NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: BOARD OF RISK & INSURANCE MANAGEMENT TITLE NUMBER: 115

AMENDMENT TO AN EXISTING RULE: YES__, NO__

IF YES, SERIES NUMBER OF RULE BEING AMENDED: ______

TITLE OF RULE BEING AMENDED: ________________________________

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IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 4

TITLE OF RULE BEING PROPOSED: DISCONTINUATION OF PROFESSIONAL

MALPRACTICE INSURANCE

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 1

SECTION 64-2-5 (D), PASSED ON 3/14/92

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: 4/14/92

[Signature]

2:30
$115-4-1. GENERAL

1.1 Scope.--This Legislative Rule provides for the discontinuation of the professional malpractice insurance program provided by West Virginia Code §29-12-5c, as amended by House Bill 4151, enacted March 10, 1990.

1.2 Authority.--West Virginia Code §29-12-5c.

1.3 Filing Date.--

1.4 Effective Date.--

$115-4-2. AUTHORITY

Pursuant to West Virginia Code §29-12-5c, if participation in the professional malpractice insurance program is insufficient to make the program economically feasible, then the program may be discontinued by rules and regulations promulgated by the Board of Risk and Insurance Management with approval of the Insurance Commissioner.

$115-4-3. FINDINGS

3.1 Survey.--To determine the level of participation to be expected and the appropriate premium charge, on June 15, 1990 the Board of Risk and Insurance Management mailed the attached survey to 691 obstetricians, obstetricians/gynecologists and family practitioners. The survey was also mailed by the West Virginia Hospital Association to its members for emergency room practitioners to complete.

3.2 Survey Results.--The attached survey results show that of the 691 plus medical practitioners surveyed, 509 did not respond or did not complete the survey. In particular, question #5 of the survey, asking if the practitioner would participate in a State liability program, was not answered. Of the 182 practitioners responding to question #5, only 65 indicated that
they would participate in either an excess or primary liability program. Furthermore, at least 20 percent of the 65 responding in the affirmative to question #5 are already insured by the Board of Risk and Insurance Management, either as a State employee or as an employee of a non-profit clinic insured through the Public Entities Insurance Program.

3.3 Approval by Insurance Commissioner.--Following a review of the survey, the Insurance Commissioner approved the discontinuation of the professional malpractice insurance program. The letter of approval is attached.

§115-4-4. DISCONTINUATION OF THE PROGRAM

Pursuant to West Virginia Code §29-12-5c, the Board of Risk and Insurance Management, with the approval of the Insurance Commissioner, hereby discontinues the professional malpractice insurance program.
A BILL to amend and reenact section five, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the board of risk and insurance management to promulgate legislative rules relating to the discontinuation of the professional malpractice program.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 2. AUTHORIZATION FOR DEPARTMENT OF ADMINISTRATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-5. Board of risk and insurance management.

(a) The legislative rules filed in the state register on the twenty-first day of October, one thousand nine hundred
eighty-three, relating to the board of risk and insurance
management (mine subsidence), are authorized.

(b) The legislative rules filed in the state register on the
twenty-sixth day of November, one thousand nine hundred
eighty-five, modified by the state board of risk and insurance
management to meet the objections of the legislative rule-making
review committee and refiled in the state register on the eighth
day of December, one thousand nine hundred eighty-six, relating
to the state board of risk and insurance management (mine
subsidence insurance program), are authorized.

(c) The legislative rules filed in the state register on the
twenty-eighth day of July, one thousand nine hundred eighty-nine,
modified by the board of risk and insurance management to meet
the objections of the legislative rule-making review committee
and refiled in the state register on the seventeenth day of
October, one thousand nine hundred eighty-nine, relating to the
board of risk and insurance management (West Virginia board of
risk and insurance management), are authorized.

(d) The legislative rules filed in the state register on the
eleventh day of September, one thousand nine hundred ninety-one,
modified by the board of risk and insurance management to meet
the objections of the legislative rule-making review committee
and refiled in the state register on the fourteenth day of
January, one thousand nine hundred ninety-two, relating to the
NOTE: The purpose of this bill is to authorize the Board of Risk and Insurance Management to promulgate legislative rules relating to the discontinuation of the professional malpractice program.

Strike-throughs indicate language that would be stricken from the present law, and underscores indicate new language that would be added.
TO:  Bob Mitts

AGENCY:  Board of Risk & Insurance

FROM:  JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE:  February 23, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR
COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY
CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO
AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF
THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN
(10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF
YOU HAVE ANY QUESTIONS.

SERIES:  4  TITLE:  115 Board of Risk & Insurance

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED:  William Cox

TITLE OF PERSON SIGNING:  Director

DATE:  4/20/93

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE
CORRECTIONS HAVE BEEN MARKED.

SIGNED:  

TITLE OF PERSON SIGNING:

DATE:  

NOTE:  IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE
FORWARD TO THE CORRECT PERSON.