

**STATEMENT OF SCOPE  
OF A PROPOSED RULE**

**Agency #145 Office of the Commissioner of Insurance**

**Rule No:** Ch. Ins 17.01 (3) and 17.28 (6), Wis. Admin. Code;

**Relating to:** Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, for the fiscal year beginning July 1, 2015.

**Rule Type:**        \_\_\_\_\_        **Emergency**  
                          \_\_\_\_\_        **Permanent**  
                          \_\_\_\_\_ **X** \_\_\_\_\_        **Both Emergency and Permanent**

**1. Finding/nature of emergency:**

This will be promulgated as both an emergency rule and a permanent rule. The fund issues invoices for the following fiscal year in June of each year. In order for the invoices to correctly reflect the decreased assessment that was approved by the board, a rule must be promulgated and take effect prior to June 15, 2015. Due to the length of time that may be required to promulgate the rule, the scope is being submitted for both the permanent rule and an emergency rule to ensure that procedures are in place to promulgate the rule on an emergency basis to ensure that the invoices can be issued reflecting the decreased assessments approved by the board while the permanent rule can proceed without negative impact on the fund.

**2. Detailed description of the objective of the rule:**

The office of the commissioner of insurance's objective is to establish the annual fees that participating health care providers must pay to fund the injured patients and families compensation fund ("fund") as required by s. 655.57 (3), Wis. Stat., and set the mediation panel fees for the fiscal year beginning July 1, 2015, as required by s. 655.61, Wis. Stat.

**3. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background, and justification for the proposed rule:**

The policies as set forth in the statutes require the office of the commissioner of insurance to promulgate a rule to establish the amount of fees to be paid into the fund annually as approved by the board of governors of the fund ("board"). The fees included in the proposed rule will address both the annual assessments for the coverage provided to the participating health care providers, and the mediation fund fees which are collected by the fund and paid to the director of state courts for the operations of the medical mediation panels.

**4. Detailed statutory authority for the rule (including the statutory citation and language):**

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The fund was established by and is operated as provided in ch. 655, Wis. Stat. The commissioner of insurance, with approval by the board, is required to annually set the fees for the fund and the medical mediation panel by administrative rule. Section 655.004, Wis. Stat., states that the director of state courts and the commissioner may promulgate such rules under ch. 227, Wis. Stat., as are necessary to enable them to perform their responsibilities under this chapter. Pursuant to s. 655.27 (3) (b), Wis. Stat., the commissioner, after approval by the board, shall by rule set the mediation panel fees, and s. 655.61, Wis. Stat., requires that the board, by rule to set fees that are charged to health care providers that are sufficient to provide the necessary revenue to fund the medical mediation panels. Finally, s. 601.41 (3), Wis. Stat., provides that the commissioner shall have rule-making authority under s. 227.11 (2), Wis. Stat.

**5. Estimates of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

120 hours of time including the time of state employees and members of the board.

**6. List with description of all entities that may be impacted by the rule:**

All health care providers that are participants in the fund, as set forth in s. 655.002 (1), Wis. Stat., are required to pay annual assessments for payment of claims that arise in each given year consistent with the provisions of ch. 655, Wis. Stat. For the fiscal year beginning July 1, 2015 it is anticipated that the board will approve fund fees at the December 17, 2014 board meeting and mediation panel fees at the March 2015 board meeting.

**7. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:**

The Office is unaware of existing or proposed federal regulation intended to address any medical malpractice fund like the Wisconsin fund.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The proposed rule is not likely to have a significant economic impact on small businesses and potentially will have a positive economic impact depending upon the decision of the board of governors in setting the fund fees and mediation panel fees.

Significant economic impact on small businesses?

yes  
 no

Local/statewide economic impact (choose one)

minimal or none (< or = \$50,000)  
 moderate (\$50,000--\$20,000,000)  
 significant (>\$20,000,000)

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