24 (1) (c), Stats., this rule takes effect upon publication.

Dated at Madison, Wisconsin, this 27th day of May, 1987.



Robert D. Haase  
Commissioner of Insurance

7953K  
05/27/87



**The State of Wisconsin**  
**Office of the Commissioner of Insurance**

**RECEIVED**

**MAY 28 1987**

Revisor of Statutes  
Bureau

**Robert D. Haase**  
**Commissioner**  
**(608) 266-3585**

DATE: May 27, 1987  
TO: Gary Poulson  
FROM: Mary Grossman, Director  
Office of Policy Analysis  
SUBJECT: Ins 17.25, Clearinghouse No. 87-22

Enclosed are two copies of an Order of the Commissioner of Insurance repealing, renumbering, amending and creating rule Ins 17.25, Clearinghouse No. 87-22 relating to changes in the rules governing the Wisconsin Health Care Liability Insurance Plan.

MG:LH:imk  
Enclosure  
7955K-2