

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:

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
-------------	-------

(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

(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

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

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
--	------

(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 ___ day of _____ 2002.

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

<p style="text-align: right;"> <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL </p> <p>FISCAL ESTIMATE DOA-2048 N</p>	<p>2002 Session</p> <p>LRB or Bill No./Adm. Rule No. Ins. 17.01, 17.28</p> <p>Amendment No. if Applicable</p>		
<p>Subject Relating to annual Patients Compensation Fund fees for fiscal year 2002-2003</p>			
<p>Fiscal Effect State: <input checked="" type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 65%; border: none; vertical-align: top;"> <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation Local: <input checked="" type="checkbox"/> No local government costs </td> <td style="width: 35%; border: none; vertical-align: top;"> <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 Costs </td> </tr> </table>		<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation Local: <input checked="" type="checkbox"/> No local government costs	<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 Costs
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation Local: <input checked="" type="checkbox"/> No local government costs	<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 Costs		
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive	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	
<p>Fund Sources Affected <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</p>	<p>Affected Ch. 20 Appropriations</p>		

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 27, 2002 meeting.

There is no effect on GPR.

Estimated revenue from fees, for fiscal year 2002-2003, is approximately \$27.4 million, which represents a 5% decrease to fiscal year, 2001-2002 fee revenue.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
PCF/Theresa Wedekind (608)266-0953	0102 (608) 266-	March 13, 2001

FISCAL ESTIMATE WORKSHEET

DOA-2047

2002 Session

X ORIGINAL
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 2002-2003

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		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$ - 0 -	\$ - 0 -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

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

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
PCF/Theresa Wedekind (608)266-0953	266-0102 (608)	03-12-02