WEST VIRGINIA CODE: §29-12B-7

§29-12B-7. Eligibility criteria for participation in health care provider professional liability insurance programs.

(a) Only those health care providers unable to obtain medical professional liability insurance because it is not available through the voluntary insurance market from insurers licensed to transact insurance in West Virginia at rates approved by the commissioner are eligible to obtain coverage pursuant to the provisions of this article: Provided, That any health care provider who can obtain medical professional liability insurance only pursuant to a "consent to" or "guide A" rate agreement is eligible to obtain coverage. Any health care provider who has medical professional liability insurance pursuant to the provisions of article twelve, chapter twenty-nine of this code is not eligible to obtain insurance pursuant to the provisions of this article.

(b) In addition to other eligibility criteria for participation in the health care provider professional liability insurance program established by the provisions of this article or criteria imposed by the board, every participant in the programs shall:

(1) Maintain a policy of not excluding patients whose health care coverage is provided through the West Virginia public employees insurance plan, the West Virginia Children's Health Insurance Program, West Virginia Medicaid or the West Virginia worker's compensation fund based solely on the fact that the person's health care coverage is provided by any of the aforementioned entities;

(2) Annually participate, at his or her own expense, in a risk management program approved by the board relating to risk management; and

(3) Agree in writing to the board's authority to assign his or her policy, individually or collectively, to a third party if the third party coverage is comparable, as determined by the board.

WV Legislature