

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
MEDICAL MALPRACTICE
RATE INCREASE OF:

HEARING NO. 09-HR-1138

THE ACE AMERICAN INSURANCE COMPANY

ORDER

I, Michael T. McRaith, Director of the Illinois Department of Insurance, hereby certify that I have read the 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, Michael T. McRaith, Director, Director of the Illinois Department of Insurance, being duly advised in the premises, to 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 Article IX and Article XXIV of the Illinois Insurance Code (215 ILCS 5/132 et. seq. and 215 ILCS 5/401 et. seq.).

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

NOW IT IS THEREFORE ORDERED THAT:

- 1) Ace American Insurance Company Filing # 09-MR-2008219 is not in violation of the applicable provisions of the Illinois Insurance Code and therefore the Filing may be implemented in the State of Illinois.

- 2) Ace American Insurance Company shall pay as costs of this proceeding, within 35 days of the date of this Order, the sum of \$246.00, directly to the Illinois Department of Insurance, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

ILLINOIS DEPARTMENT OF
INSURANCE

Date: 13 April 2010


Michael T. McRaith
Director

STATE OF ILLINOIS
DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
MEDICAL MALPRACTICE
RATE INCREASE OF:

HEARING NO. 09-HR-1138

THE ACE AMERICAN INSURANCE COMPANY

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 hereby offers his Findings of Fact, Conclusions of Law and Recommendations in the above-captioned matter to the Director of Insurance.

FINDINGS OF FACT

- 1) On February 23, 2009, Ace American Insurance Company (Ace) filed with the Illinois Department of Insurance (Department) a Rate Increase Filing for its Chiropractor's Professional Liability Program, Filing # 09-MR-2008219 (the Filing), (see Department Exhibit # 1 and # 1A) seeking to increase its base rates for chiropractic professional liability insurance coverage by 50%.
- 2) On November 9, 2009, the Illinois Director of Insurance (Director) issued a Notice of Hearing in the matter for the purpose of determining whether Ace's Filing was in compliance with Section 155.18 of the Illinois Insurance Code (215 ILCS 5/155.18). The Notice required Ace to appear at an administrative hearing regarding the Filing before the Director, or his designee, on November 24, 2009, at the Department's Offices in Springfield, Illinois (see Hearing Officer Exhibit # 2).

- 3) On November 9, 2009, Joseph T. Clennon filed a Notice of Appearance in the matter on behalf of the Department (Hearing Officer Exhibit # 2).
- 4) On November 9, 2009, the Director issued an Authority to Conduct Hearing designating and appointing Timothy M. Cena as Hearing Officer to conduct the administrative hearing in this matter (Hearing Officer # 1).
- 5) On or about November 18, 2009, Ace filed with the Hearing Officer a Notice of Receipt of the Notice of Hearing and Motion for Continuance (Hearing Officer Exhibit # 3).
- 6) On November 19, 2009, the Department filed with the Hearing Officer a Response to the Motion for Continuance indicating that the Department had no objection to Ace's Motion for Continuance (Hearing Officer Exhibit # 4).
- 7) On December 10, 2009, the Hearing Officer issued an Order granting Ace's Motion and setting the new hearing date for January 12, 2010 (Hearing Officer Exhibit # 5).
- 8) On November 30, 2009, Kirk H. Petersen, of Zack Stamp Ltd. filed a Notice of Appearance in this matter on behalf of Ace (Hearing Officer Exhibit # 6).
- 9) The Hearing in this matter was convened on January 12, 2010 at 11:00 AM, at the Department's Offices in Springfield, Illinois at which time were present: Timothy M. Cena, Hearing Officer; Joseph Clennon, on behalf of the Department; Kirk H. Petersen, on behalf of Ace; Judy P. Mottar, Sarah J. Fore and Michael Lamb (telephonically), all with the Department; and Renee Carino, Nanette Tingley, and Caroline Clouser all with Ace.
- 10) The purpose of the Hearing was to receive information from Ace, other interested parties, or the general public to determine whether the Filing is in compliance with Section 155.18 of the Illinois Insurance Code. This filing seeks a rate increase of 50%. Section 155.18 requires the Director of Insurance to hold a hearing on medical malpractice insurance rate increases which exceed 6%.
- 11) At the start of the Hearing the Department indicated that the Department had, prior to the hearing, performed an extensive review of the Filing. The review determined that the Filing was complete and included all documentation, transmittal forms and certificates required by law. The Department reviewed the Rules section of Ace's Rating

Manual. Correspondence was exchanged between the Department and Ace in order to clarify the filing. Ace complied with all post-filing requests for additional information and documentation made by the Department.

As a part of the Department's review, consideration was given to Ace's rate-making methodology, trend selection, and schedule experience rating. The Department indicated that, based on this review, but also pending additional questions to the company during the hearing, that the Department had no initial reasons to object to the Filing.

- 12) Ace's Filing, as originally filed with the Department, plus any additional information received as a part of the Department's initial review were tendered and received into evidence in this matter as Department Exhibit # 1. The Filing consists of an actuarial memorandum, property and casualty transmittal documents, a rate/rule filing schedule and a rate manual. Upon submitting the Filing into evidence, the Department rested its case in the matter pending additional questions to Ace's witness.
- 13) Nanette Tingley, Ace's Vice President of Compliance and Actuary, testified on behalf of Ace in this matter, as follows:
 - a) She has been employed with Ace in her current positions since 2002. She is an associate of the Casualty Actuarial Society and member of the American Academy of Actuaries. She prepared the Filing which is the subject of the proceeding;
 - b) As part of her preparation of the Filing, she gave consideration to Ace's past and prospective loss experience. Her calculations indicated that a rate of 54% was appropriate for the line of business at this time. Ace rounded the filing request down to 50%. Ace has requested no changes in its rates in Illinois for this line of business since 2000;
 - c) As a part of her preparation of the Filing, consideration was given for developing a reasonable margin for underwriting profit. The profit was projected at 5 % from underwriting but then that percentage was reduced by 8% for investment income to be realigned by Ace, which nets to a negative 3.5% profit margin;

- d) As a part of her preparation of the Filing, she gave consideration to Ace's past and prospective expenses;
 - e) As a part of her preparation of the Filing, different classifications were used in the Filing and the classifications are reasonable;
 - f) The Filing contains an option for insureds to pay a quarterly premium payment to the company on their policies. If insureds participate in risk management activities outlined by the company, premium discounts are available to the insureds;
 - g) In her opinion, the proposed new rates are consistent with Ace's past experience, the rates are based upon sound actuarial principles, the rates are not excessive, nor are the rates inadequate or unfairly discriminatory.
- 14) On questioning by the Department, Witness Tingley and Ace Witness, Caroline Clauser testified as follows:
- a) This rate filing applies to 472 Illinois policyholders. The average dollar increase in premium to insureds per policy is approximately \$500.00. The range of possible increased rates range from \$5,000.00 on the high side to \$1,000.00 on the low side;
 - b) The insurance policy provides coverage to the insured for defense costs for licensure disciplinary action;
 - c) Generally, the nature of the claims filed by Illinois policyholders involved allegations by insureds that the chiropractic manipulation leads to a patient stroke in some instances. Ace's definition of what constitutes a claim has not changed in this Filing;
 - d) Ace has standard procedures regarding the evaluation, documentation and analysis of reserving of claims. The Company is a strong proponent of alternative dispute resolution and or arbitration mediation, and has been for many years. In a given year the number of cases taken

to trial, across Ace's entire medical malpractice book of business is less than 20, and for chiropractors, less than five;

- e) Ace's approach to settlement of claims, and its marketing of that approach, is one of fairness and firmness. The company is not afraid to take cases to trial that warrant it, but also realizes that some cases need to be settled where insured liability is clear. The company works closely with insureds to ensure that policyholders are in agreement with the approach that is selected;
- f) Ace has not changed its approach to claims handling due to changes in Illinois law placing caps on non-economic damages and other tort reform in Illinois or any other state. Ace's rates are based upon their experience in a given state. Ace does monitor reform in individual states and will make a rate change if such is warranted;
- g) The witnesses testified about Ace's Country-wide Medical Malpractice Trend Analysis (see Department Exhibit # 2). The document provides information per calendar year quarter starting in 2005 regarding policy number counts, claim counts, closed claims, paid losses, and total losses on closed claims. Ace's trend analysis began in 2005. Prior years do not provide appropriate information for trend analysis because of a mixing of line of business information. Specifically, Ace's psychologist book of business, for 2003-2005, had a higher claim frequency which would have inflated all of the trend figures to the point of actuarial incorrectness;
- h) Ace compared reported claim counts and closed claim counts to earned policy counts and finds that reported claim counts show a slightly reducing frequency and closed claim counts show an increasing frequency over time. Ace witnesses could not account for the reasons for such frequency change;
- i) Ace believes that Illinois claims would follow the trends indicated in Exhibit # 2 because Illinois

claim counts are quite low and there are no other clear factors to indicate a different trend than the rest of the country. It is Ace's belief that the established trends will continue through the coverage period anticipated in the Filing. Such belief is based upon historical information and by the insured service office analysis of industry-wide data for medical malpractice;

- j) Ace's Illinois claim frequency is 14.5% and approximately 5% country-wide;
- k) Ace has not seen any trends in allocated loss adjustment expenses paid or incurred;
- l) Ace uses the services of a Managing General Agent (MGA), HCI Insurers (HCI). HCI manages all of the insurance policies affected by the Filing. HCI does the underwriting on all policies issued by Ace. For other lines of business Ace uses other underwriting channels, HCI handle chiropractors and podiatrists. HCI provides input to Ace on rate matters, but Ace retains final decision making authority;
- m) Physician's Assurance Company a competitor of ACE, (PACO) current rates were filed in Illinois in January of 2004 (see Department Exhibit # 2). Ace did not compare its filings with its competitors rates prior to making its current filing with the Department Competitors ratio are considered on a varying basis depending on product;
- n) Ace waited nine years between rate changes because company time was utilized to analyze product lines with more priority;
- o) Ace, in determining how competitive it wants to be in the marketplace, determines whether the historical results of competition companies are acceptable to the company. This work is done in-house and is not done by Ace's MGA;
- p) Ace has not observed a trend on the profitability of medical malpractice insurance since 2002;

- q) Ace insureds receive a premium credit and Ace's manuals provide for such credits, for insureds that follow written patient safety policy and practice standards, utilize terms of acceptance forms and attend risk management seminars. All Ace applicants for insurance receive the credits if they indicate on their application that they comply with the credits. The credits are applied solely based on answers to questions provided in the application. Ace does not maintain a list of providers for insureds to contact about attending risk management seminars;
 - r) The Department has communicated with Ace about getting information from the MGA regarding how Ace is using scheduled rating going forward. Ace is setting up a new computer system for providing the requested information to the Department. Implementation of the new system will likely be in 2011;
 - s) Ace's actuary has not had specific discussions with the MGA about how scheduled rating is applied to risks by the MGA. Ace performs an annual audit process to make sure that objective standards are used and documented in the file. The actuary does not know if the MGA uses schedule rating debits for risks having any suspected rating inadequacy;
 - t) Ace, in correspondence with the Department regarding this Filing, indicated that their experience rating provisions are used rarely, and the company wishes to therefore withdraw those provisions. Upon the actuary's query to the MGA about the use of those provisions, the MGA stated that they don't understand the provisions so they have never used them.
- 15) On Re-direct examination Ace witnesses Tingley and Clouser testified as follows:
- a) The Company's definition of a claim is contained in its policy of insurance;

- b) In their opinion it is unlikely that a chiropractic provider would ever face multiple defendants for a particular action;
 - c) The witnesses were not aware of any federal or state requirements that a med-mal insurer compare its rates to another med-mal insurers;
 - d) Ace has experienced no deficiencies in its underwriting because of the use of the MGA HCI for that purpose.
- 16) At the end of the oral testimony at the Hearing the Hearing Officer left the Record in this matter open to allow the Department to pose, and for Ace to answer, certain questions regarding the Filing that Ace witnesses were unable to answer and/or for Ace to provide additional written documentation to the Department regarding the filing. By agreement with the Parties, the Parties provided to the Hearing Officer written copies of the questions presented, documents requested, and Ace's responses thereto.
- 17) Midwest Litigation Services recorded the testimony taken in this matter and charged the Department \$246.00 for a Transcript of the Proceedings and the Court Reporter's attendance (Hearing Officer Exhibit # 7).
- 18) As agreed to by the parties, on January 21, 2010 the Department provided to Ace a letter (see Hearing Officer Exhibit # 7) listing a number of questions from the Department which Ace could not answer at hearing. On or about February 16, 2010 Ace provided written responses (see Hearing Officer Exhibit # 8) to the Department's written questions.
- 19) On February 4, 2010 the Illinois Supreme Court in Lebron v. Gottlieb Memorial Hospital, 2010 WL 375190 (Ill.) pg. 18, issued an opinion striking down as unconstitutional the specific Sections of the Illinois Insurance Code (Sections 155.18, 155.18a and 155.19 (215 ILCS 5/155.18, 5/155.18a and 15/155.19)) pursuant to which the Director had authority to conduct the administrative hearing in this matter regarding Ace's rate filing and which was the subject of the testimony at hearing in this matter.
- 20) A review of the law in the area of court invalidation of state statutes indicates that where statutes are held invalid and such statutes contain repeals of previously enacted statutes then on a ruling of invalidity

such repeals are also held invalid thereby reinstating the previously enacted statutes into law (see Perlstein v. Wolk, 218 Ill. 2d 448).

Based upon the above, the Hearing Officer finds that the evidence taken in the hearing in this matter pursuant to invalid statutes cannot be used as a basis for a decision by the Director, also based upon the invalid statutes. The Hearing Officer also finds, however, that the predecessor statutes (Pre-2005 statutes), pursuant to Perlstein, are now in full effect and the Director has authority pursuant to those laws to determine, pursuant to standards contained therein, and after an administrative hearing, whether the rates filed by Ace are excessive or inadequate, or are unfairly discriminatory and whether sufficient competition exists in the marketplace.

- 21) On March 2, 2010 and on the Hearing Officer's Motion, the Hearing Officer and the Parties participated in a telephonic post-hearing conference to discuss Ace's Filing in light of the Supreme Court's ruling on the relevant Insurance Code statutes. It was agreed by and between the Parties and the Hearing Officer as follows:
- That the Record produced at the January 12, 2010 administrative hearing in this matter would remain intact and is offered by the Parties as their evidence regarding Ace's Filing to the Director of Insurance pursuant to the Pre-2005 statutes and that the Director shall use such Record to make a decision regarding the Filing; and
 - That on or before March 3, 2010, the Department would be allowed to file an Additional Response to Ace's Response to the Department's written questions (see Hearing Officer Exhibit # 8) and further supplement the Record as the Department saw fit; and
 - That on or before March 10, 2010, Ace would be allowed to file a Reply to the Department's Additional Response and further supplement the Record as Ace saw fit.
- 22) On the respective agreed upon dates the Parties made the above described Filings and such Filings are entered into this Record as Hearing Officer Exhibits # 9 and # 10 respectively.

DISCUSSION AND ADDITIONAL FINDINGS

- 23) The purpose of this proceeding is to determine if the Ace American Insurance Company's Medical Malpractice Rule/Rate Filing 09-MR-2008219 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. 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 entitle “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, as herein defined, nor shall they be unfairly discriminatory. No rate shall be held to be excessive unless such rate is unreasonably high for the insurance provided, and a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

No rate shall be held inadequate unless it is unreasonably low for the insurance provided and continued use of it would endanger solvency of the company.

- (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 policyholder's 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 should be related generally to the anticipated loss and expense factors of the class.
- (c) Every company writing medical liability insurance shall file with the Director of Insurance the rates and rating schedules it uses for medical liability insurance.

- (1) This filing shall occur at least annually and as often as the rates are changed or amended.
 - (2) 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 Director.
 - (3) 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.
- (c) If after a hearing the Director finds:
- (1) that any rate, rating plan or rating system violates the provisions of this Section applicable to it, he may issue an order to the company which has been the subject of the hearing specifying in what respects such violation exists and stating when, within a reasonable period of time, the further use of such rate or rating system by such company in contracts of insurance made thereafter shall be prohibited;
 - (2) that the violation of any of the provisions of this Section applicable to it by any company which has been the subject of hearing was willful, he may 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.
- 24) As indicated above, and by agreement of the Parties hereto, the evidence produced in this matter will be examined in light of Section 155.18 of the Illinois Insurance Code in effect prior to the 2005 amendment to that Section which was recently invalidated by the Illinois Supreme Court.

Section 155.18b states four standards that apply to the making and use of rates pertaining to all classes of medical liability insurance.

Section 155.18(b)(1) – Rates shall not be excessive, inadequate or unfairly discriminatory. A rate cannot be held to be excessive unless such rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area.

No where in the Record in this matter does the Department provide the evidence necessary for the Hearing Officer to find that the rate filing is excessive (i.e. both unreasonably high and that a reasonable degree of competition does not exist in the area). The Record contains a discussion that the proposed rates for this Chiropractic Professional Liability Product would yield average policyholders in premium policy increases of \$500.00. Further, there is no evidence in the Record that the rate is inadequate or unfairly discriminatory,

Section 155.18(b)(2) – Consideration shall be given, to the extent applicable, to not and prospective lack experience within and without the State, to a reasonable margin for underwriting profit and contingencies, to part and prospective expenses, and to all other factors, including judgment factors deemed relevant. Consideration may also be given to dividends, savings or unresolved premium deposits allowed or returned by insurers.

The evidence in the Record in this matter indicates that Ace made the Filing in question on February 25, 2009. The Record indicates that additional information about the Filing was requested from Ace by the Department, on or about, May 29, 2009 and October 9, 2009. Further, Ace presented testimony at the administrative hearing in this matter conducted on January 12, 2010 and responded to additional written post-hearing questions posed by the Department on January 21, 2010. A review of the Record in this matter indicates that, and the Hearing Officer finds that Ace has presented sufficient evidence, to the extent applicable, regarding the areas of information contained in Section 155.18(b)(2) to be in compliance with the standards contained therein.

Section 155.18(b)(3) – Systems of expense provisions included in the rates for use by any company may differ from those of other companies to reflect the operating method of such company. The Hearing Officer finds that there is no evidence in this record to indicate that Ace is in violation of this standard.

Section 155.18(b)(4) – Risks may be grouped by classification for the establishments of rates. The Hearing Officer finds that there is no evidence in this record to indicate that Ace is in violation of this standard.

The Department, in its Reply to Aces' Post Hearing Response, states that it does not believe that it has enough information from Ace regarding the standard listed in Section 155.18(b)(2) to make a determination that the standards have been met and that then, therefore, the Filing should be deemed incomplete. The Hearing Officer disagrees. The statute only requires that Ace file information to the extent applicable. The Hearing Officer, after reviewing the evidence, believes that Ace has provided sufficient evidence, to the extent applicable, for a determination to be made in this matter. The Record contains evidence on each subject matter area listed in the statute and the Department, since the original Filing, has had numerous pre-hearing, at hearing, and post-hearing opportunities to gather additional information from Ace.

Taking the evidence presented in this matter as a whole, and in light of the above discussion, the Hearing Officer hereby finds that the use of the rates contained in the Filing should not be restricted by the Director.

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 5/402 of the Illinois Insurance Code (215 ILCS 5/402).
- 2) The Director of Insurance has jurisdiction over the parties and the subject matter of this proceeding pursuant to Sections 155.18, 401, 402 and 403 of the Illinois Insurance Code (215 ILCS 5/155.18, 5/401, 5/402 and 5/403).
- 3) Ace American Insurance Company Filing # 09-MR-2008219 is not excessive, inadequate or unfairly discriminatory and therefore does not violate Section 5/155.18 of the Illinois Insurance Code.
- 4) Ace American Insurance Company should be assessed the costs of this proceeding in the amount of \$108.75.

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 Ace American Company Filing # 09-MR-200810 be approved;
and
- 2) That Ace American Insurance Company be assessed the costs of this proceeding.

Respectfully submitted,

Date: 4/7/10



Timothy M. Sena
Hearing Officer

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF THE MEDICAL MALPRACTICE
RATE INCREASE OF:

THE ACE AMERICAN INSURANCE COMPANY HEARING NO. 09-HR-1138

AUTHORITY TO CONDUCT HEARING

I, the undersigned, Director of the Department of Insurance of the State of Illinois, pursuant to Sections 401, 402 and 403 of the Illinois Insurance Code (215 ILCS 5/401, 5/402 and 5/403) designate and appoint Tim Cena, an employee of the Department of Insurance, State of Illinois, as Hearing Officer to conduct a Hearing in the above-entitled matter, to be held in the Office of the Department of Insurance, 320 W. Washington St., 4th Floor, Springfield, Illinois, on November 24, 2009 at the hour of 10:00 A. M., or as soon thereafter as the business of the Department of Insurance will permit.

The Hearing Officer so designated by the Director will be empowered to administer oaths, examine witnesses and require the production of any books, records, documents or papers relevant to the inquiry.

Date: 11-9-09

DEPARTMENT OF INSURANCE
of the State of Illinois;

Michael T. McRaith
Director of Insurance

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF)
 THE MEDICAL MALPRACTICE)
 RATE INCREASE OF:)

THE ACE AMERICAN)
 INSURANCE COMPANY)
 (the Company))
 436 Walnut Street)
 Philadelphia, Pa. 19106)

HEARING NO.: 09-HR-1138

ATTENTION: John Lupica)
 President)

Rate Filing 09-MR-2008219)

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED, pursuant to Sections 155.18, 401, 402 and 403 of the Illinois Insurance Code (215 ILCS 5/155.18, 5/401, 5/402 and 5/403), that a hearing will be held on November 24, 2009 at 10:00 a.m. or as soon after as the business of the Illinois Department of Insurance will permit, at the office of the Department of Insurance, 320 W. Washington St., 4th Fl., Springfield, Illinois, before the Director of Insurance.

YOU ARE FURTHER NOTIFIED, that you must appear at this hearing. The purpose of this hearing is to determine whether the medical malpractice insurance rates of the Company are in compliance with Section 155.18 of the Illinois Insurance Code.

YOU ARE FURTHER NOTIFIED, that this hearing will be conducted in accordance with the following procedures:

I. Role of the Director

1. The hearing may be conducted by the Director of Insurance or such other authorized representative of the Director, as deemed appropriate.
2. The Director has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order, limit or eliminate the presentation of information, and ensure the development of a clear and complete record. The Director shall have all powers necessary to conduct a hearing, including the power to:

- a. Administer oaths and affirmations;
- b. Regulate the course of the hearing, set the time and place for a continued hearing, fix time for filing of documents, provide for the taking of sworn testimony, and conduct the proceeding according to generally recognized principles of administrative law;
- c. Examine witnesses and direct witnesses to testify, limit the testimony of any witness, and set reasonable limits on the amount of time each witness may testify;
- d. Sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documents;
- e. Dispose of procedural requests or similar matters;
- f. The Director may assess the costs of this proceeding against the Company;
- g. Enter any Order that further carries out the purpose of this hearing.

II. Pre-hearing Conferences

1. Upon notice, the Director may direct the Company or its representatives to appear at a specified time and place for a conference, prior to or during the course of the hearing, for the purpose of considering:
 - a. The identification of Issues;
 - b. The Stipulations of fact;
 - c. Such other matters as may aid in the conduct of the proceeding.
2. Any participants may be represented by legal counsel.

III. Conduct of the Hearing

1. All hearings shall be public and shall be recorded.
2. The Director will determine the order and length of oral presentations at this hearing.

IV. Participation

1. At the discretion of the Director, participants other than the Company shall provide the Director with a written request to participate not less than ten (10) days prior the hearing. Such request(s) shall include two copies of any documentary information to be presented, and the identity of the individual desiring to present testimony and a summary of that testimony.

V. Order of the Director

At the conclusion of this hearing, the Director shall enter an Order in accordance with Section 155.18 and all other applicable provisions of the Illinois Insurance Code.

YOU ARE DIRECTED to acknowledge receipt of this Notice of Hearing in writing to the Director at the Department's address listed above.

YOU ARE FURTHER DIRECTED that on the date of the hearing you must appear. Your legal counsel, if any, must file a written Notice of Appearance with the Director not less than ten (10) days prior to the hearing.

Date: 11-9-09

DEPARTMENT OF INSURANCE of the State of Illinois;



Michael T. McRaith
Director of Insurance



DEPARTMENT OF INSURANCE
OF THE STATE OF ILLINOIS;

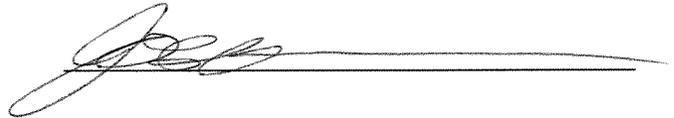
IN THE MATTER OF)
THE MEDICAL MALPRACTICE)
RATE INCREASE OF:)
)
THE ACE AMERICAN)
INSURANCE COMPANY)
(the Company))
436 Walnut Street)
Philadelphia, Pa. 19106)
)
ATTENTION: John Lupica)
President)
)
Rate Filing 09-MR-2008219)

HEARING NO.: 09-HR-1138

NOTICE OF APPEARANCE

Pursuant to 50 Ill. Adm. Code 2402, the undersigned hereby enters his appearance as attorney for the Department of Insurance in the above-captioned matter.

Date 11 10 9 1 2009



Joseph T. Clennon
Attorney for the Department
Department of Insurance
320 W. Washington St., 4th Fl.
Springfield, Illinois 62767
(217) 557-1396