

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Agency 145 Ch Ins 17.01 (3), and 17.28 (3) and (6)

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3. Subject

Injured Patients and Families Compensation Fund Annual Fund fees and Mediation Panel Fees, and ISO code amendments for fiscal year beginning July 1, 2013.

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

5. Chapter 20, Stats. Appropriations Affected

None

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect    Increase Existing Revenues    Increase Costs  
 Indeterminate    Decrease Existing Revenues    Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy    Specific Businesses/Sectors  
 Local Government Units    Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes    No

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9. Policy Problem Addressed by the Rule

To establish the annual fees that participating health care providers must pay to the Injured Patients and Families Compensation Fund ("Fund") as required by s. 655.27 (3), Wis. Stats., for fiscal year beginning July 1, 2013. The proposed rule will also establish the mediation panel fees for fiscal year 2014 commencing on July 1, 2013. This rule provides the Fund with appropriate and adequate funding and solvency for future years. This is the main vehicle for achieving and maintaining the Fund's solvency.

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10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

OCI solicited comments generally through publication requesting comments from the public utilizing the OCI website. Additionally OCI solicited comments from businesses, individuals, and local government units related to the implementation and compliance costs. Solicitations were sent to health insurance members of OCI's Health and Life Insurance Advisory Council and interested parties. Members included health insurance companies, health insurance agent representatives, consumer representatives, provider representatives and representatives of small business. Additional solicitations were made to associations representing various affected parties and local government representatives including:

- Wisconsin Association of Health Plans
  - Wisconsin Association of Health Underwriters
  - Independent Insurance Agents Association of Wisconsin
  - National Federation of Independent Business-Wisconsin
  - Wisconsin Association of Nurse Anesthetists
  - Wisconsin Manufacturers and Commerce
  - Wisconsin Dental Association
  - Wisconsin Medical Society
  - Professional Insurance Agents of Wisconsin
  - National Association of Insurance and Financial Advisors-Wisconsin
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- Wisconsin Hospital Association  
Wisconsin Association for Justice
- The League of Wisconsin Municipalities
- Wisconsin Counties Association
- Wisconsin Towns Association
- Wisconsin Association of School Boards
- Wisconsin Association of School District Administrators

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11. Identify the local governmental units that participated in the development of this EIA.  
None beyond solicitation for comments.

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12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)  
All health care provider participants in the Fund as set forth in s. 655.002 (1), Wis. Stat., will be required to pay a 5% reduced assessment for their medical malpractice coverage under Ch.655, Wis. Stat. The impact is considered to be minimal and in fact positive to the participants. In addition the reduction of mediation panel fees to zero is also beneficial.

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13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule  
The proposed rule will benefit Fund participants by ensuring that fee revenue is adequate to cover anticipated administrative, operating and claims payments costs. The alternatives to this rule would be to establish a Fund fee increase, to maintain current fee amounts or to assess fees lower than the proposed 5% reduction in Fund fees. A greater reduction in fees would leave the Fund with inadequate funding to cover actuarially-based projected costs, while a fee increase or static fee level would present an unnecessary cost to Fund participants. The proposed rule does not significantly impact Wisconsin's economy, productivity, jobs or the overall economic competitiveness of Wisconsin. Wisconsin's health care marketplace is strengthened with an affordable layer of medical malpractice coverage. The Fund has existed in Wisconsin since 1975. Fund participants will benefit from a stable and solvent fund. Additionally, Fund participants should not experience increased compliance costs with the reduction of fund and mediation panel fees.

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14. Long Range Implications of Implementing the Rule  
The long-range implication of the rule as proposed will be an adequately funded and solvent Fund.

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15. Compare With Approaches Being Used by Federal Government  
Federal government does not address this subject matter.

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16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)  
None of the neighboring states have a patient compensation fund or a general program of state-sponsored liability insurance for physicians.

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17. Contact Name  
Louie Cornelius

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18. Contact Phone Number  
608-264-8113

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This document can be made available in alternate formats to individuals with disabilities upon request.

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### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The agency does not anticipate any implementation costs or additional compliance costs for fund participants. All health care provider participants in the Fund as set forth in s. 655.002 (1), Wis. Stat., will be required to pay the reduced assessment for their medical malpractice coverage under Ch. 655, Wis. Stat. The impact will be further reduced by the reduction to zero for mediation panel fees.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The Fund contracts for actuarial services to develop the documentation and analysis necessary for the Actuarial and Underwriting Committee of the Fund. The documentation includes an actuarially indicated rate level for break even financial projections against expected claims reflective of all physician classifications. Since some physicians are small employer practices this information does relay information to the Committee and Board for the impact on small businesses directly impacted by the proposal. The actuarial firm presents its analysis to the Actuarial and Underwriting Committee of the Fund Board of Governors. The Committee reviews all documentation and projections and makes a recommendation to the full Board of Governors for consideration. The Fund Board of Governors reviewed the Committee's recommendation at its December 19, 2012 meeting as well as the underlying analysis by the actuarial firm. Following deliberation, the Board of Governors affirmed the Committee's recommendation of a decrease of 5% for Fund fees and at the March 20, 2013 meeting affirmed the change to the mediation panel fees to zero for both physicians and hospitals.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

The Board of Governors discussed maintaining fees at 2013 levels but determined that such action was unnecessary in light of the Fund's present financial condition and the reduced fees would adequately fund the Fund for claims incurred during fiscal year 2014 without shifting the burden of funding to future years and providers.

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The proposed increase is below breakeven financing for the Fund but sufficient to cover anticipated claims, administrative and operating expenses.

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5. Describe the Rule's Enforcement Provisions

This rule proposes fees. Failure to pay Fund fees is governed by s. Ins 17.01, Wis. Adm. Code, which requires the Fund to notify the medical examining board of each physician who has not paid the fee and notify the Department of Health Services of each hospital that has not paid the fee as required.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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