



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: 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 relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to whclip primary limits

Clearinghouse Rule No. 02-035

Dear Senator Robson:

I am enclosing a copy of this proposed rule which has been submitted to the presiding officers of the legislative houses under s. 227.19 (2), Wis. Stat. A copy of the report required under s. 227.19 (3), Wis. Stat., is also enclosed.

Sincerely,

Connie L. O'Connell
Commissioner

CLO:AS
Attachment: 1 copy rule & legislative report

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.

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, ~~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:

(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
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(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 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: \$365

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

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

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$359

(h) For a nurse anesthetist for whom this state is 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 are available: \$4.40

(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	\$16
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(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	\$50
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b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100	\$503
---	-------

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100	\$1,256
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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 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
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(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 11 day of June 2002.

/s/ Connie L. O'Connell
Connie L. O'Connell
Commissioner of Insurance



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor

Connie L. O'Connell, Commissioner

Wisconsin.gov

June 10, 2002

Legal Un

121 East Wilson Street • P.O. Box 787
Madison, Wisconsin 53707-787
Phone: (608) 267-9586 • Fax: (608) 264-622
E-Mail: legal@oci.state.wi.u
Web Address: oci.wi.go

REPORT ON 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

Clearinghouse Rule No 02-035
Submitted Under s. 227.19 (3), Stats.
The proposed rule-making order is attached.

(a) Statement of need for the proposed rule

The Commissioner is required to promulgate by the annual fees for the Patients Compensation Fund and the mediation system operated by the director of state courts. This rule establishes those fees for the fiscal year 2002-03.

(b) Modifications made in proposed rule based on testimony at public hearing:

None.

(c) Persons who appeared or registered regarding the proposed rule:

Appearances For: None.

Appearances Against: None.

Appearances For Information: Theresa Wedekind, Patients Compensation Fund Administrator

Registrations For: None.

Registrations Against: None.

Registrations Neither for nor against: None.

Letters received: None.

(d) Response to Legislative Council staff recommendations

All comments were complied with and corrected.

(e) Regulatory flexibility analysis

1. The proposed rule does not impose any additional reporting requirements on small businesses.
2. The proposed rule does not require any additional measures or investments by small businesses.
3. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.

Enclosure: Legislative Council Staff Recommendations
17282 TO L Rule Legislative Report 1.Doc



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 02-035

AN ORDER to repeal Ins 17.28 (6a); to renumber Ins 17.25 (3) (d) 4.; to amend Ins 17.01 (3) and 17.25 (3) (d) 3.; to repeal and recreate Ins 17.28 (6); and to create 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.

Submitted by **OFFICE OF THE COMMISSIONER OF INSURANCE**

03-18-02 RECEIVED BY LEGISLATIVE COUNCIL.

04-15-02 REPORT SENT TO AGENCY.

RS:JLK:tlu;ksm

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Clearinghouse Director

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CLEARINGHOUSE RULE 02-035

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. In the text of SECTIONS 2 and 4, “Ins.” should be changed to “Ins”.
- b. In the treatment clauses of SECTIONS 2, 3, and 4 and in the text of s. Ins 17.25 (3) (d) 3. and 4., each subdivision number should be followed by a period. [See s. 1.03 (5), Manual.] For example, in s. Ins 17.25 (3) (d) 4., “subd. 5,” should be shown as “subd. 5.”.
- c. In s. Ins 17.25 (3) (d) 3., “subd. 4-5,” should be written as “subd. 4 subds. 4. and 5.,” [See s. 1.07 (2), Manual.]
- d. In s. Ins 17.28 (6) (k) 2., “employes” should be written as “employees” to comport with the revised drafting style.

4. Adequacy of References to Related Statutes, Rules and Forms

In the analysis, the statutes interpreted section should additionally refer to s. 655.61, Stats., inasmuch as annual fees for the operation of the patient’s compensation mediation system also are included in the proposed rule.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the last paragraph of the analysis, “1million/3million” should be changed to reflect that it refers to dollars. For example, it could be changed to “\$1,000,000 and \$3,000,000.”

b. In s. Ins 17.25 (3) (d) 3., "on and after" should be changed to "on and or after". In addition, in newly created s. Ins 17.25 (3) (d) 4., "on and after" should be changed to "on or after". These changes would result in reflecting the language in s. 655.23 (4) (b) 2. a. and (c) 1., Stats. In addition, the provision in s. Ins 17.25 (3) (d) 5., as renumbered in SECTION 3, should be revised to correct a similar problem.

c. In s. Ins 17.25 (3) (d) 4., "\$" should be inserted prior to "1,000,000."

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

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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, 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 1million/3million 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.

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

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(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. 4-5, for occurrences on and 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 and 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
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(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	\$584	Class 3	\$2,424
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(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: \$365

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

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

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$359

(h) For a nurse anesthetist for whom this state is 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 are available: \$4.40

(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	\$16
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(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	\$50
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b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100	\$503
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c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100	\$1,256
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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
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Dentists	292
Oral Surgeons	2,192
Podiatrists-Surgical	6,209
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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:

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

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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
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(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 15 day of March 2002.

/s/ Connie L. O'Connell
Connie L. O'Connell
Commissioner of Insurance