



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

JUN 06 2001

Scott McCallum, Governor
Connie L. O'Connell, Commissioner
Wisconsin.gov

June 6, 2001

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 2663585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE JUDITH ROBSON
SENATE CO-CHAIRPERSON
JOINT COMM FOR REVIEW OF ADM RULES
SOUTH STATE CAPITOL RM 15
MADISON WI 53702

Re: Emergency Rule affecting Section Ins 17.01(3), 17.28(6a) and 17.28(6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2001

Dear Senator Welch:

I will be promulgating an emergency rule. Attached is a draft of the rule for your review. The reasons for proceeding with an emergency rule are given in the Finding of Emergency in the rule. It will be published in the official State newspaper in about a week.

If you have any questions, please contact Alice M. Shuman-Johnson at 266-9892 or e-mail at Alice.Shuman-Johnson@oci.state.wi.us.

Sincerely,

Connie L. O'Connell
Commissioner

CLO:AS
Attachment: 1 copy draft rule

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 adopt an order to amend s. Ins 17.01 (3), s. Ins 17.28 (6a), 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, 2001.

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, 2001. These fees represent a 20% decrease compared with fees paid for the 2000-01 fiscal year. The board approved these fees at its meeting on February 28, 2001, 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 director's funding level recommendation by establishing mediation panel fees for the next fiscal

year at \$ 38.00 for physicians and \$2.00 per occupied bed for hospitals, representing no increase from 2000-01 fiscal year mediation panel fees.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule No. 01-035, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2001.

The commissioner expects the permanent rule will be filed with the secretary of state in time to take effect October 1, 2001. Because the fund fee provisions of this rule first apply on July 1, 2001, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 16, 2001.

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, 2000-2001:

(a) For physicians-- \$38.00

(b) For hospitals, per occupied bed-- \$2.00

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, 2001, to and including June 30, 2002:

(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	\$1,538	Class 3	\$6,385
Class 2	\$2,769	Class 4	\$9,231

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

Class 1	\$769	Class 3	\$3,191
Class 2	\$1,384	Class 4	\$4,614

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

All classes	\$923
-------------	-------

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

Class 1	\$615	Class 3	\$2,552
Class 2	\$1,107	Class 4	\$3,690

(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: \$385

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

Class 1	\$769	Class 3	\$3,191
Class 2	\$1,384	Class 4	\$4,614

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$378

(h) For a nurse anesthetist for whom this state is not a principal place of practice: \$189

(i) For a hospital:

1. Per occupied bed \$93; plus

2. Per 100 outpatient visits during the last calendar year for which totals

are available: \$4.65

(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 \$17

(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 \$53

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$1,322

2. The following fee for each of the following employees employed by the partnership as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$53

b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$53

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$.11

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, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385

Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$22

(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 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS. The following fee schedule is in effect from July 1, ~~2000~~ 2001 to and including June 30, ~~2001~~ 2002 for OCI approved self-insured health care providers: ~~who elect, pursuant to s. 655.23 (4) (c) 2., Stats., to increase their per occurrence limit to \$800,000 for each occurrence on or after July 1, 1999, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased~~

~~coverage levels with the office of the commissioner of insurance and with the patients
compensation fund on or before August 15, 1999:~~

The fees set forth in sub. (6) ~~multiplied by 1.073.~~

SECTION 4. EFFECTIVE DATE. This rule will take effect on July 1, 2001.

Dated at Madison, Wisconsin, this 7 day of June 2001.

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

JUN 06 2001



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott McCallum, Governor
Connie L. O'Connell, Commissioner

June 6, 2001

Wisconsin.gov

121 East Wilson Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 2663585 • Fax: (608) 266-9935
E-Mail: information@oci.state.wi.us
http://badger.state.wi.us/agencies/oci/oci_home.htm

HONORABLE JUDITH ROBSON
SENATE CO-CHAIRPERSON
JOINT COMM FOR REVIEW OF ADM RULES
SOUTH STATE CAPITOL RM 15
MADISON WI 53702

Re: Section Ins 17.01(3), 17.28(6a), and 17.28(6), Wis. Adm. Code, relating to
annual patient compensation fund fees and mediation fund fees for fiscal
year beginning July 1, 2001

Clearinghouse Rule No. 01-035

Dear Senator Welch:

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,

A handwritten signature in cursive script that reads "Connie O'Connell".

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

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), s. Ins 17.28 (6a), 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, 2001.

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, 2001. These fees represent a 20% decrease compared with fees paid for the 2000-01 fiscal year. The board approved these fees at its meeting on February 28, 2001, 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 director's

funding level recommendation by establishing mediation panel fees for the next fiscal year at \$ 38.00 for physicians and \$2.00 per occupied bed for hospitals, representing no increase from 2000-01 fiscal year mediation panel fees.

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, ~~2000-2001~~:

(a) For physicians-- \$38.00

(b) For hospitals, per occupied bed-- \$2.00

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, 2001, to and including June 30, 2002:

(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	\$1,538	Class 3	\$6,385
Class 2	\$2,769	Class 4	\$9,231

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

Class 1	\$769	Class 3	\$3,191
Class 2	\$1,384	Class 4	\$4,614

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

All classes	\$923
-------------	-------

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

Class 1	\$615	Class 3	\$2,552
Class 2	\$1,107	Class 4	\$3,690

(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: \$385

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

Class 1	\$769	Class 3	\$3,191
Class 2	\$1,384	Class 4	\$4,614

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$378

(h) For a nurse anesthetist for whom this state is not a principal place of practice: \$189

(i) For a hospital:

1. Per occupied bed \$93; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available: \$4.65

(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 \$17

(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 \$53

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$1,322

2. The following fee for each of the following employees employed by the partnership as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$53
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$529
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538

Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$53
- b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$529
- c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308

Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$.11

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, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(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 \$22

(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 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS. The following fee schedule is in effect from July 1, ~~2000~~ 2001 to and including June 30, ~~2001~~ 2002 for OCI approved self-insured health care providers: ~~who elect, pursuant to s. 655.23 (4) (c) 2., Stats., to increase their per occurrence limit to \$800,000 for each occurrence on or after July 1, 1999, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1999:~~

The fees set forth in sub. (6) ~~multiplied by 1.073.~~

SECTION 4. EFFECTIVE DATE. This rule will take effect on July 1, 2001.

Dated at Madison, Wisconsin, this 5th day of June 2001.

/s/ _____
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 4, 2001

Legal Unit

121 East Wilson Street • P.O. Box 7873

Madison, Wisconsin 53707-7873

Phone: (608) 267-9586 • Fax: (608) 264-6228

E-Mail: Legal@oci.state.wi.us

http://badger.state.wi.us/agencies/oci/oci_home.htm

REPORT ON Section Ins 17.01(3), 17.28(6a), and 17.28(6),
Wis. Adm. Code, relating to annual patient compensation
fund fees and mediation fund fees for fiscal year beginning
July 1, 2001

Clearinghouse Rule No 01-035

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 rule 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 fiscal year 2001-02.

(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, Administrator, Patients Compensation Fund

Registrations For: None.

Registrations Against: None.

Registrations Neither for nor against: None.

Letters received: None.

(d) Response to Legislative Council staff recommendations

No comments requiring revisions or corrections to the rule were made by Legislative Council staff

(e) Regulatory flexibility analysis

1. No issues were raised by small businesses during the hearing on the proposed rule, and
2. The proposed rule does not impose any additional reporting requirements on small businesses.

(f) Fiscal Effect

See fiscal estimate attached to proposed rule.

Enclosure: Legislative Council Staff Recommendations
17281L 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 01-035

AN ORDER to amend Ins 17.01 (3) and 17.28 (6a); 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, 2001.

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

04-04-01 RECEIVED BY LEGISLATIVE COUNCIL.
04-30-01 REPORT SENT TO AGENCY.

RS:DLS:jal

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

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 01-035

AN ORDER to amend Ins 17.01 (3) and 17.28 (6a); 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, 2001.

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

04-04-01 RECEIVED BY LEGISLATIVE COUNCIL.
04-30-01 REPORT SENT TO AGENCY.

RS:DLS:jal

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

PROPOSED 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), s. Ins 17.28 (6a), 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, 2001.

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, 2001. These fees represent a 20% decrease compared with fees paid for the 2000-01 fiscal year. The board approved these fees at its meeting on February 28, 2001, 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 director's funding level recommendation by establishing mediation panel fees for the next fiscal

year at \$ 38.00 for physicians and \$2.00 per occupied bed for hospitals, representing no increase from 2000-01 fiscal year mediation panel fees.

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, ~~2000~~2001:

(a) For physicians-- \$38.00

(b) For hospitals, per occupied bed-- \$2.00

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, 2001, to and including June 30, 2002:

(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	\$1,518	Class 3	\$6,300
Class 2	\$2,732	Class 4	\$9,108

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

Class 1	\$759	Class 3	\$3,150
Class 2	\$1,366	Class 4	\$4,554

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

All classes	\$911
-------------	-------

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

Class 1	\$607	Class 3	\$2,519
Class 2	\$1,093	Class 4	\$3,642

(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: \$380

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

Class 1	\$759	Class 3	\$3,150
Class 2	\$1,366	Class 4	\$4,554

(g) For a nurse anesthetist for whom this state is a principal place of practice: \$380

(h) For a nurse anesthetist for whom this state is not a principal place of practice: \$190

(i) For a hospital:

1. Per occupied bed \$93; plus
2. Per 100 outpatient visits during the last calendar year for which totals are available: \$4.65

(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	\$18
------------------	------

(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 \$53

b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100 \$1,322

2. The following fee for each of the following employes employed by the partnership as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 380

Advanced Nurse Practitioners	531
Nurse Midwives	3,340
Advanced Nurse Midwives	3,491
Advanced Practice Nurse Prescribers	531
Chiropractors	607
Dentists	304
Oral Surgeons	2,277
Podiatrists-Surgical	6,452
Optometrists	304
Physician Assistants	304

(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 \$53
- b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$529
- c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 380
Advanced Nurse Practitioners	531
Nurse Midwives	3,340
Advanced Nurse Midwives	3,491
Advanced Practice Nurse Prescribers	531
Chiropractors	607

Dentists	304
Oral Surgeons	2,277
Podiatrists-Surgical	6,452
Optometrists	304
Physician Assistants	304

(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 \$53

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employes employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 380
Advanced Nurse Practitioners	531
Nurse Midwives	3,340
Advanced Nurse Midwives	3,491
Advanced Practice Nurse Prescribers	531
Chiropractors	607
Dentists	304
Oral Surgeons	2,277
Podiatrists-Surgical	6,452
Optometrists	304
Physician Assistants	304

(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 \$.11

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, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 380
Advanced Nurse Practitioners	531
Nurse Midwives	3,340
Advanced Nurse Midwives	3,491
Advanced Practice Nurse Prescribers	531
Chiropractors	607
Dentists	304
Oral Surgeons	2,277
Podiatrists-Surgical	6,452
Optometrists	304
Physician Assistants	304

(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 \$.22

(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 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS. The following fee schedule is in effect from July 1, ~~2000~~ 2001 to and including June 30, ~~2001~~ 2002 for OCI approved self-insured health care providers: who ~~elect, pursuant to s. 655.23 (4) (c) 2., Stats., to increase their per occurrence limit to \$800,000 for each occurrence on or after July 1, 1999, provided such self-insured provider has filed an amended self-insured plan document reflecting the increased coverage levels with the office of the commissioner of insurance and with the patients compensation fund on or before August 15, 1999:~~

The fees set forth in sub. (6) ~~multiplied by 1.073.~~

SECTION 4. EFFECTIVE DATE. This rule will take effect on July 1, 2001.

Dated at Madison, Wisconsin, this 4 day of April 2001.

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