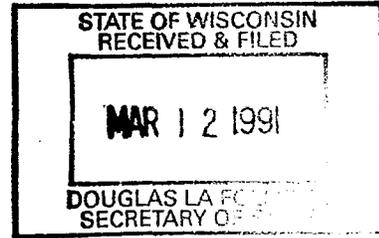


CR 90-263



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

I, Robert D. Haase, Commissioner of Insurance and custodian of the official records of this Office, certify that the attached rule-making order affecting ss. Ins 17.25 and 17.28, Wis. Adm. Code, relating to standards for granting retroactive coverage under the Wisconsin Health Care Liability Insurance Plan and the Patients Compensation Fund, was issued by this Office on March 12, 1991.

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 whole of the original.

Dated at Madison, Wisconsin, this 12th day of March, 1991.

A handwritten signature in cursive script, appearing to read "Robert Haase", written over a horizontal line.

Robert D. Haase
 Commissioner of Insurance

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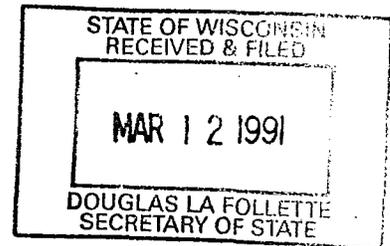
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ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

AMENDING A RULE

To amend Ins 17.25 (10) (cm) and 17.28 (3s) (b) relating to standards for granting retroactive coverage under the Wisconsin health care liability insurance plan and the patients compensation fund.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3) and 655.004, Stats.

Statutes Interpreted: ss. 655.001 (8) and 655.23 (3) (a), Stats.

The board of governors of the Wisconsin health care liability insurance plan (plan) and the patients compensation fund (fund) occasionally receives requests from health care providers who are required to participate in the fund but have failed to procure primary insurance coverage, fund coverage, or both for certain periods in the past. The failure in many cases is the result of an administrative error on the part of the health care provider's employer. The board will grant retroactive fund coverage and, if necessary, plan coverage if the provider furnishes the board with an affidavit describing the necessity for the coverage and stating that the provider has no

notice of any pending malpractice claim or knowledge of a threatened claim or of an occurrence that might give rise to such a claim.

The current rule requires that the provider must show to the board that circumstances previously unknown to him or her require retroactive coverage by the fund. This rule requires instead that the provider must submit a timely request for retroactive coverage and show that the failure to procure coverage occurred through no fault of the provider and despite the fact that he or she acted in good faith. The content of the affidavit required under the current rule remains the same.

SECTION 1. Ins 17.25 (10) (cm), Wis. Adm. Code, is amended to read:

17.25 (10) (cm) The board may authorize retroactive coverage by the plan for a health care provider, as defined in s. 655.001 (8), Stats., if the provider ~~furnishes~~ submits a timely request for retroactive coverage showing that the failure to procure coverage occurred through no fault of the provider and despite the fact that the provider acted reasonably and in good faith. The provider shall furnish the board with an affidavit describing the necessity for the retroactive coverage and stating that the provider has no notice of any pending claim alleging malpractice or knowledge of a threatened claim or of any occurrence that might give rise to such a claim.

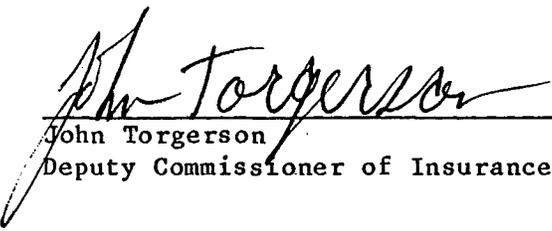
SECTION 2. Ins 17.28 (3s) (b), Wis. Adm. Code, is amended to read:

17.28 (3s) (b) The board may authorize retroactive fund coverage for a provider who ~~shows that circumstances previously unknown to him or her require retroactive participation in the fund if the provider furnishes~~ submits a timely request for retroactive coverage showing that the failure to procure coverage occurred through no fault of the provider and despite the

fact that the provider acted reasonably and in good faith. The provider shall furnish the board with an affidavit describing the necessity for the retroactive coverage and stating that the provider has no notice of any pending claim alleging malpractice or knowledge of a threatened claim or of any occurrence that might give rise to such a claim. The authorization shall be in writing, specifying the effective date of fund coverage.

SECTION 3. EFFECTIVE DATE. This rule will take effect on the first day of the first month after publication, as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin, this 11 day of MARCH 1991.



John Torgerson
Deputy Commissioner of Insurance

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