

## WEST VIRGINIA CODE: §33-20B-8

### **§33-20B-8. Insurers required to report results of civil actions against physicians or podiatrists; penalties for failure to report; notice and hearing.**

(a) Every insurer issuing, or issuing for delivery in this state, a professional liability policy or providing professional liability insurance to health care providers, including, but not limited to, physicians, osteopathic physicians or surgeons, podiatrists or chiropractors, hospitals, medical clinics, professional limited liability companies, medical corporations or partnerships in this state shall submit to the commissioner, within sixty days from the date of entry of any judgment or dismissal without payment, the date a release is executed in connection with a settlement or the date a file is closed on any claim in which a law suit has not been filed involving the insured, the following information:

- (1) The date of any judgment, dismissal or settlement;
- (2) Whether any appeal has been taken on the judgment and, if so, by which party;
- (3) The amount of any settlement or judgment against the insured;
- (4) Whether the claim was the subject of mediation;
- (5) Whether any settlement of a claim was made in a lump sum payment, a structured settlement or a combination of the two; and
- (6) Any other information required by the commissioner.

For purposes of this section, "claim" means a third-party request for indemnification.

(b) If there is any additional resolution, including appellate decision or other subsequent action, the insurer shall file a supplemental report to the commissioner.

(c) The West Virginia insurance guaranty association created pursuant to article twenty-six of this chapter and the state Board of Risk and Insurance Management created pursuant to article twelve, chapter twenty-nine of this code are subject to the reporting requirements of subsection (a) of this section.

(d) Any insurer or entity that fails to report any information required to be reported under this section is subject to a civil money penalty to be imposed by the Insurance Commissioner. Upon a determination of the commissioner that there is probable cause to believe that any insurer or entity has failed or refused to make a report required by this section, the commissioner shall provide written notice to the alleged violator stating the nature of the alleged violation. Upon written request of the alleged violator within thirty days of the date of the commissioner's written notice, the commissioner shall notify the alleged violator of the time and place of a hearing at which the alleged violator may appear

to show good cause why a civil penalty should not be imposed. The hearing shall be conducted in accordance with the provisions of article five, chapter twenty-nine-a of this code.

(e) If the commissioner determines that a violation of this section has occurred, the commissioner shall assess a civil penalty of not less than \$1,000 nor more than \$10,000 per violation. Anyone so assessed shall be notified of the assessment in writing and the notice shall specify the reasons for the assessment. If the alleged violator requests a hearing, as provided in subsection (d) of this section, the commissioner may not make his or her determination of violation and assessment until the conclusion of the hearing. The amount of penalty collected shall be deposited in the General Revenue Fund.

(f) If any violator fails to pay the amount of the penalty assessment to the commissioner within thirty days after issuance of notice of the penalty assessment, the commissioner may institute a civil action in the circuit court of Kanawha County to recover the amount of the assessment. In any civil action, the court's review of the commissioner's action shall be conducted in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code.

(g) No person or entity may be held liable in any civil action with respect to any report made pursuant to this section if the report was made without knowledge of any falsity of the information contained in the report.