

215 ILCS 5/155.18

Sec. 155.18. (a) This Section shall apply to insurance on risks based upon negligence by a physician, hospital or other health care provider, referred to herein as medical liability insurance. This Section shall not apply to contracts of reinsurance, nor to any farm, county, district or township mutual insurance company transacting business under an Act entitled "An Act relating to local mutual district, county and township insurance companies", approved March 13, 1936, as now or hereafter amended, nor to any such company operating under a special charter.

(b) The following standards shall apply to the making and use of rates pertaining to all classes of medical liability insurance:

(1) Rates shall not be excessive or inadequate nor shall they be unfairly discriminatory.

(2) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this State, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses both countrywide and those especially applicable to this State, and to all other factors, including judgment factors, deemed relevant within and outside this State.

Consideration may also be given in the making and use of rates to dividends, savings or unabsorbed premium deposits allowed or returned by companies to their policyholders, members or subscribers.

(3) The systems of expense provisions included in the rates for use by any company or group of companies may differ from those of other companies or groups of companies to reflect the operating methods of any such company or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof.

(4) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Such classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations and shall apply to all risks under the same or substantially the same circumstances or conditions. The rate for an established classification class should be related generally to the anticipated loss and expense factors of the class.

(c)(1) Every company writing medical liability insurance shall file with the Secretary of Financial and Professional Regulation the rates and rating schedules it uses for medical liability insurance. A rate shall go into effect upon filing, except as otherwise provided in this Section.

(2) If (i) 1% of a company's insureds within a specialty or 25 of the company's insureds (whichever is greater) request a public hearing, (ii) the Secretary at his or her discretion decides to convene a public hearing, or (iii) the percentage increase in a company's rate is greater than 6%, then the Secretary shall convene a public hearing in accordance with this paragraph (2). The Secretary shall notify the public of any application by an insurer for a rate increase to which this paragraph (2) applies. A public hearing under this paragraph (2) must be concluded within 90 days after the request, decision, or increase that gave rise to the hearing. The Secretary may, by order, adjust a rate or take any other appropriate action at the conclusion of the hearing.

(3) A rate filing shall occur upon a company's commencement of medical liability insurance business in this State as often as the rates are changed or amended.

(4) For the purposes of this Section, any change in premium to the company's insureds as a result of a change in the company's base rates or a change in its increased limits factors shall constitute a change in rates and shall require a filing with the Secretary.

(5) It shall be certified in such filing by an officer of the company and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience. The Secretary may request any additional statistical data and other pertinent information necessary to determine the manner the company used to set the filed rates and the reasonableness of those rates.

This data and information shall be made available, on a company-by-company basis, to the general public.

(d) If after a public hearing the Secretary finds:

(1) that any rate, rating plan or rating system violates the provisions of this Section applicable to it, he shall issue an order to the company which has been the subject of the hearing specifying in what respects such violation exists and, in that order, may adjust the rate;

(2) that the violation of any of the provisions of this Section by any company which has been the subject of the hearing was willful or that any company has repeatedly violated any provision of this Section, he may take either or both of the following actions:

- (A) Suspend or revoke, in whole or in part, the certificate of authority of such company with respect to the class of insurance which has been the subject of the hearing.
- (B) Impose a penalty of up to \$1,000 against the company for each violation. Each day during which a violation occurs constitutes a separate violation. The burden is on the company to justify the rate or proposed rate at the public hearing.
- (e) Every company writing medical liability insurance in this State shall offer to each of its medical liability insureds the option to make premium payments in quarterly installments as prescribed by and filed with the Secretary. This offer shall be included in the initial offer or in the first policy renewal occurring after the effective date of this amendatory Act of the 94th General Assembly, but no earlier than January 1, 2006.
- (f) Every company writing medical liability insurance is encouraged, but not required, to offer the opportunity for participation in a plan offering deductibles to its medical liability insureds. Any plan to offer deductibles shall be filed with the Department.
- (g) Every company writing medical liability insurance is encouraged, but not required, to offer their medical liability insureds a plan providing premium discounts for participation in risk management activities. Any such plan shall be reported to the Department.
- (h) A company writing medical liability insurance in Illinois must give 180 days' notice before the company discontinues the writing of medical liability insurance in Illinois.

(Source: P.A. 79-1434.)