

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

INSURANCE BUREAU

STANDARDS FOR RATE FILINGS FOR PHYSICIANS AND SURGEONS PROFESSIONAL
LIABILITY INSURANCE

(By authority conferred on the commissioner of insurance by sections 210 and 2484 of Act No. 218 of the Public Acts of 1956, being SS500.210 and 500.2484 of the Michigan Compiled Laws)

R 500.901 Applicability of rules.

Rule 1. These rules shall apply to all rate filings for physicians and surgeons professional liability insurance filed pursuant to chapter 24 of Act No. 24 of Act No. 218 of the Public Acts of 1956, as amended, being S500.2400 et seq. of the Michigan Compiled Laws.

History: 1979 AC.

R 500.902 Determining whether rates excessive, inadequate, or discriminatory; criteria; "net worth" defined.

Rule 2. (1) For all rate filings for physicians and surgeons professional liability insurance, in determining whether rates are excessive, inadequate, or unfairly discriminatory under S500.2400 of the Michigan Compiled Laws, consideration shall be given to:

(a) The net underwriting and investment income of the insurer in relation to the company's net worth, as defined in subrule (2).

(b) A comparison of the experience for the filing company's physicians and surgeons professional liability insurance in Michigan with its experience for the same line in other states.

(c) Other information deemed appropriate.

(2) "Net worth" means that proportion of policyholders surplus, plus net prepaid expenses, plus unauthorized reinsurance, plus excess of statutory over case reserves, plus net furniture, equipment, and supplies, minus tax reserves for unrealized capital gains, as Michigan physicians and surgeons professional liability direct written premiums are of total direct written premiums.

History: 1979 AC.

R 500.903 Risk classification; supportive data; credibility standards.

Rule 3. (1) An insurer or rating organization submitting a rate filing for physician and surgeons professional liability insurance shall include therein the supportive data on which its various risk classifications and differentials between risk classifications are based.

(2) Rate filings shall include an actuarially sound method of assigning credibility levels to all supportive data used to establish risk classifications. Rate filings which do not employ credibility standards which are acceptable to the insurance commissioner shall not be allowed.

(3) Except as otherwise directed by the commissioner, partial credibility assigned according to the following formula is actuarially sound:

$$p = \text{square root of } n / \text{square root of } 4328$$

where p = the partial credibility and n = the number of claims

History: 1979 AC.

R 500.904 Statement of underwriting policy; contents; sworn statement; violations.

Rule 4. (1) All insurers and rating organizations submitting rate filings for physicians and surgeons professional liability insurance shall include with the filing a statement, in objective terms, of the underwriting policy used in the development of the rates filed. The statement shall be written so that a reasonable person in the exercise of ordinary intelligence and understanding can apply the policy consistently and accurately.

(2) For the purposes of subrule (1), the statement of underwriting policy shall contain a description of the standards of risk selection used in terms of the following elements:

- (a) Territory or geography.
- (b) Professional specialty or other classification of the type of practice engaged in.
- (c) Nature of hospital affiliation and type of hospital with which the insured is affiliated, such as teaching hospital, governmental hospital, nonprofit hospital, or private hospital.
- (d) Type of patient constituting the clientele of the insured.
- (e) Professional training and claims history of the insured.
- (f) Any other standard employed by the insurer or rating organization.

(3) An insurer writing physicians professional liability insurance or surgeons professional liability insurance, or both, in this state shall submit a sworn statement of its intention to provide insurance protection in conformity with the underwriting policy used in developing the rate filing on which its premiums are based.

(4) An insurer writing physicians professional liability insurance or surgeons professional liability insurance, or both, in this state shall not refuse to issue a policy, or cancel or decline to renew a policy, or discriminate in rate making or premium charges, on a basis which is not specified in the statement of underwriting policy required by subrule (1). A violation of this subrule is a violation of S500.2412 of the Michigan Compiled Laws.

History: 1979 AC.

R 500.905 Expense items.

Rule 5. (1) An expense item contained in a rate filing for physicians and surgeons professional liability insurance shall not be expressed or derived from a fixed percentage of premium charge unless the relationship is supported by evidence submitted with the rate filing. Any expense that is determined by the commissioner to be unreasonable, in view of the evidence presented, shall not be allowed.

(2) If all or any portion of an expense item contained in a rate filing for physicians and surgeons professional liability insurance is earmarked for acquisition expenses, the insurer or rating organization submitting the filing shall include with the filing a statement regarding the necessity and reasonableness of such acquisition expenses.

History: 1979 AC.

R 500.906 Loss development factor; trend factor.

Rule 6. (1) If a rate filing for physicians and surgeons professional liability insurance includes a loss development factor, or equivalent actuarial device, to project the future dollar amount of claims on the basis of paid claims plus reserves for known unpaid claims, the insurer or rating organization submitting the filing shall include in the filing full actuarial support of that loss development factor including consideration of the effect of a determination of the effect of historical reserve inaccuracies on such loss development factors.

(2) In determining the reasonableness of a trend factor, or equivalent actuarial device, contained in a rate filing submitted by an insurer or rating organization for physicians and surgeons professional liability insurance, full justification of that factor shall be provided which would include due consideration given to new methods for claim resolution, such as arbitration, and to such other legal and social changes that may have a reasonable and predictable effect on the incident and magnitude of medical malpractice claims and claim settlements in this state.

(3) In every rate filing submitted by an insurer or rating organization for physicians and surgeons professional liability insurance, the insurer or rating organization shall calculate any loss development or trend factor, or its equivalent, with the most recent statistics that are reported.

History: 1979 AC.

R 500.907 Increased limits factor.

Rule 7. (1) Whenever an increased limits factor, or other premium multiplier, is used by the insurer or rating organization to calculate the premium for coverage in excess of the basic limits premium rates including in the rate filing, such insurer or rating organization shall submit to the commissioner, as part of the rate filing, the data employed by the insurer or rating organization to derive the increased limits factor or other premium multiplier, plus a documentation of the methodology used in the calculation and a justification for the use of that methodology.

(2) A premium for physicians and surgeons professional liability insurance calculated with the use of an increased limits factor or other premium multiplier, to the extent that the increased limits factor or other premium multiplier is not supported by the data submitted to the commissioner as a part of the rate filing, shall not be allowed.

History: 1979 AC.

R 500.908 Premium surcharge.

Rule 8. (1) A premium surcharge contained in a rate filing for physicians and surgeons professional liability insurance shall not be expressed or derived from a fixed percentage of another premium charge, unless the relationship is supported by evidence submitted with the rate filing.

(2) A premium surcharge that is found to be unreasonable in view of the evidence present shall not be allowed.

History: 1979 AC.

R 500.909 Contents of rate filing; effect of noncompliance.

Rule 9. (1) A rate filing for physicians and surgeons liability insurance shall include all of the following items:

(a) A cover letter describing the nature and extent of the filing and the reasons the filing is being made.

(b) A statement of underwriting policy, changes in the underwriting policy from previous filing, and a justification for such changes.

(c) Earned premiums, incurred losses, and incurred expenses by class and territory for the past 5 calendar years for this state.

(d) Rate level history for the past 5 calendar years.

(e) Justification of the credibility standards applied in the determination of all classification and territorial differentials.

(f) A calculation of anticipated return on net worth.

(g) A documentation of the methodology and data used to arrive at anticipated expense levels.

(h) A documentation of the methodology and data used, as well as a justification for their use, in arriving at loss development factors.

(i) A documentation of the methodology and data used, as well as a justification for their use, in arriving at trend factors.

(j) A documentation of the methodology and data used, as well as a justification for their use, in arriving at increased limits.

(k) A documentation of the methodology and data used to arrive at premium surcharges.

(l) A letter of certification, the language of which shall be supplied by the insurance bureau, stating that the filing is in compliance with all applicable laws and rules.

(m) All other factors which may subsequently be required or which are required by the insurance laws of this state.

(2) A filing not in compliance with the requirements in subrule (1) shall not be considered to be a filing under chapter 24 of the insurance code, being S500.2400 et seq. of the Michigan Compiled Laws, and shall be immediately returned to the filing company.

History: 1979 AC.