



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Scott Walker, Governor
Theodore K. Nickel, Commissioner

Wisconsin.gov

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STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

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I, Theodore K. Nickel, Commissioner of Insurance and custodian of the official records, certify that the annexed emergency rule affecting Section Ins 17.01, 17.28 (3) and 17.28 (6), Wis. Adm. Code, relating to the Injured Pateints and Families Compensation Fund annual fund and mediation panel fees, and ISO code amendments for the fiscal year beginning July 1, 2013 and affecting small business, is duly approved and adopted by this Office on June 7, 2013.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street, Madison, Wisconsin, on June 7, 2013.

Theodore K. Nickel
Commissioner of Insurance

EMERGENCY ORDER AMENDING, REPEALING AND CREATING A RULE.

Office of the Commissioner of Insurance

Rule No. 042-13: To amend s. Ins 17.01 (3), and 17.28 (3) (c) and to repeal and recreate s. Ins 17.28 (6), Wis. Admin. Code.

Relating to: Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013, and affecting small business.

The statement of scope for this rule SS 042-13, was approved by the Governor on April 16, 2013, published in Register No. 688, on April 30, 2013, and approved by the Commissioner on May 10, 2013. This emergency rule was approved by the Governor on June 4, 2013.

FINDING OF EMERGENCY

The Commissioner of Insurance finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes must be in place with an effective date prior to July 1, 2013 in order for the new fiscal year assessments to be issued in accordance with s. 655.27 (3), Wis. Stats. The permanent rule-making process cannot be completed prior to the effective date of the new fee schedule. The fiscal year fund fees were established by the Board of Governors at the meeting held on December 19, 2012 and the mediation panel fees established by the Board of Governors at the meeting held on March 20, 2013.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 655.27 (3), and 655.61, Wis. Stats.

2. Statutory authority:

ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Wis. Stats.

3. Explanation of OCI's authority to promulgate the proposed rule:

The injured patients and families compensation fund ("fund"), was established by and operated under Ch. 655, Stats. The commissioner of insurance with approval of the board of governors ("board") is required to annually set the fees for the fund and the medical mediation panel by administrative rule. The proposed fees comply with the limitation delineated in s. 655.27 (3) (br), Stats. Section 655.04, Stats., provides that the director of state courts and the commissioner may promulgate rules necessary to

enable them to perform their responsibilities under this chapter. Pursuant to s. 655.27 (3) (b), Stats., the commissioner, after approval by the board, shall by rule set the fees to the fund and s. 655.61, Stats., requires the board, by rule, to set the fees charged to health care providers at a level sufficient to provide the necessary revenue to fund the medical mediation panels. Further, s. 601.41 (3), Stats., provides that the commissioner shall have rule-making authority pursuant to s. 227.11 (2), Stats.

4. Related statutes or rules:

None.

5. Plain language analysis:

This proposed rule establishes the fees that participating health care providers must pay to the fund for the fiscal year beginning July 1, 2013. These fees represent a 5% decrease from fees paid for the 2012-2013 fiscal year. The board approved these fees at its meeting on December 19, 2012, based on the recommendation of the board's actuarial and underwriting committee and reports of the fund's actuaries.

The board is also required to promulgate by rule the annual fees for the operation of the injured patients and families compensation medical mediation system, based on the recommendation of the director of state courts. The recommendation of the director of state courts was reviewed by the board's actuarial and underwriting committee. This rule implements the funding level approved by the board on March 20, 2013 by establishing mediation panel fees for the next fiscal year at \$0 for physicians and \$0 per occupied bed for hospitals, representing a decrease of \$22.50 per physician and a decrease of \$4.50 per occupied bed for hospitals from 2012-13 fiscal year mediation panel fees.

Finally this rule includes changes to the Insurance Services Office (ISO) code listing to address corrections to several classification specialties as well as new classification specialties. ISO codes are the numerical designation for a health care provider's specialty and are used to classify the provider for assessment purposes. Errors identified in the ISO codes or specialty narratives for three specialties have been corrected. A third specialty had duplicate listings resulting in the exclusion of another specialty which has now been added. The Doctor of Osteopathy (D.O.) designated ISO codes have been added for two specialties previously listed only under the Doctor of Medicine (M.D.) ISO codes.

6. Summary of and comparison with any existing or proposed federal statutes and regulations:

To the fund board's and OCI's knowledge there is no existing or proposed federal regulation that is intended to address fund rates, administration or to fund medical mediation panel activities.

7. Comparison with rules in adjacent states:

To the fund board's and OCI's knowledge there are no similar rules in the adjacent states to compare this rule to as none of adjacent states have a fund created by statute where rates are directed to be established yearly by rule as is true in Wisconsin.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule:

None. This rule establishes annual fund fees pursuant to the requirements of the above-noted Wisconsin statutes. The recommendation to the board regarding the fund fee and the medical mediation panel assessment is developed and reviewed annually by the fund's actuaries and the board's actuarial and underwriting

committee. The actuarial and underwriting committee after review and discussion with the fund's actuaries present the information and the actuaries report to the board for consideration. This proposed rule reflects the rates approved by the board at the December 19, 2012 and March 20, 2013 board meetings.

9. Analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small business or in preparation of an economic impact analysis:

This decrease in fund fees will have a positive effect on small businesses in Wisconsin, particularly those that employ physicians and other health care professionals. The mediation panel fee is assessed only on physicians and hospitals, not on corporations or other health care entities that will also benefit from the reduction to zero fees for fiscal year 2014. The fund fee decrease will affect only those small businesses that pay the fund fees and mediation panel fees on behalf of their employed physicians. The fund fee decrease will not have a significant effect nor should it negatively affect the small business's ability to compete with other providers.

10. Effect on small business:

This rule will have little or no effect on small businesses. The decrease contained in the proposed rule will require providers to pay reduced fund fees which will decrease the operational expenses for the providers. The decrease in fees promulgated by this rule should not result in a significant fiscal effect on the private sector.

11. A copy of any comments and opinion prepared by the Board of Veterans Affairs under s. 45.03 (2m), Stats., for rules proposed by the Department of Veterans Affairs.

None.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110
Email: inger.williams@wisconsin.gov
Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474
Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Julie E. Walsh
Legal Unit - OCI Rule Comment for Rule Ins 1701
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

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125 South Webster St – 2nd Floor
Madison WI 53703-3474

Email address:

Julie E. Walsh

Julie.Walsh@wisconsin.gov

Web site: <http://oci.wi.gov/ocirules.htm>

The proposed rule changes are:

SECTION 1. Ins 17.01 (3) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. The following fee schedule shall be effective July 1, ~~2012~~ 2013:

(a) For physicians-- ~~\$22.50~~\$0.

(b) For hospitals, per occupied bed-- ~~\$4.50~~\$0.

SECTION 2. Ins 17.28 (3) (c) 1., 2., and 3., are amended to read:

Ins 17.28 (3) (c) 1. Class 1:

Administrative Medicine	80120
Aerospace Medicine	80230
Allergy	80254
Allergy (D.O.)	84254
Cardiovascular Disease—no surgery or catheterization	80255
Cardiovascular Disease—no surgery or catheterization (D.O.)	84255
Dermatology—no surgery	80256
Dermatology—no surgery (D.O.)	84256
Diabetes—no surgery	80237
Endocrinology—no surgery	80238
Endocrinology—no surgery (D.O.)	84238
Family or General Practice—no surgery	80420
Family or General Practice—no surgery (D.O.)	84420
Forensic Medicine—Legal Medicine	80240
Forensic Medicine—Legal Medicine (D.O.)	84240
Gastroenterology—no surgery	80241
Gastroenterology—no surgery (D.O.)	84241
General Preventive Medicine—no surgery	80231
General Preventive Medicine—no surgery (D.O.)	84231
Geriatrics—no surgery	80243
Geriatrics—no surgery (D.O.)	84243
Gynecology—no surgery	80244
Gynecology—no surgery (D.O.)	84244
Hematology—no surgery	80245
Hematology—no surgery (D.O.)	84245
Hypnosis	80232
Infectious Diseases—no surgery	80246
Infectious Diseases—no surgery (D.O.)	84246

Internal Medicine—no surgery	80257	
Internal Medicine—no surgery (D.O.)	84257	
Laryngology—no surgery	80258	
Manipulator (D.O.)	84801	
Neoplastic Disease—no surgery	80259	
Nephrology—no surgery	80260	
Nephrology – no surgery (D.O.)	84260	
Neurology—no surgery	80261	
Neurology—no surgery (D.O.)	84261	
Nuclear Medicine	80262	
Nuclear Medicine (D.O.)	84262	
Nutrition	80248	
Occupation Medicine	80233	
Occupation Medicine (D.O.)	84233	
Oncology – no surgery	80302	
Oncology – no surgery (D.O.)	84302	
Ophthalmology—no surgery	80263	
Ophthalmology—no surgery (D.O.)	84263	
Osteopathy—manipulation only	84801	
Otology – no surgery	80247	<u>80264</u>
Otorhinolaryngology—no surgery	80265	
Otorhinolaryngology—no surgery (D.O.)	84265	
Pain Management – no surgery	80208	
Pain Management – no surgery (D.O.)	84208	
Pathology—no surgery	80266	
Pathology—no surgery (D.O.)	84266	
Pediatrics—no surgery	80267	
Pediatrics—no surgery (D.O.)	84267	
Pharmacology—Clinical	80234	
Physiatry—Physical Medicine (D.O.)	84235	
Physiatry—Physical Medicine & Rehabilitation	80235	
Physicians—no surgery	80268	
Physicians—no surgery (D.O.)	84268	
Psychiatry	80249	
Psychiatry—(D.O.)	84249	
Psychoanalysis	80250	
Psychosomatic Medicine	80251	
Psychosomatic Medicine (D.O.)	84251	
Public Health	80236	
Pulmonary Disease—no surgery	80269	
Pulmonary Disease—no surgery (D.O.)	84269	
Radiology—diagnostic	80253	
Radiology—diagnostic (D.O.)	84253	
Radiopaque dye	80449	
Radiopaque dye (D.O.)	84449	
Rheumatology—no surgery	80252	
Rheumatology—no surgery (D.O.)	84252	
Rhinology – no surgery	80264	<u>80247</u>
Shock Therapy	80431	
Shock Therapy (D.O.)	84431	
Shock Therapy—insured	80162	
Urgent Care—Walk-in or After Hours	80424	
Urgent Care—Walk-in or After Hours (D.O.)	84424	
Urology— <u>no surgery</u>	80121	

2. Class 2:

Acupuncture	80437	
Acupuncture (D.O.)	84437	
Anesthesiology	80151	
Anesthesiology (D.O.)	84151	
Angiography-Arteriography—catheterization	80422	
Angiography-Arteriography—catheterization (D.O.)	84422	
Broncho-Esophagology	80101	
Cardiovascular Disease—minor surgery	80281	
Cardiovascular Disease—minor surgery (D.O.)	84281	
Colonoscopy-ERCP-Pneu or mech esoph dil (D.O.)	84443	
Colonoscopy-ERCP-pneu. or mech.	80443	
Dermatology—minor surgery	80282	
Dermatology – minor surgery (D.O.)	84282	
Diabetes – minor surgery	80271	
Dermatology Diabetes—minor surgery (D.O.)	84282	<u>84271</u>
Emergency Medicine—No Major Surgery	80102	
Emergency Medicine—No Major Surgery (DO)	84102	
Employed Physician or Surgeon	80177	
Employed Physician or Surgeon (D.O.)	84177	
Endocrinology—minor surgery	80272	
Endocrinology—minor surgery (D.O.)	84272	
Family Practice—and general practice minor surgery—No OB	80423	
Family Practice—and general practice minor surgery—No OB (D.O.)	84423	
Family or General Practice—including OB	80421	
Family or General Practice – including OB (D.O.)	84421	
Gastroenterology—minor surgery	80274	
Gastroenterology—minor surgery (D.O.)	84274	
Geriatrics—minor surgery	80276	
Geriatrics—minor surgery (D.O.)	84276	
Gynecology—minor surgery	80277	
Gynecology—minor surgery (D.O.)	84277	
Hematology—minor surgery	80278	
Hematology—minor surgery (D.O.)	84278	
Hospitalist	80296	
Hospitalist (D.O.)	84296	
Infectious Diseases—minor surgery	80279	
Intensive Care Medicine	80283	
Intensive Care Medicine (D.O.)	84283	
Internal Medicine—minor surgery	80284	
Internal Medicine—minor surgery (D.O.)	84284	
Laparoscopy	80440	
Laparoscopy (D.O.)	84440	
Laryngology—minor surgery	80285	
Myelography – Discogram-Pneumoencephalo	80428	
Myelography-Discogram-Pneumoencephalo (D.O.)	84428	
Needle Biopsy	80446	
Needle Biopsy (D.O.)	84446	
Nephrology—minor surgery	80287	
Neonatology	80298	

Neonatology (D.O.)	84298
Neoplastic Disease—minor surgery	80286
Neurology—minor surgery	80288
Neurology—minor surgery (D.O.)	84288
Oncology – minor surgery	80301
Oncology – minor surgery (D.O.)	84301
Ophthalmology—minor surgery	80289
Ophthalmology—minor surgery (D.O.)	84289
Otology – minor surgery	80290
Otorhinolaryngology—minor surgery	80291
Otorhinolaryngology—minor surgery (D.O.)	84291
Pain Management – Basic procedures	80182
Pain Management – Basic procedures (D.O.)	84182
Pathology—minor surgery	80292
Pathology—minor surgery (D.O.)	84292
Pediatrics—minor surgery	80293
Pediatrics—minor surgery (D.O.)	84293
Phlebography-Lymphangeography	80434
Phlebography-Lymphangeography (D.O.)	84434
Physicians—minor surgery	80294
Physicians – minor surgery (D.O.)	84294
Radiation Therapy—lasers	80425
Radiation Therapy—lasers (D.O.)	84425
Radiation Therapy – other than lasers	80165
Radiology—diagnostic-interventional procedures	80280
Radiology—diagnostic-interventional procedures (D.O.)	84280
Rhinology – minor surgery	80270
Surgery—Colon & Rectal	80115
Surgery —Endocrinology	80103
Surgery—Gastroenterology	80104
Surgery – Gastroenterology (D.O.)	84104
Surgery—General Practice or Family Practice	80117
Surgery—General Practice or Family Practice (D.O.)	84117
Surgery—Geriatrics	80105
Surgery—Neoplastic	80107
Surgery—Nephrology	80108
Surgery—Ophthalmology	80114
<u>Surgery—Ophthalmology (D.O.)</u>	<u>84114</u>
Surgery—Urological	80145
Surgery—Urological (D.O.)	84145

3. Class 3:

Emergency Medicine—includes major surgery	80157
Emergency Medicine—includes major surgery (D.O.)	84157
Otology—surgery	80158
Radiation Therapy – employed physician	80163
Radiation Therapy – employed physician (D.O.)	84163
Shock Therapy – employed physician	80161
Shock Therapy – employed physician (D.O.)	84161
Surgery—Abdominal	80166
Surgery – Bariatrics	80476

Surgery – Bariatrics (D.O.)	84476
Surgery—Cardiac	80141
Surgery—Cardiovascular Disease	80150
Surgery—Cardiovascular Disease (D.O.)	84150
Surgery—General	80143
Surgery—General (D.O.)	84143
Surgery—Gynecology	80167
Surgery—Gynecology (D.O.)	84167
Surgery—Hand	80169
Surgery—Head & Neck	80170
Surgery – Laryngology	80106
Surgery—Orthopedic	80154
Surgery—Orthopedic (D.O.)	84154
Surgery—Otorhinolaryngology-no plastic surgery	80159
Surgery—Plastic	80156
Surgery—Plastic (D.O.)	84156
Surgery—Plastic-Otorhinolaryngology	80155
Surgery—Plastic-Otorhinolaryngology (D.O.)	84155
Surgery—Rhinology	80160
Surgery—Thoracic	80144
Surgery—Thoracic (D.O.)	84144
Surgery—Traumatic	80171
<u>Surgery—Traumatic (D.O.)</u>	<u>84171</u>
Surgery—Vascular	80146
Surgery – Vascular (D.O.)	84146
Weight Control—Bariatrics	80180

SECTION 3. Ins 17.28 (6) is repealed and recreated to read:

(6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2013 to June 30, 2014:

(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.... \$1,457	Class 3....\$ 5,828
Class 2.... \$2,623	Class 4....\$9,616

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

Class 1..... \$ 729	Class 3....\$2,916
Class 2..... \$1,312	Class 4....\$4,811

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

All classes.....	\$874
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(d) For a Medical College of Wisconsin, Inc., full-time faculty member:

Class 1..... \$ 583	Class 3... .\$2,332
Class 2.....\$1,049	Class 4... .\$3,848

(e) For physicians who practice part-time:

1. 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:..\$ 364

2. For a physician who practices 1040 hours or less during the fiscal year, including those who practice fewer than 500 hours during the fiscal year whose practice is not limited to office practice, nursing homes or house calls or who do practice obstetrics, surgery or assist in surgical procedures:

Class 1.....\$ 874	Class 3....\$3,496
Class 2.....\$1,573	Class 4....\$5,768

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

Class 1.....\$ 729	Class 3....\$2,916
Class 2.....\$1,312	Class 4....\$4,811

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

\$ 358

(h) For a nurse anesthetist for whom this state is not a principal place of practice:.....\$ 179

(i) For a hospital, all of the following fees:

1. Per occupied bed.....\$ 87
2. Per 100 outpatient visits during the last calendar year for which totals are available:.....\$ 4.35

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., that is wholly owned and operated by a hospital and that 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.....\$ 51

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.....\$1,252

2. The following fee for each full-time equivalent allied health care professional employed by the partnership as of the most recent completed survey submitted:

<u>Employed Health Care Professionals</u>	<u>Fund Fee</u>
Nurse Practitioners.....	\$ 364
Advanced Nurse Practitioners.....	510
Nurse Midwives.....	3,205
Advanced Nurse Midwives.....	3,351
Advanced Practice Nurse Prescribers.....	510
Chiropractors.....	583
Dentists.....	291
Oral Surgeons.....	2,186
Podiatrists-Surgical.....	6,192
Optometrists.....	291
Physician Assistants.....	291

(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.....\$ 51
- 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.....\$1,252

2. The following fee for each full-time equivalent allied health care professional employed by the corporation as of the most recent completed survey submitted:

<u>Employed Health Care Professionals</u>	<u>Fund Fee</u>
Nurse Practitioners.....	\$ 364
Advanced Nurse Practitioners.....	510
Nurse Midwives.....	3,205
Advanced Nurse Midwives.....	3,351
Advanced Practice Nurse Prescribers.....	510
Chiropractors.....	583
Dentists.....	291
Oral Surgeons.....	2,186
Podiatrists-Surgical.....	6,192
Optometrists.....	291
Physician Assistants.....	291

(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.....\$ 51
- 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.....\$1,252

2. The following fee for each full-time equivalent allied health care professional employed by the corporation as of the most recent completed survey submitted:

<u>Employed Health Care Professionals</u>	<u>Fund Fee</u>
Nurse Practitioners	\$ 364
Advanced Nurse Practitioners.....	510
Nurse Midwives.....	3,205
Advanced Nurse Midwives.....	3,351
Advanced Practice Nurse Prescribers.....	510
Chiropractors.....	583
Dentists.....	291
Oral Surgeons.....	2,186
Podiatrists-Surgical.....	6,192
Optometrists.....	291
Physician Assistants	291

(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.....\$0.11

2. 2.5% of the total annual fees assessed against all of the employed physicians.

3. The following fee for each full-time equivalent allied health care professional employed by the operational cooperative sickness plan as of the most recent completed survey submitted:

<u>Employed Health Care Professionals</u>	<u>Fund Fee</u>
Nurse Practitioners.....	\$ 364
Advanced Nurse Practitioners.....	510
Nurse Midwives.....	3,205

Advanced Nurse Midwives.....	3,351
Advanced Practice Nurse Prescribers.....	510
Chiropractors.....	583
Dentists.....	291
Oral Surgeons.....	2,186
Podiatrists-Surgical.....	6,192
Optometrists.....	291
Physician Assistants.....	291

(o) For a freestanding ambulatory surgery center, as defined in s. DHS 120.03 (13), per 100 outpatient visits during the last calendar year for which totals are available:.....\$22.73

(p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:

1. 7.0% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
2. 10.0% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

(q) For an organization or enterprise not specified as a partnership or corporation that is organized and operated in this state 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.....\$ 51
- 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.....\$1,252

2. The following for each full-time equivalent allied health care professional employed by the organization or enterprise not specified as a partnership, corporation, or an operational cooperative health care plan as of the most recent completed survey submitted:

<u>Employed Health Care Professionals</u>	<u>Fund Fee</u>
Nurse Practitioners.....	\$ 364
Advanced Nurse Practitioners.....	.510
Nurse Midwives.....	3,205
Advanced Nurse Midwives.....	3,351
Advanced Practice Nurse Prescribers.....	.510
Chiropractors.....	.583
Dentists.....	.291
Oral Surgeons.....	2,186
Podiatrists-Surgical.....	6,192
Optometrists.....	.291
Physician Assistants.....	.291

SECTION 4. These changes may be enforced under s. Ins 17.01 (2) (d) and (e).

SECTION 5. EFFECTIVE DATE. These emergency rule changes will take effect on the date of publication as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, this 7th day of June, 2013.

Theodore K. Nickel
 Commissioner of Insurance

**Office of the Commissioner of Insurance
Fiscal Estimate**

for Section Ins 17.01, 17.28 (3) (c) and (6) relating to Injured Patients and Families Compensation Fund Annual fund and Mediation Panel Fees and ISO code amendments for the fiscal year beginning July 1, 2013 and affecting small business

This rule change will have no significant effect on the private sector as this proposed rule reduces fees to participants in the fund and reduces mediation panel fees to zero. The fund is a segregated account and does not impact state funds. The rule decreases fees and therefore does not have an effect on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues.

ADMINISTRATIVE RULES – FISCAL ESTIMATE

1. Fiscal Estimate Version

Original Updated Corrected

2. Administrative Rule Chapter Title and Number

INS 1728

3. Subject

Injured Patients and Families Compensation Fund Annual fund and Mediation Panel Fees and ISO code amendments for the fiscal year beginning July 1, 2013 and affecting small business

4. State Fiscal Effect:

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs	May be possible to absorb within agency's budget.
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	

5. Fund Sources Affected:

GPR FED PRO PRS SEG SEG-S

6. Affected Ch. 20, Stats. Appropriations:

None

7. Local Government Fiscal Effect:

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Decrease Costs

8. Local Government Units Affected:

Towns Villages Cities Counties School Districts WTCS Districts Others: None

9. Private Sector Fiscal Effect (small businesses only):

<input checked="" type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Revenues	<input type="checkbox"/> Increase Costs	May have significant economic impact on a substantial number of small businesses
<input type="checkbox"/> Indeterminate	<input checked="" type="checkbox"/> Decrease Revenues	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Decrease Costs	

May have significant economic impact on a substantial number of small businesses

10. Types of Small Businesses Affected:

Small businesses that employ physicians or other health care professionals participating in the Fund.

11. Fiscal Analysis Summary

No significant impact. Slight decrease in fund fees and zero medical mediation fees.

12. Long-Range Fiscal Implications

None

13. Name - Prepared by Julie E. Walsh	Telephone Number (608) 264-8101	Date June 5, 2013
14. Name – Analyst Reviewer	Telephone Number	Date
Signature—Secretary or Designee	Telephone Number (608) 267-3782	Date June 7, 2013

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

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

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.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

None

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

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)**

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

Yes No

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.

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
-

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

- 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

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

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.

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.

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.

15. Compare With Approaches Being Used by Federal Government

Federal government does not address this subject matter.

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.

17. Contact Name

Louie Cornelius

18. Contact Phone Number

608-264-8113

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

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

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.

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.

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.

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.

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.

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

- Yes No
-



SCOTT WALKER
OFFICE OF THE GOVERNOR
STATE OF WISCONSIN

P.O. Box 7863
MADISON, WI 53707

June 4, 2013

Ted Nickel
Commissioner of Insurance
125 South Webster Street
Madison, Wisconsin 53703-3474

RE: Emergency Rule modifying Chapter Ins 17 relating to Injured Patients and Families Compensation Fund Annual Fund and Mediation Panel Fees, and ISO code amendments for the fiscal year beginning July 1, 2013

Dear Commissioner Nickel,

I hereby approve the proposed emergency rule modifying Chapter Ins 17 of the Wisconsin Administrative Code submitted on June 4, 2013, pursuant to Wisconsin Statutes § 227.24. You may file the emergency rule for publication by the Legislative Reference Bureau pursuant to Wisconsin Statutes § 227.24(1)(e)1g.

Sincerely,

Scott Walker
Governor