

# STATE OF ILLINOIS



## **Department of Financial and Professional Regulation Division of Insurance**

IN THE MATTER OF  
THE MEDICAL MALPRACTICE  
RATE INCREASE OF:

HEARING NO. 06-HR-0735

CHICAGO INSURANCE COMPANY  
33 WEST MONROE STREET  
CHICAGO, ILLINOIS 60603  
RATE FILING #CGIL-NRS-IL-03-06-RA

### **ORDER**

I, Michael T. McRaith, Director of the Illinois Department of Financial and Professional Regulation, Division of Insurance hereby certify that I have read the entire Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Timothy M. Cena, appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a Hearing in the above-captioned matter. I have carefully considered and reviewed the entire Record of the Hearing and the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, attached hereto and made a part hereof.

I, Michael T. McRaith, being duly advised in the premises, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Sections 155.18, 401, 402 and 403 of the Illinois Insurance Code (215 ILCS 5/155.18, 5/401, 5/402 and 5/403) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et. seq.).

This Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1 et. seq.). This Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 3/101- et. seq.).

**NOW IT IS THEREFORE ORDERED THAT:**

- 1) Chicago Insurance Company Filing #CGIL-NRS-IL-03-06-RA is approved;
- 2) Chicago Insurance Company shall pay as costs of this proceeding, within 35 days of the date of this Order, the sum of \$210.00, directly to the Illinois Division of Insurance, Tax and Fiscal Service Unit, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION of the  
State of Illinois;

DIVISION OF INSURANCE

Date: March 5, 2007

Michael T. McRaith  
Michael T. McRaith  
Director

# STATE OF ILLINOIS



## **Department of Financial and Professional Regulation Division of Insurance**

IN THE MATTER OF  
THE MEDICAL MALPRACTICE  
RATE INCREASE OF:

HEARING NO. 06-HR-0735

CHICAGO INSURANCE COMPANY  
33 WEST MONROE STREET  
CHICAGO, ILLINOIS 60603  
RATE FILING #CGIL-NRS-IL-03-06-RA

### **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING OFFICER**

Now comes Timothy M. Cena, Hearing Officer in the above captioned matter and offers his Findings of Fact, Conclusions of Law and Recommendations to the Director of Insurance.

#### **FINDINGS OF FACT**

- 1) On December 2, 2005, Chicago Insurance Company (Company) filed with the Illinois Division of Insurance (Division) a Nurses' Professional Liability Program Rate Filing #CGIL-NRS-IL-03-06-RA (Filing) (see Division Exhibit # 1).
- 2) On September 15, 2006, the Illinois Director of Insurance, Michael T. McRaith (Director) issued a Notice of Hearing requiring the Company to participate in an Administrative Hearing regarding the Filing. The Hearing was scheduled for November 15, 2006 at the Division's Offices in Springfield, Illinois (Hearing Officer Exhibit # 2).

- 3) Joseph T. Clennon filed a Notice of Appearance in this matter as Counsel for the Division (Hearing Officer Exhibit # 2).
- 4) Kirk H. Petersen filed an Appearance on behalf of the Company in this matter (Hearing Officer Exhibit # 3).
- 5) On September 15, 2006, Timothy M. Cena was appointed as Hearing Officer in this matter by the Director (Hearing Officer Exhibit # 1).
- 6) The Hearing in this matter was convened on November 15, 2006 at 10:00 AM at the Division's Offices in Springfield, Illinois at which time were present Timothy M. Cena, Hearing Officer; Joseph T. Clennon, on behalf of the Division; Kirk H. Petersen, on behalf of the Company; Daphne Crockett, Timothy Kovac, Pat Houlihan, and Jayme Stubitz, all with the Company; Julie Anderson, Judy Poole Boutchee, Gayle Newman, Pam Donnewald, John Gatlin, all with the Division; Craig Lounsberry, with the Illinois Trial Lawyers Association; and Rob Kane with ISMIE Mutual Insurance Company.

The purpose of this Hearing is to receive information regarding the Company's Filing and to determine whether the Filing is in compliance with Section 155.18 of the Illinois Insurance Code (215 ILCS 5/155.18).

- 7) Prior to the start of the Hearing both the Product Evaluation and Casualty Actuarial Sections of the Division conducted an extensive review of the Filing. Contact was made with the Company and amendments were made to the Filing in its Quarterly Premium Payment Installment Plan Section. The Filing's actuarial indications and supporting documents were also reviewed. The review encompassed an analysis of rate making methodology, ultimate loss, allocated loss adjustment expense selection, loss development triangles, profit load and permissible loss ratio. Additional actuarial information was requested, and was received, from the Company during the review. The Division has no objections to the Filing pending the review of any further information presented during the Hearing. The Division offered, and the Hearing Officer accepted into the Record in this matter, the complete Company Filing # CGIL-NRS-IL-03-06-RA (Division Exhibit # 1, Packets 1-4).
- 8) The Company requests approval for new rates designed for use with the its Nurses' Professional Liability Insurance Program. The Filing pertains to the American Health Care Professionals Purchasing Group, American Nurses Association/State Nurses Association Purchasing Group, National Nurses Purchasing Group and Professional Nurses Organization Purchasing Group. The overall rate increase requested is 11.6%, which includes a 20% increase for the Company's insured self-employed nurse practitioners, a 10% increase for insured registered nurses and 8% increase for nurse assistants. Since 1998, the Company has taken one rate increase in 2004 and actually reduced rates in

previous years, the Company believes that over that period of time its overall rate increases have been moderate. The Company believes that it has identified the classes in the program that are predominantly responsible for the lack of profitability for the program and therefore propose the rate increases indicated in the Filing.

The Company insures approximately 3,000 Illinois policyholders under the program. Most of the policyholders will see an increase from six to nine dollars in the premiums. The self-employed nurse practitioner class would experience an average premium increase of \$71.00.

- 9) Division Exhibit # 1, Packet # 4, Exhibit # 6, Projected Expenses indicates a profit load of 13.6%. The Company testified that the profit load figure is necessitated by the requirement of its parent company, Allianz, that it realize a 15% after-tax Return on Equity (ROE) for the amount of capital placed in the Company by the parent. Exhibit # 6, page 2, contains the calculations for arriving at the 13.6% figure based upon a 15% after-tax ROE requirement. The terms 'Capital' and 'Surplus' are interchangeable in this Exhibit.
- 10) Division Exhibit # 1, Packet # 4, Exhibit # 2 contains ratemaking calculations for each of the subject classes of insureds. Exhibit # 1, Sheet # 1 indicates an Experience Loss and ALAE Ratio of 69.2% for LVNs, LPNs, Aides and Assistants. The Filing proposes an 8% premium increase for this class. Exhibit # 2, Sheet # 2 calculates an Experience Loss and ALAE Ratio of 91.9% for RNs. The Filing proposes a 10% premium increase for this class. Exhibit # 2, Sheet # 3 calculates an Experience Loss and ALAE Ratio of 75.2% for Self-Employed Nurse Practitioners. The Filing proposes a 20% premium increase for this class of insureds. The Company testified that, as a group, self-employeds generally have a worse claims experience than do employed nurses. The Company believes this is do to the fact that self-employeds receive less supervision than do employed nurses. The Company admitted that its Loss Experience indication is larger for RN's than it is for self-employed practitioners even though it seeks higher premium increases for the self-employeds. The Company testified that "a lot of that has to do with some qualitative reasons but some underwriting reasons as well."

The Company testified that the rate indications are quite high, RN's being 91.9%. While that is the Company's best estimate of its rate need, raising its rates at that level "would really be disruptive to the market place, not to mention probably drive away all of our insureds" The Company, in 2004, decided on a strategy of taking moderate rate increases every year rather than assessing one large increase.

- 11) The Hearing Officer left the Record in this matter open at the close of the Hearing in order to provide the Company an opportunity to provide additional information for the Record. On November 21, 2006, the Hearing Officer

issued a letter to the Company (see Hearing Officer Exhibit # 4) asking the Company with what frequency, as a percentage of total policies covered by the Filing, are Illinois Policyholders sued for malpractice.

On December 4, 2006, the Company provided a written Response to the letter (see Hearing Officer Exhibit # 5). In 2004, the Company wrote 3,336 policies in Illinois four reported claims, three of which were litigated. The percentage of total claims litigated was 75% and the percent of Illinois policyholders sued was .09%.

- 12) After reviewing the Company's answers to the questions at the Hearing and the additional written responses, the Division indicated to the Hearing Officer that it had no objections to the Filing.

### CONCLUSIONS OF LAW

Based upon the above stated Findings of Fact and the entire Record in this matter the Hearing Officer offers the following Conclusions of Law to the Director of Insurance.

- 1) Timothy M. Cena was duly appointed as Hearing Officer in this matter by the Director of Insurance pursuant to Section 403 of the Illinois Insurance Code (215 ILCS 5/403).
- 2) The Director of Insurance has jurisdiction over the parties and the subject matter of this proceeding pursuant to Section 155.18, 401, 402 and 403 of the Illinois Insurance Code (215 ILCS 5/155.18, 5/401, 5/402 and 5/403).
- 3) The purpose of this proceeding is to determine if the Chicago Insurance Company's Medical Malpractice Rule/Rate Filing #CGIL-NRS-IL-03-06-RA is in compliance with Section 155.18 of the Illinois Insurance Code.

Section 155.18 of the Insurance Code provides, in part, as follows:

- “(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.
- (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 groups 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 established 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 should be related generally to the anticipated loss and expense factors or 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 the 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). 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 and thereafter 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; . . . ”

The information presented in this matter to the Hearing Officer does not indicate that the rate increases proposed in the Filing are excessive or inadequate or that they are unfairly discriminatory. The Hearing Officer therefore concludes that Chicago Insurance Company Filing # CGIL-NRS-IL-03-06-RA is in compliance with Section 155.18 of the Illinois Insurance Code.

The Hearing in this matter was required by Section 155.18 of the Insurance Code by virtue of the greater than 6% rate increase proposed by the Company in their filing. The Hearing Officer therefore concludes that the Company should be assessed the costs of this proceeding. Said costs consist solely of the fees charged to the Division by the court reporting firm which prepared the transcripts of the testimony in this matter.

### RECOMMENDATIONS

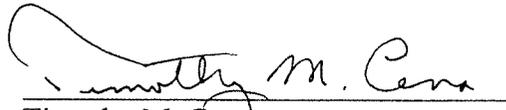
Based upon the above stated Findings of Fact, Conclusions of Law and the entire Record in this matter the Hearing Officer makes the following Recommendations to the Director of Insurance.

- 1) That Chicago Insurance Company Filing #CGIL-NRS-IL-03-06-RA be approved as entered into the Record in this matter; and
- 2) That Chicago Insurance Company be assessed the costs of this proceeding in the amount of \$210.00.

Respectfully submitted,

Date:

2/23/07

  
\_\_\_\_\_  
Timothy M. Cena  
Hearing Officer