

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #6

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FILED  
1992 APR 13 AM 8:17  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**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 x

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

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



115 CSR 4

TITLE 115  
LEGISLATIVE RULES  
WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 4

DISCONTINUATION OF PROFESSIONAL MALPRACTICE INSURANCE

§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.

Bill Risk & Ins Discontinuation 115-4

H. B. 4325

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the

Committee on the Judiciary)

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10 A BILL to amend and reenact section five, article two, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 board of risk and insurance management to promulgate  
14 legislative rules relating to the discontinuation of the  
15 professional malpractice program.

16 **Be it enacted by the Legislature of West Virginia:**

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

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

22 **§64-2-5. Board of risk and insurance management.**

23 (a) The legislative rules filed in the state register on the  
24 twenty-first day of October, one thousand nine hundred

1 eighty-three, relating to the board of risk and insurance  
2 management (mine subsidence), are authorized.

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

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

19 (d) The legislative rules filed in the state register on the  
20 eleventh day of September, one thousand nine hundred ninety-one,  
21 modified by the board of risk and insurance management to meet  
22 the objections of the legislative rule-making review committee  
23 and refiled in the state register on the fourteenth day of  
24 January, one thousand nine hundred ninety-two, relating to the

1 board of risk and insurance management (discontinuation of  
2 professional malpractice program), are authorized.

3

4 NOTE: The purpose of this bill is to authorize the Board of  
5 Risk and Insurance Management to promulgate legislative rules  
6 relating to the discontinuation of the professional malpractice  
7 program.

8

9 Strike-throughs indicate language that would be stricken from  
10 the present law, and underscoring indicates new language that  
11 would be added.



KEN HECHLER  
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(Plus all the volunteer  
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

APR 22 8 17 AM '93

FILED

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 F. Cox

TITLE OF PERSON SIGNING: Director

DATE: 4/20/93

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\* 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.