

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 118]

Discounting Medical Malpractice Loss Reserves

The Insurance Department (Department) proposes to delete Chapter 118 (relating to discounting of medical malpractice loss reserves) to read as set forth in Annex A. The statutory authority for this proposal is The Insurance Company Law of 1921 (40 P. S. §§ 341—999); The Insurance Company Act of 1921 (40 P. S. §§ 1—321); and sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412).

Purpose

Chapter 118 was initially promulgated to establish procedural and reporting requirements and restrictions on the discounting of medical malpractice loss reserves. This proposed rulemaking deletes Chapter 118 because it is no longer necessary to assure the continued availability of medical malpractice insurance by the voluntary market at the primary level. In addition, the chapter is inconsistent with current actuarial practices and economic conditions.

Fiscal Impact

There is no fiscal impact as a result of the deletion of Chapter 118.

Paperwork

The deletion of Chapter 118 will affect all licensed medical malpractice insurers domiciled in this Commonwealth.

Effectiveness/Sunset Date

The rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to delete Chapter 118, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be E-mailed to psalvato@ins.state.pa.us or faxed to (717) 772-1969.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 24, 2000, the Department submitted a copy of this proposal to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notifi-

cation shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act (71 P. S. §§ 745.1—745.14) specifies detailed procedures for the agency, the Governor and the General Assembly to review these objections before final publication of the regulations.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-185. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VII. PROPERTY, FIRE AND CASUALTY INSURANCE

CHAPTER 118. DISCOUNTING OF MEDICAL MALPRACTICE LOSS RESERVES

§ 118.1. [Definitions] (Reserved).

[(a) The definitions utilized in Chapter 116 (relating to discounting of worker's compensation loss reserves) are incorporated for use in this chapter except that language utilizing the terms "worker's compensation" shall be amended for use in this chapter utilizing the terms "medical malpractice."

(b) For purposes of this chapter, the definition of "insurance company" in § 116.1 (relating to definitions) also includes the Pennsylvania Professional Liability Joint Underwriting Association, an insurance entity created under section 801 of the Health Care Services Malpractice Act (40 P. S. § 1301.801).

(c) The term "independent actuary" as used in § 118.4(a) (relating to actuarial certification) means a fellow or associate of the Casualty Actuarial Society with appropriate experience in responsible actuarial work, including medical malpractice, who is not an officer, director or employe of the insurer whose reserves he is certifying.]

§ 118.2. [Reporting and data collection requirements] (Reserved).

[For loss reserves established by insurance companies under sections 312—316 of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P. S. §§ 111—115), a company is permitted to discount the medical malpractice reserves to their present value if the company complies with the following requirements. The insurance company shall:

(1) File an annual actuarial certification of its medical malpractice loss reserves and loss adjustment expense reserves with the Department simultaneously with the filing of the company's annual statement.

(2) Provide a written notice to the Department stating its intent to maintain separate data regarding the company's loss payment patterns for allocated loss adjustment expenses and losses. This data shall be regularly compiled and submitted to the Department upon request.

(3) Comply with existing annual statement instructions for reporting loss and loss adjustment

expense reserves including completion of supplemental Schedule P, Part 4C of the annual statement.

(4) File with its annual statement a description of the underlying assumptions for the calculation of the discount to present value of its loss reserves and allocated loss adjustment expense reserves.]

§ 118.3. [Restrictions on discounting loss reserves] (Reserved).

[The discounting of loss reserves is subject to the following limitations:

(1) The loss reserves discounted to present value in accordance with this chapter may not be less than those required in accordance with section 313(b) of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P.S. § 112(b)).

(2) The maximum rate of interest which an insurer may assume for purposes of discounting is 6%.

(3) An insurer may request an exception to the maximum interest rate in paragraph (2) if the insurer can demonstrate to the satisfaction of the Commissioner that its investment yield justifies a higher interest rate assumption. The Commissioner may require the insurer to submit additional documentation to support its request for approval of a higher interest rate assumption. The Commissioner will act upon requests for exceptions made under this paragraph within 90 days of the date the request is received by the Insurance Department.]

§ 118.4. [Actuarial certification] (Reserved).

[(a) The actuarial certification required in accordance with this chapter shall be prepared by an independent actuary and filed by the insurer with its annual statement.

(b) The actuarial certification shall be filed each year in which the insurer discounts its loss reserves.

(c) The actuarial certification shall include the opinion of an independent actuary with respect to the following:

(1) The adequacy of medical malpractice loss reserves on an undiscounted basis.

(2) The sufficiency of the investment yield on invested assets to fund the discount.

(3) The reasonableness of the matching of the invested assets and loss reserves attributable to the medical malpractice business to provide an adequate income stream to fund the discount.]

§ 118.5. [Reserves for loss adjustment expenses] (Reserved).

[(a) Loss adjustment expense reserves shall be calculated in accordance with the following standards:

(1) Insurance companies are not permitted to discount loss adjustment expense reserves which are not allocable to specific claims.

(2) Insurance companies are permitted to discount loss adjustment expense reserves which are allocable to specific claims if:

(i) The company demonstrates, to the satisfaction of the Commissioner, the validity of the assumptions underlying the calculation of the reserves.

(ii) The actuarial certification which includes the opinion of an independent actuary with respect to the criteria in § 118.4 (relating to actuarial certification) is applicable to the loss adjustment expense reserves as well as the loss reserves.

(b) In evaluating an insurance company's request to discount allocated loss adjustment expense reserves, the Commissioner will consider the company's specific loss adjustment expense payment pattern and the interest rate assumption.]

§ 118.6. [Increased loss reserves and loss adjustment expense reserves] (Reserved).

[Under section 316 of The Insurance Department Act of one thousand nine hundred and twenty-one (40 P.S. § 115), the Commissioner may require an insurance company to restate its loss reserves or its allocated loss adjustment expense reserves by reducing or eliminating the discount if the Commissioner determines it is necessary to insure that reserves are established at an adequate level.]

[Pa.B. Doc. No. 00-422. Filed for public inspection March 10, 2000, 9:00 a.m.]

STATE SYSTEM OF HIGHER EDUCATION

[22 PA. CODE CH. 507]

Operation of Motor Vehicles on State System Facilities

The Board of Governors of the State System of Higher Education (State System) proposes to amend §§ 507.13 and 507.14 (relating to crimes and offenses relating to the operation and parking of a motor vehicle; and enforcement) to read as set forth in Annex A.

The proposed revision would amend § 507.13(c), by authorizing the Board of Governors to set the amounts of fines for each campus or facility upon the recommendation of the Chancellor or the respective university president. The change followed General Assembly action in amending 24 Pa.C.S. § 20-2006-A(13.1) (relating to powers and duties of the board of governors) to permit the Board to set the amounts for fines for violations of the rules respecting the use, parking and operation of motor vehicles on State System facilities, which may exceed the amounts which municipalities are authorized to assess for these offenses under 75 Pa.C.S.A. (relating to vehicles). The proposed amendments would enhance the ability of the State System to regulate and deter the violation of parking and operational rules, thus alleviating congestion, speeding, reckless driving and other activities which may threaten the health, welfare and safety of individuals residing on or using State System facilities.

Fiscal Impact

The proposed amendments would have no adverse fiscal impact. Costs would be recovered through fines and fees.

Paperwork Requirements

The statutory authority for the proposed rulemaking is 24 Pa.C.S. §§ 20-2006-A(a)(6).

Under section 5(a) of the Regulatory Review Act (71 P. S. §§ 745.5(a)), on February 24, 2000, the State System submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Education and the Senate Committee on Education. In addition to submitting the proposed rulemaking, the State System has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the State System in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the State System within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the agency, the General Assembly and the Governor of objections raised.

Sunset Review

These are ongoing regulations made necessary by 18 Pa.C.S. § 7505 (relating to violation of governmental rules regarding traffic) to facilitate enforcement of traffic laws at State System facilities. They are periodically reviewed by the Office of the Chancellor.

Contact Person

Persons with questions or who wish further information about the proposed amendments may contact Robert A. Mulle, Chief Legal Counsel, State System of Higher Education, Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110, (717) 720-4030.

Public Comments

Public comments are invited and may be directed to Robert A. Mulle at the previously mentioned address and telephone number, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JAMES H. MCCORMICK,
Chancellor

Fiscal Note: 71-007. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XVII. STATE SYSTEM OF HIGHER EDUCATION

CHAPTER 507. FINANCE AND ADMINISTRATION

OPERATION OF MOTOR VEHICLES ON UNIVERSITY CAMPUSES Campuses

§ 507.13. Crimes and offenses relating to the operation and parking of a motor vehicle.

* * * * *

(c) *Fines.* [The following fines apply to violators of restrictions in subsections (a) and (b):

(1) A person convicted of a summary offense under subsection (a) will be sentenced to pay a fine not exceeding \$15.

(2) A person convicted of a summary offense under subsection (b) will be sentenced to pay a fine not exceeding \$5.]

The Board of Governors will set the amounts of the fines for each campus or facility upon the recommendation of the chancellor or the respective university president.

§ 507.14. Enforcement.

* * * * *

(b) *Booting.* An immobilizing device may be placed on any vehicle with three or more delinquent tickets to compel payment of fines. A service charge, not to exceed **[\$25] \$50**, may be assessed for the removal of immobilizers.

* * * * *

[Pa.B. Doc. No. 00-423. Filed for public inspection March 10, 2000, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 63]

[L-00990141]

Competitive Safeguards for Telecommunications Utilities

By Order entered November 30, 1999, the Pennsylvania Public Utility Commission (Commission) adopted a proposed rulemaking establishing competitive safeguards in further of the provisions of Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009. The Proposed Rulemaking Order relating to 52 Pa. Code Chapter 63 requires that comments be filed within 30 days of publication which occurred on January 29, 2000, at 30 Pa.B. 539. Comments, therefore, were due February 28, 2000.

On February 23, 2000, the Pennsylvania Telephone Association (PTA) filed a letter with the Commission requesting that the comment period be stayed until further notice. By letter dated February 24, 2000, ALLTEL Pennsylvania, Inc. (ALLTEL) joined in this request for a stay. In making this request, the PTA and ALLTEL argue that the proposed competitive safeguards, which are in the form of a Code of Conduct, are closely modeled after the Code of Conduct adopted for Bell Atlantic—Pennsylvania, Inc. (BA-PA) in the Global proceeding Order entered September 30, 1999, at Doc. Nos. P-00991648 and 00991649. The parties further allege that the Global Order, including the proposed Code of Conduct for BA-PA, however, is in a state of uncertainty given several outstanding appeals currently pending in State court. The two letters conclude that it would be premature to ask for comments in the instant proceeding until there is greater finality in the global proceeding.

Because the Commission agrees that resolution of the Code of Conduct issue in the Global proceeding may be of

relevance in the instant proceeding, the Commission will grant a 60-day extension for the filing of comments to April 28, 2000.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-424. Filed for public inspection March 10, 2000, 9:00 a.m.]
