

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE  
AND THE  
BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND  
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 amend s. Ins 17.01 (3), and to repeal and recreate s. Ins 17.28 (6), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2004.

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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: s. 655.27 (3), 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, 2004. These fees represent a 20 % decrease compared with fees paid for the 2003-04 fiscal year. The board approved these fees at its meetings on December 17, 2003 and on February 25, 2004, based on the recommendation of the board's actuarial and underwriting committee and reports of the fund's actuaries.

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 \$46.00 for physicians and \$3.00 per occupied bed for hospitals, representing an increase from 2003-04 fiscal year mediation panel fees.

COMPARISON OF SIMILAR RULES IN ADJACENT STATES AS FOUND BY OCI:

To the fund board's and OCI's knowledge there are no similar rules in the adjacent states to compare this rule to as none of these states have a patients compensation fund created by statute where rates are directed to be established yearly by rule as is true in Wisconsin.

SUMMARY OF AND PRELIMINARY COMPARISON WITH ANY EXISTING OR PROPOSED FEDERAL REGULATION THAT IS INTENDED TO ADDRESS THE ACTIVITIES TO BE REGULATED BY THE PROPOSED RULE:

To the fund board's and OCI's knowledge there is no existing or proposed federal regulation that is intended to address patient compensation fund rates, administration or activities.

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SECTION 1. Ins 17.01 (3) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, ~~2003~~ 2004:

(a) For physicians-- ~~\$19.00~~ 46.00

(b) For hospitals, per occupied bed-- ~~\$1.00~~ 3.00

SECTION 2. 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, 2004, to June 30, 2005:

(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	\$1,227	Class 3	\$5,092
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Class 2      \$2,209      Class 4      \$7,362

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

Class 1      \$ 614      Class 3      \$2,548

Class 2      \$1,105      Class 4      \$3,684

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

All classes      \$ 736

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

Class 1      \$ 491      Class 3      \$2,038

Class 2      \$ 884      Class 4      \$2,946

(e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures:      \$ 307

(f) For a physician for whom this state is not a principal place of practice:

Class 1      \$ 614      Class 3      \$2,548

Class 2      \$1,105      Class 4      \$3,684

(g) For a nurse anesthetist for whom this state is a principal place of practice:      \$ 302

(h) For a nurse anesthetist for whom this state is not a principal place of practice:      \$ 151

(i) For a hospital:

1. Per occupied bed      \$ 74; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available:      \$3.70

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., which is wholly owned and operated by a hospital and which has health care liability insurance separate from that of the hospital by which it is owned and operated:

Per occupied bed \$ 14

(k) For a partnership comprised of physicians or nurse anesthetists, organized 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 partners and employed physicians and nurse anesthetists is from 2 to 10 \$ 42

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$ 423

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$1,055

2. The following fee for each of the following employees employed by the partnership as of July 1, 2004:

Employed Health Care Persons	July 1, 2004 Fund Fee
Nurse Practitioners	\$ 307
Advanced Nurse Practitioners	429
Nurse Midwives	2,699
Advanced Nurse Midwives	2,822
Advanced Practice Nurse Prescribers	429
Chiropractors	491
Dentists	245
Oral Surgeons	1,841
Podiatrists-Surgical	5,215

Optometrists 245

Physician Assistants 245

(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 \$ 42

b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$ 423

c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,055

2. The following for each of the following employees employed by the corporation as of July 1, 2004:

Employed Health Care Persons	July 1, 2004 Fund Fee
Nurse Practitioners	\$ 307
Advanced Nurse Practitioners	429
Nurse Midwives	2,699
Advanced Nurse Midwives	2,822
Advanced Practice Nurse Prescribers	429
Chiropractors	491
Dentists	245
Oral Surgeons	1,841
Podiatrists-Surgical	5,215
Optometrists	245
Physician Assistants	245

(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 \$ 42

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$ 423

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,055

2. The following for each of the following employees employed by the corporation as of July 1, 2004:

Employed Health Care Persons	July 1, 2004 Fund Fee
Nurse Practitioners	\$ 307
Advanced Nurse Practitioners	429
Nurse Midwives	2,699
Advanced Nurse Midwives	2,822
Advanced Practice Nurse Prescribers	429
Chiropractors	491
Dentists	245
Oral Surgeons	1,841
Podiatrists-Surgical	5,215
Optometrists	245
Physician Assistants	245

(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 \$0.09

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, 2004:

Employed Health Care Persons	July 1, 2004 Fund Fee
Nurse Practitioners	\$ 307
Advanced Nurse Practitioners	429
Nurse Midwives	2,699
Advanced Nurse Midwives	2,822
Advanced Practice Nurse Prescribers	429
Chiropractors	491
Dentists	245
Oral Surgeons	1,841
Podiatrists-Surgical	5,215
Optometrists	245
Physician Assistants	245

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (13), per 100 outpatient visits during the last calendar year for which totals are available:

\$18.00

(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 4 EFFECTIVE DATE. This rule will take effect on July 1, 2004.

Dated at Madison, Wisconsin, this \_\_\_ day of \_\_\_\_\_ 2004.

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Jorge Gomez  
Commissioner of Insurance

<b>FISCAL ESTIMATE</b> DOA-2048 N	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	<b>2004 Session</b> LRB or Bill No./Adm. Rule No. <b>Ins. 17.01, 17.28</b> Amendment No. if Applicable
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**Subject**  
 Relating to annual Patients Compensation Fund fees for fiscal year 2004-2004

**Fiscal Effect**  
 State:  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sumsufficient appropriation.

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Create New Appropriation		

**Local:**  No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

<b>Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S	<b>Affected Ch. 20 Appropriations</b>
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**Assumptions Used in Arriving at Fiscal Estimate**

The Patients Compensation Fund (Fund) is a segregated fund. Annual Fund fees are established to become effective each July 1, based on actuarial estimates of the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board of Governors at its February 25, 2004 meeting.

The Wisconsin Patients Compensation Fund is a unique fund; there are no funds like it in the country. The WI PCF provides unlimited liability and participation is mandatory. These two items are what makes it unique as compared to funds in other states. The only persons being affected by this rule change; are the Fund participants themselves; as the PCF is fully funded through assessments paid by Fund participants.

There is no effect on GPR.

Estimated revenue from fees, for fiscal year 2004-2005, is approximately \$23.0 million, which represents a 20% decrease to fiscal year, 2003-2004 fee revenue.

**Long-Range Fiscal Implications**

None

<b>Agency/Prepared by: (Name &amp; Phone No.)</b> PCF/Theresa Wedekind (608)266-0953	<b>Authorized Signature/Telephone No.</b> <div style="text-align: right;">(608) 266-0953</div>	<b>Date</b> March 26,2004
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**FISCAL ESTIMATE WORKSHEET**

**2004 Session**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm. Rule. No.  
Ins. 17.01, 17.28

Amendment No.

Subject

Relating to annual Patients Compensation Fund fees for fiscal year 2004-2005

**I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):**

II. Annualized Costs	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations – Salaries and Fringes	\$	\$ -
(FTE Position Changes)	( — FTE)	( - — FTE)
State Operations – Other Costs	—	-
Local Assistance		-
Aids to Individuals or Organizations		-
<b>TOTAL State Costs by Category</b>	<b>\$</b>	<b>\$ -</b>
B. State Costs by Source of Funds	<b>Increased Costs</b>	<b>Decreased Costs</b>
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues –	<b>Increased Rev.</b>	<b>Decreased Rev.</b>
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	<b>\$ - 0 -</b>	<b>\$ - 0 -</b>

**NET ANNUALIZED FISCAL IMPACT**  
STATE

LOCAL

NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUE	\$ _____	\$ _____

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Date

03-26-04

