Review Requirements Checklist

Medical Malpractice Liability Rate/Rule

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Line(s) of Insurance/Business:

TOI

- Claims Made and Occurrence; filing code(s) 11.0000
- Claims Made; filing code(s) 11.2000
- Occurrence; filing code(s) 11.1000

Sub — TOI

- Acupuncture; filing code 11.0001
- Ambulance Services; filing code 11.0002
- Anesthetist; filing code 11.0031
- Assisted Living Facility; filing code 11.0033
- Chiropractic; filing code 11.0003
- Community Health Center; filing code 11.0004
- Dental Hygienists; filing code 11.0005
- Dentists; filing code 11.0030
- Dentists – General Practice; filing code 11.0006
- Dentists – Oral Surgeon; filing code 11.0007
- Home Care Service Agencies; filing code 11.0008
- Hospitals; filing code 11.0009
- Professional Nurses; filing code 11.0032
- Nurse – Anesthetists; filing code 11.0010
- Nurse – Lic. Practical; filing code 11.0011
- Nurse – Midwife; filing code 11.0012
- Nurse – Practitioners; filing code 11.0013
- Nurse – Private Duty; filing code 11.0014
- Nurse – Registered; filing code 11.0015
- Nursing Homes; filing code 11.0016
- Occupational Therapy; filing code 11.0017
- Ophthalmic Dispensing; filing code 11.0018

- Optometry; filing code 11.0019
- Osteopathy; filing code 11.0020
- Pharmacy; filing code 11.0021
- Physical Therapy; filing code 11.0022
- Physicians & Surgeons; filing code 11.0023
- Physicians Assistants; filing code 11.0024
- Podiatry; filing code 11.0025
- Psychiatry; filing code 11.0026
- Psychology; filing code 11.0027
- Speech Pathology; filing code 11.0028
- Other; filing code 11.0029

Links:

- Illinois Compiled Statutes Online
- Administrative Regulations Online
- Product Coding Matrix

To assist insurers in submitting compliant medical liability rate/rule filings, the Department has created this separate, comprehensive rate/rule filing checklist for medical liability filings.

*Please see the separate form filing checklist for requirements related to medical liability forms.

All filings are public record in accordance with 215 ILCS 5/404 except where another provision of the Insurance Code says otherwise. The only code section that allows for a filing to be a trade secret or confidential is 215 ILCS 157/40 Use of Credit Information in Personal Insurance Act.

The Department's checklists include summaries that do not provide detailed information about all laws, regulations and bulletins. Therefore, the insurers should review the actual laws, regulations and bulletins to ensure forms are fully compliant before filing with the Department.

A form filing fee is required pursuant to 215 ILCS 5/408 (1)(jj).

LINE OF AUTHORITY	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS
Must have proper Class and Clause authority to	215 ILCS 5/4	To write Medical Malpractice coverage in Illinois companies must be licensed to write:

conduct this line of business in Illinois	List of Classes/Clauses	1. Class 2, Clause (c)
RATES AND RULES REQUIRED TO BE FILED	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall make separate filings for rate/rules and for forms/endorsements, etc.		The laws and regulations for medical liability forms/endorsements and the laws for medical liability rates/rules are different and each must be reviewed according to its own set of laws/regulations/procedures. Therefore, insurers are required to file forms and rates/rules separately. For requirements regarding form filings, see separate form filing checklist.
INSURER FILING REQUIREMENTS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers must file their rates, rules, plans for gathering statistics, etc. upon commencement of business.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers must file the following: a) Medical liability insurance rate manual, including all rates. b) Rules, including underwriting rule manuals which contain rules for applying rates or rating plans c) Classifications and other such schedules used in writing medical liability insurance. d) Statement regarding whether the insurer: • Has its own plan for the gathering of medical liability statistics; or • Reports its medical liability statistics to a statistical agent (and if so, which agent). The Director, at any time, may request a copy of the insurer's statistical plan or request the insurer to provide written verification of membership and reporting status from the insurer's reported statistical agency. Insurers are instructed to review all requirements in this checklist, including the requirements for

		applicable actuarial documentation, as well as all medical liability laws and regulations, to ensure that the filing contains all essential elements before submitting the filing to the Department.
AMENDMENTS TO INITIAL RATE/RULE FILINGS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
After a new insurer has filed the rates/rules/information described above, insurers must file rates/rules, or advise of changes to statistical plans, as often as they are amended.	215 ILCS 5/155.18 50 IL Adm. Code 929	After a new insurer has filed the rates/rules/information described above, insurers must file rates/rules/rating schedules (as described above for new business) as often as such filings are changed or amended, or when any new rates or rules are added. 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. Insurers shall also advise the Director if its plans for the gathering of statistics has changed, or if the insurer has changed statistical agents. The Director, at any time, may request a copy of the insurer’s statistical plan or request the insurer to provide written verification of membership and reporting status from the insurer’s reported statistical agency. Insurers are instructed to review all requirements in this checklist, including the requirements for applicable actuarial documentation, as well as all medical liability laws and regulations, to ensure that the filing contains all essential elements before submitting the filing to the Department.

EFFECTIVE DATES OF RATE/RULE FILINGS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS
Illinois is “use and file” for medical liability rates and rules.	215 ILCS 5/155.18 50 IL Adm. Code 929	Medical liability insurance rates and rating schedule must be received at least annually **and** no later than 30 days after the effective date of any rate change or amendment.
ADOPTIONS OF ADVISORY ORGANIZATION FILINGS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurer must file all rates and rules on its own behalf.	50 IL Adm. Code 929	Although Rule 929 allows for insurers to adopt advisory organization rule filings, advisory organizations no longer file rules in Illinois.
COPIES, RETURN ENVELOPES, ETC.	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Requirement for duplicate copies and return envelope with adequate postage.	50 IL Adm. Code 929	Insurers that desire a stamped returned copy of the filing or submission letter must submit a duplicate copy of the filing/letter, along with a return envelope large enough and containing enough postage to accommodate the return filing.
SERFF FILING	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
"Me too" filings are not allowed.	215 ILCS 5/155.18 50 IL Adm. Code 929 Actuarial Certification Form	A company filing directly must file using SERFF. The filings must include: • The name of the company making the filing: • The FEIN of the company making the filing: • Identification of the classes of the medical liability insurance to which the filings applies; • Notification as to whether the filing is new or supersedes a present filing.

		Identification of all changes in all superseding filings is required. The preferred format for identifying changes is to underline the new wording and overstrike the deleted or changed language and give an explanation for the changes being made; • The effective date of use: and • Certification by an officer of the company and a qualified actuary that the company's experience. A company must file on its own behalf all rates for medical liability insurance, and: • File copies of a Rate Submission Letter using System for Electronic Rate and Form Filing (SERFF) or in another electronic format approved by the Director. This filing must include: o The name of the company making the filing; o FEIN of the company making the filing; o Identification of the classes of medical liability insurance to which the filing applies; o Notification of whether the filing is new or supersedes a present filing. Identification of all changes in superseding filings, as well as identification of all superseded filings is required; o The effective date of use; and o Certification 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. Companies under the same ownership or general management are required to make **separate, individual company filings**. Company Group ("Me too") filings are unacceptable.
COMPANY RATE INFORMATION ON SERFF	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
For any rate change, the company rate information must be completed.	50 IL Adm. Code 929 50 IL Adm. Code 754	Company Rate Information shall be completed for each company when a filing is being submitted that includes: • Overall % Indicated Change • Overall % Rate Impact — This is the statewide average percentage change to the accepted rates for the coverages included for each company • Written premium change for this program — This is the statewide change in written premium based on the proposed overall percentage rate impact for each company • Number of policyholders affected for this program — This is a statewide written premium for each company • Maximum % Change • Minimum % Change
CLAIMS MADE REQUIREMENTS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Extended reporting period (tail coverage) requirements.	215 ILCS 5/143(2)	When issuing claims-made medical liability insurance policies, insurers must include the following specific information in their rate/rule manuals: • Offer of an extended reporting period (tail coverage) of **at least** 12 months. The rate/rule manual must specify whether the extended

		reporting period is unlimited or indicate its term (i.e. number of years).*** • Cost of the extended reporting period, which **must** be priced as a factor of one of the following:*** o The last 12 months' premium. o The premium in effect at policy issuance. o The expiring annual premium. •List of any credits, discounts, etc. that will be added or removed when determining the final extended reporting period premium. Insurer will inform the insured of the extended reporting period premium at the time the last policy is purchased. The insurer may not wait until the insured requests to purchase the extended reporting period coverage to tell the insured what the premium will be or how the premium would be calculated. •Insurer will offer the extended reporting period when the policy is terminated for any reason, including non-payment of premium, and whether the policy is terminated at the company's or insured's request. •Insurer will allow the insured 30 days after the policy is terminated to purchase the extended reporting period coverage.*** ***If the medical liability coverage is combined with other professional or general liability coverages, the medical liability insurer must meet all of the above requirements, except those indicated with ***, in which case, the insurer must:

		• Offer free 5-year extended reporting period (tail coverage) or • Offer an unlimited extended reporting period with the limits reinstated (100% of aggregate expiring limits for the duration) • Cap the premium at 200% of the annual premium of the expiring policy; and • Give the insured a free-60 day period after the end of the policy to request the coverage.
GROUP MEDICAL LIABILITY	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Group medical liability insurance is not specifically allowed under the Illinois Insurance Code.	215 ILCS 5/388a-388g 215 ILCS 5/393a-393g 215 ILCS 5/400.1 IL Adm. Code 2302 215 ILCS 5/900-906	There are no enabling statutes in Illinois that authorize the writing of group fire, casualty, inland marine, or surety insurance. The effect is to require that all fire, casualty, inland marine, or surety insureds of the same class be treated alike. These provisions are not applicable where the Illinois Insurance Code specifically authorizes the grouping of risks. The only coverages that are currently authorized on a group basis are: a) group vehicle; b) group professional liability; c) group inland marine; d) group legal.
CANCELLATION & NONRENEWAL PROVISION REQUIREMENTS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
If rate/rule manuals contain language pertaining to cancellation or nonrenewal, must comply with all cancellation/nonrenewal laws.	See Medical Liability Forms Checklist for Specific Information about Illinois Cancellation & Nonrenewal Laws and Regulations	If a rate or rule manual contains language pertaining to cancellation or nonrenewal of any medical liability insurance coverage, such provisions must comply with all cancellation and nonrenewal provisions of the Illinois Insurance Code, including but not limited to the following: 143.10, 143.16, 143.16a, 143.17a. See Medical Liability Forms Checklist for Specific Information about Illinois Cancellation & Nonrenewal Laws and Regulations,

ACTUARIAL REVIEW REQUIREMENTS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS
Rates shall not be excessive, inadequate, or unfairly discriminatory.	215 ILCS 5/155.18	In the making or use of rates pertaining to all classes of medical liability insurance, rates shall not be excessive, or inadequate, nor shall they be unfairly discriminatory. Rate and rule manual provisions should be defined and explained in a manner that allows the Department to ascertain whether the provision could be applied in an unfairly discriminatory manner. For example, if a rate/rule manual contains ranges of premiums or discounts, the provision must specify the criteria to determine the specific premium/discount an insured or applicant would receive. The Director may, by order, adjust a rate or take any other appropriate action at the conclusion of a hearing.
PRICING	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall consider certain information when developing medical liability rates.	215 ILCS 5/155.18	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 Illinois, and to all other factors, including judgment factors, deemed relevant within and outside Illinois. 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. 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 subDepartment or combination thereof.
MINIMUM PREMIUM RULES	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers may group or classify risks for establishing rates and minimum premiums.	215 ILCS 5/155.18	Risks may be grouped by classifications for the establishment of rates and minimum premiums.
INDIVIDUAL RISK RATING	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Risks may be rated on an individual basis as long as all provisions required in Section 155.18 are met.	215 ILCS 5/155.18	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 or the class.
DISCRIMINATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Civil Union Partnerships-effective June 1, 2011	750 ILCS 75/1	The Religious Freedom Protection and Civil Union Act (Public Act 96-1513) will allow both same-sex and different-sex couples to enter into a civil union with all of the obligations, protections,

	Civil Union Fact Sheet	and legal rights that Illinois provides to married heterosexual couples. Please note that whenever a policy form, application, or rating rule includes the terms "spouse," "married," or "immediate family member" it is required that parties to a civil union be included in these definitions.
RISK CLASSIFICATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Risks may be grouped by classifications.	215 ILCS 5/155.18	Risks may be grouped by classifications for the establishment of rates and minimum premiums.
Rating decisions based solely on domestic violence.	215 ILCS 5/155.22b	No insurer may that issues a property and casualty policy may use the fact that an applicant or insured incurred bodily injury as a result of a battery committed against him/her by a spouse or person in the same household as a sole reason for a rating decision.
Unfair methods of competition or unfair or deceptive acts or practices defined.	215 ILCS 5/424(3)	It is an unfair method of competition or unfair and deceptive act or practice if a company makes or permits any unfair discrimination between individuals or risks of the same class or of essentially the same hazard and expense element because of the race, color, religion, or national origin of such insurance risks or applicants.
Procedure as to unfair methods of competition or unfair or deceptive acts or practices not defined.	215 ILCS 5/429	Outlines the procedures the Director follows when he has reason to believe that a company is engaging in unfair methods of competition or unfair or deceptive acts or practices.
TERRITORIAL DEFINITIONS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Rate/rule manuals must contain correct and adequate definitions of Illinois territories.	215 ILCS 5/155.18	When an insurer’s rate/rule program includes differing territories within the State of Illinois, rate/rule manuals must contain correct and adequate definitions of those territories, and that all references to the territories or definitions are

		accurate, so the Department does not need to request additional information.
ACTUARIAL CERTIFICATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Actuarial certification must accompany all rate filings and all rule filings that affect rates.	215 ILCS 5/155.18 50 IL Adm. Code 929 Actuarial Certification Form	Every rate and/or rating rule filing must include a certification by an officer of the company **and** a qualified actuary that the company's rates and/or rules are based on sound actuarial principles and are not inconsistent with the company's experience. Insurers may use their own form or may use the sample form created by the Department.
ACTUARIAL OR STATISTICAL INFORMATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Director may request actuarial and statistical information.	215 ILCS 5/155.18 50 IL Adm. Code 929	The Director may require the filing of statistical data and any other pertinent information necessary to determine the manner of promulgation and the acceptability or unacceptability of a filing for rules, minimum premiums, rates, forms or any combination thereof. If the Director requests information or statistical data to determine the manner the insurer used to set the filed rates and/or to determine the reasonableness of those rates, as well as the manner of promulgation and the acceptability or unacceptability of a filing for rules, minimum premiums, or any combination thereof, the insurer shall provide such data or information within 14 calendar days of the Director's request.
EXPLANATORY MEMORANDUM	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include actuarial explanatory memorandum with any	215 ILCS 5/155.18	Insurers shall include actuarial explanatory memorandum with any rate filing, as well as any rule filing that affects the ultimate premium. The

rate filing, as well as any rule filing that affects the ultimate premium.	50 IL Adm. Code 929	explanatory memorandum shall contain, at minimum, the following information: • Explanation of ratemaking methodologies. • Explanations of specific changes included in the filing. • Narrative that will assist in understanding the filing.
SUMMARY OF EFFECTS EXHIBIT	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include an exhibit illustrating the effect of each change and calculation indicating how the final effect was derived.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include an exhibit illustrating the effect of each individual change being made in the filing (e.g. territorial base rates, classification factor changes, number of exposures affected by each change being made, etc.), and include a supporting calculation indicating how the final effect was derived.
ACTUARIAL INDICATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include actuarial support justifying the overall changes being made.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include actuarial support justifying the overall changes being made, including but not limited to: • Pure premiums (if used). • Earned premiums. • Incurred losses. • Loss development factors. • Trend factors. • On-Level factors. • Permissible loss ratios, etc.
LOSS DEVELOPMENT FACTORS AND ANALYSIS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include support for loss development factors and analysis.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include actuarial support for loss development factors and analysis, including but not limited to loss triangles and selected factors, as well as support for the selected factors.

ULTIMATE LOSS SELECTIONS	REFERENCE	DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS
Insurers shall include support for ultimate loss selections.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include support for ultimate loss selections, including an explanation of selected losses if results from various methods differ significantly.
TREND FACTORS AND ANALYSIS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include support for trend factors and analysis.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include support for trend factors and analysis, including loss and premium trend exhibits demonstrating the basis for the selections used.
ON-LEVEL FACTORS AND ANALYSIS	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include support for on-level factors and analysis.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include support for on-level factors and analysis, including exhibits providing on-level factors and past rate changes included in calculations.
LOSS ADJUSTMENT EXPENSES	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include support for loss adjustment expenses.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include support for loss adjustment expenses, including exhibits providing documentation to support factors used for ALAE and ULAE. If ALAE is included in loss development analysis, no additional ALAE exhibit is required.
EXPENSE EXHIBIT	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include an expense exhibit. Insurers may use expense provisions that differ from those of other companies or groups of companies.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include an exhibit indicating all expenses used in the calculation of the permissible loss ratio, including explanations and support for selections. 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 sub-Department or combination thereof.
INVESTMENT INCOME CALCULATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include an exhibit for investment income calculation.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include an exhibit demonstrating the calculation for the investment income factor used in the indication.
PROFIT AND CONTINGENCIES CALCULATION	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include an exhibit for profit and contingencies load.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall include an exhibit illustrating the derivation of any profit and contingencies load.
CREDIBILITY STANDARD USED	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers shall include the number of claims being used to calculate the credibility factor.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers should include the number of claims being used to calculate the credibility factor. If another method of calculating credibility is utilized, insurers should include a description of the method used.
OTHER ACTUARIAL INFORMATION REQUIRED	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers must include the information described in this section.	215 ILCS 5/155.18 50 IL Adm. Code 929	Insurers shall also include the following information: •All actuarial support/justification for all rates being changed, including but not limited to changes in:

		o Base rates; o Territory definitions; o Territory factor changes; o Classification factor changes; o Classification definition changes; o Changes to schedule credits/debits, etc. •Exhibits containing current and proposed rates/factors for all rates and classification factors, etc. being changed. •Any exhibits necessary to support the filing that are not mentioned elsewhere in this checklist.
SCHEDULE RATING PLAN	**REFERENCE**	**DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS**
Insurers must include the described information described at right.	215 ILCS 5/155.18 50 IL Adm. Code 929 Company Bulletin CB 2011-05	Insurers should include appropriate actuarial justification when filing and/or making changes to schedule rating plans. The schedule rating plan must allow for both scheduled debits/credits and must be limited to a maximum level of 25%.