

**TITLE 114  
LEGISLATIVE RULES  
INSURANCE COMMISSIONER**

**SERIES 22  
MEDICAL MALPRACTICE ANNUAL REPORTING REQUIREMENTS**

**§114-22-1. General.**

1.1. Scope. -- This legislative rule establishes guidelines and procedures under which every insurer providing five percent (5%) or more of the medical malpractice insurance coverage in West Virginia shall report to the Insurance Commissioner on an annual basis certain specified information concerning such medical malpractice insurance coverage.

1.2. Authority. -- W. Va. Code §33-20B-6b and §33-2-13

1.3. Filing Date. -- April 4, 1988

1.4. Effective Date. -- April 4, 1988

**§114-22-2. Definitions.**

As used in this legislative rule:

2.1. Annual financial statement. Shall mean the financial statement required to be filed annually with the Commissioner pursuant to W. Va. Code §33-3-14 and §33-4-14.

2.2. Commissioner. Shall mean the Insurance Commissioner of the state of West Virginia.

2.3. Insurer. Shall mean any insurance company licensed by the Commissioner and authorized to write medical malpractice insurance coverage in the state of West Virginia.

**§114-22-3. Insurers Subject To Reporting Requirements.**

3.1. Insurers subject to annual reporting requirements. This rule shall apply to every insurer which provided five percent (5%) or more of the medical malpractice insurance coverage in West Virginia during the preceding calendar year.

3.2. Notification by commissioner. The Commissioner shall annually, on or before May 1, notify in writing those insurers which he has determined provided five percent (5%) or more of the medical malpractice insurance coverage in West Virginia during the preceding calendar year of their obligation to report to the Commissioner the information specified in section 5 of this rule.

3.3. Method of determination. The Commissioner's determination pursuant to subsection 3.2 shall be based upon a proportionate comparison of every insurer's gross direct written malpractice premiums in West Virginia during the preceding calendar year as reflected in the insurer's annual financial statement for that calendar year.

**§114-22-4. Filing Deadline; Failure To Submit Information.**

4.1. Filing deadline. Insurers shall submit all information specified in section 5 of this rule to the Commissioner on or before August 1 immediately succeeding notification by the Commissioner pursuant to subsection 3.2.

4.2. Failure to submit information. Any insurer which fails to timely submit any and all information specified in section 5 of this rule to the Commissioner shall be fined ten thousand dollars (\$10,000.00) for each of the first five (5) such failures per year and shall be fined one hundred thousand dollars (\$100,000.00) for the sixth (6th) and each subsequent such failure per year.

**§114-22-5. Information Required To Be Reported.**

5.1. Information required to be reported. The information required to be reported to the Commissioner shall be that specified in the Annual Medical Malpractice Reporting Form, attached to and made a part of this rule as Exhibit A.

5.2. Information by individual coverage classification. A separate Annual Medical Malpractice Reporting Form must be filed for each and every individual coverage classification written by the insurer in West Virginia.

**§114-22-6. Severability.**

6.1. Severability. If any provision of this legislative rule is held invalid, the remainder of the rule shall not be affected thereby.

**Exhibit A**

Annual Medical Malpractice Reporting Form

1. Company Name \_\_\_\_\_

Part of group: \_\_\_\_\_

2. Coverage Classification \_\_\_\_\_

3. a. Term of policies written \_\_\_\_\_

b. Is this coverage written on a claims-made or occurrence basis?

Claims-made \_\_\_\_\_

Occurrence \_\_\_\_\_

c. Company written premium (latest calendar year)

West Virginia \_\_\_\_\_

Countrywide \_\_\_\_\_

4. Number of West Virginia policies in force in each of the last five years.

	# of policies	% change
5th prior year 20____	_____	_____
4th prior year 20____	_____	_____
3rd prior year 20____	_____	_____
2nd prior year 20____	_____	_____
1st prior year 20____	_____	_____
Report year 20____	_____	_____

5. Provide the following information:

West Virginia

	Earned Premium (000)	Incurred Losses (000)	Change in IBNR (000)	Loss Ratio
5th prior year 20____	_____	_____	_____	_____
4th prior year 20____	_____	_____	_____	_____
3rd prior year 20____	_____	_____	_____	_____
2nd prior year 20____	_____	_____	_____	_____
1st prior year 20____	_____	_____	_____	_____
Report year 20____	_____	_____	_____	_____
Total	_____	_____	_____	_____

Countrywide

	Earned Premium (000)	Incurred Losses (000)	Change in IBNR (000)	Loss Ratio
5th prior year 20____	_____	_____	_____	_____
4th prior year 20____	_____	_____	_____	_____
3rd prior year 20____	_____	_____	_____	_____
2nd prior year 20____	_____	_____	_____	_____
1st prior year 20____	_____	_____	_____	_____
Report year 20____	_____	_____	_____	_____
Total	_____	_____	_____	_____

6. Relative to No. 5 above, address in narrative form the following requests for information. If the ratemaking methodology changed from one year to the next, explain the specific change(s) and the year(s) in which the methodology changed.
  - a. Explain loss development and loss adjustment expenses. Provide detailed data showing the quantification and formulation of loss development and loss adjustment expenses, along with an explanation of the methodology used to determine such costs. Provide a clear indication of the cost components of these expenses by significant categories.
  - b. Explain trending methods used. Provide trended loss data (by significant loss category) and provide a clear explanation of the trending methodology and mathematics. Provide all formulas and calculations used in formulation of the trended data.
  - c. Explain the manner in which credibility of data is considered in your ratemaking process. Show all formulas, applications and methodology used to formulate credibility measurements.
  - d. Explain your permissible loss ratio including the manner in which this value was determined. Provide formulas, budgets, etc. which show the formulation for this ratio.
  - e. Explain your indicated rate level. Provide all mathematical formulas and calculations which show the complete delineation of the method used to calculate the indicated rate level.
  - f. Explain the manner in which investment income is considered when a final rate level is selected. Provide a complete breakdown of the formulas, variables and methodology used to calculate the investment income yield. Further, provide a breakdown of all variables, methodology and calculations which apply the calculated investment income to the ratemaking process. Explain the manner in which investment income is used as a variable during the formulation of the indicated rate levels.
  
7. Provide a summary of the developed data and experience in No. 6 as follows:

	Current Level Earned Premium	Trended Developed Incurred Losses	Loss Ratio
5th prior year 20__	_____	_____	_____
4th prior year 20__	_____	_____	_____
3rd prior year 20__	_____	_____	_____
2nd prior year 20__	_____	_____	_____
1st prior year 20__	_____	_____	_____
Report year 20__	_____	_____	_____
Total	_____	_____	_____

Provide all calculations, formulas and data utilized to calculate the trended developed incurred losses, referred to above.

8. Provide the following information in regard to business expense provisions which are used to determine a permissible loss ratio.

Commission and Brokerage	_____ %
New Acquisition	_____
General	_____
Taxes, Licenses, Fees, Etc.	_____
Other	_____
Profit and Contingencies	_____
TOTAL EXPENSES	_____
Pure Permissible Loss Ratio	_____
Loss Adjustment Expense	_____
Allocated	_____
Unallocated	_____
TOTAL PERMISSIBLE LOSS AND LOSS ADJUSTMENT EXPENSE RATIO	_____

a. Provide all factors, vectors, allocators, variables and considerations which would assign the stated costs and revenues requirements to West Virginia operations.

b. Provide a breakdown of the calculations, variables or managerial policies which would show the details of the delineation of the value placed in the profit and contingency blank of the annual financial statement.

9. Provide the following information in regard to an insurance expense exhibit and incurred ratios (%) on a written premium basis.

	20____	20____	20____	20____	20____	Combined Average
a. Commission and Brokerage	_____	_____	_____	_____	_____	_____
b. New Acquisition	_____	_____	_____	_____	_____	_____
c. General	_____	_____	_____	_____	_____	_____
d. Taxes, etc.	_____	_____	_____	_____	_____	_____
e. Subtotal (a) + (b) + (c) + (d)	_____	_____	_____	_____	_____	_____
f. West Virginia Loss Ratio (Ques. 9)	_____	_____	_____	_____	_____	_____
g. Combined Ratio (e) + (f)	_____	_____	_____	_____	_____	_____
h. Investment Gain/(Loss)	_____	_____	_____	_____	_____	_____

10. Provide the following information in regard to specific claims, underwriting and investment results for the reporting year.

- a. The number of claims filed per category \_\_\_\_\_
- b. The number of civil actions filed \_\_\_\_\_
- c. The number of civil actions compromised or settled \_\_\_\_\_
- d. The number of verdicts in civil actions \_\_\_\_\_
- e. The number of civil actions appealed \_\_\_\_\_
- f. The number of civil actions dismissed \_\_\_\_\_
- g. a. The total dollar amount paid in claims compromised or settled \$ \_\_\_\_\_
- h. The total dollar amount paid pursuant to judgments in civil actions \$ \_\_\_\_\_
- i. The number of claims closed without payment and the amount held in reserve for all such claims by vintage year \$ \_\_\_\_\_
- j. The total dollar amount expended for loss adjustment expenses, commission and brokerage expense:
  - Loss Adjustment Expense \$ \_\_\_\_\_
  - Commissions \$ \_\_\_\_\_
  - Brokerage Expenses \$ \_\_\_\_\_
  - TOTAL \$ \_\_\_\_\_
- k. The total dollar amount expended in defense and litigation of claims \$ \_\_\_\_\_
- l. The total dollar amount held in reserve for anticipated claims:
  - Incurred and Reported \$ \_\_\_\_\_
  - Incurred But Not Reported \$ \_\_\_\_\_
  - TOTAL \$ \_\_\_\_\_
- m. Net Profit or Loss \_\_\_\_\_

- n. Investment and other income on net realized capital gains and loss reserves and unearned premiums \_\_\_\_\_
- o. The number of malpractice insurance policies canceled for reasons other than nonpayment of premiums \_\_\_\_\_

Explanatory notes for #10 above:

- a. 10(i) This dollar figure is the reserve released when a claim involving no payment to the plaintiff is closed.
  - b. 10(m) This amount is determined by using your West Virginia premium, claims and expense data in exactly the same manner as required in the annual financial statement, Underwriting and Investment Exhibit's section on "Underwriting Income." The calculations of this report.
  - c. 10(n) If your company has not separately accounted for investment income including net realized capital gains, and other income derived from assets representing loss reserves and unearned premium reserves on medical malpractice business you wrote in West Virginia, you must calculate the required figure in the following manner:
    - i. Divide the sum of loss reserves, including loss adjustment expense reserves, and unearned premium reserves on West Virginia medical malpractice business by the total of all liabilities and that portion of your surplus in excess of your minimum capital and surplus requirement.
    - ii. Determine the investment income and other income including capital gains attributable to your West Virginia medical malpractice business by multiplying each figure in the "Investment Income: and "Other Income" sections of the Underwriting and Investment Exhibit of your annual financial statement for the preceding calendar year by the ratio calculated in (a) above.
11. Attach as Exhibit B your loss experience in West Virginia for this individual coverage classification during the preceding calendar year using the same format as Schedule P of the annual financial statement.
12. Attach as Exhibit C your West Virginia experience for this individual coverage classification using the same format as the Underwriting and Investment Exhibit of the annual financial statement.

The above information is correct to the best of my knowledge and belief.

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Name (type or print)

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Title

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Address

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Telephone Number

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Signature