

WEST VIRGINIA CODE: §33-20B-6

§33-20B-6. Rate review and reporting.

(a) The commissioner shall review annually the rules, rates and rating plans filed and in effect for each insurer providing five percent or more of the malpractice insurance coverage in this state in the preceding calendar year to determine whether the filings continue to meet the requirements of this article and whether the filings are unfair or inappropriate given the loss experience in this state in the preceding year.

The commissioner shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code establishing procedures for the fair and appropriate evaluation and determination of the past loss experience and prospective or projected loss experience of insurers within and outside this state, actual past expenses incurred in this state and demonstrable prospective or projected expenses applicable to this state.

(b) The commissioner shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code establishing procedures whereby each insurer providing five percent or more of the malpractice insurance coverage in this state annually shall submit to the commissioner the following information:

- (1) The number of claims filed per category;
- (2) The number of civil actions filed;
- (3) The number of civil actions compromised or settled;
- (4) The number of verdicts in civil actions;
- (5) The number of civil actions appealed;
- (6) The number of civil actions dismissed;
- (7) The total dollar amount paid in claims compromised or settled;
- (8) The total dollar amount paid pursuant to verdicts in civil actions;
- (9) The number of claims closed without payment and the amount held in reserve for all such claims;
- (10) The total dollar amount expended for loss adjustment expenses, commissions and brokerage expenses;
- (11) The total dollar amount expended in defense and litigation of claims;

- (12) The total dollar amount held in reserve for anticipated claims;
- (13) Net profit or loss;
- (14) Investment and other income on net realized capital gains and loss reserves and unearned premiums; and
- (15) The number of malpractice insurance policies canceled for reasons other than nonpayment of premiums.

The commissioner shall establish, in the rules, methods of allocating investment and other income among capital gains, loss reserves, unearned premiums and other assets if an insurer does not separately account for and allocate that income.

Any insurer who fails to submit any information to the commissioner, as required by this subsection, in accordance with the rules promulgated under this subsection, shall be fined \$10,000 for each of the first five failures and shall be fined \$100,000 for the sixth and each subsequent failure.

(c) The commissioner shall report annually, during the month of November, to the joint standing committee on the judiciary the following information pertaining to each insurer providing five percent or more of the malpractice insurance coverage in this state:

- (1) The loss experience within the state during the preceding calendar year;
- (2) The rules, rates and rating plans in effect on the date of the report;
- (3) The investment portfolio, including reserves, and the annual rate of return on the investment portfolio; and
- (4) The information submitted to the commissioner pursuant to the rules promulgated by authority of subsection (b) of this section.