

62F.06 POLICY FORMS AND RATES.

Subdivision 1. **Policy regulation; filing.** A policy issued by the association may not extend beyond a period of one year from the date on which the authorization under section 62F.04 ends. The policy shall be issued subject to the group retrospective rating plan and the stabilization reserve fund authorized by section 62F.09. The policy shall be written to apply to claims first made against the insured and reported to the association during the policy period. No policy form shall be used by the association unless it has been filed with the commissioner, and the commissioner may disapprove the form within 30 days if the commissioner determines it is misleading or violates public policy.

Subd. 2. **Cancellation; insured failure to pay stabilization reserve fund.** If an insured fails to pay a stabilization reserve fund charge the association may cancel a policy by mailing or delivering to the insured at the address shown on the policy at least ten days' written notice stating the date the cancellation is effective.

Subd. 3. **Rate regulation.** The rates, rating plans, rating rules, rating classifications and territories applicable to the insurance written by the association and statistics relating thereto shall be subject to chapter 70A. Rates shall be on an actuarially sound basis, giving consideration to the group retrospective rating plan and the stabilization reserve fund. The commissioner shall take all appropriate steps to make available to the association the loss and expense experience of insurers previously writing medical malpractice insurance in this state.

Subd. 4. **Retrospective rating plan.** All policies issued by the association are subject to a nonprofit group retrospective rating plan approved by the commissioner under which the final premium for the insureds of the association, as a group, will be equal to the administrative expenses, loss and loss adjustment expenses and taxes, plus a reasonable allowance for contingencies and servicing. Policyholders shall be given full credit for all investment income, net of expenses and a reasonable management fee, on policyholder supplied funds. The standard premium, before retrospective adjustment, for each policy issued by the association shall be established for portions of the policy period coinciding with the association's fiscal year on the basis of the association's rates, rating plans, rating rules, rating classifications and territories then in effect. The maximum premium for all policyholders of the association, as a group, shall be limited as provided in sections 62F.01 to 62F.14.

Subd. 5. **Commissioner's power to examine.** The commissioner shall examine the business of the association as often as the commissioner deems appropriate to insure that the group retrospective rating plan is operating in a manner consistent with sections 62F.01 to 62F.14. If the commissioner finds that the operation is deficient or inconsistent with sections 62F.01 to 62F.14, the commissioner may order the association to take corrective action.

Subd. 6. **Deficit recovery procedures.** The association shall certify to the commissioner the estimated amount of any deficit remaining after the stabilization reserve fund has been exhausted in payment of the maximum final premium for all policyholders of the association. Within 60 days after such certification, the commissioner shall authorize the association to recover the members' respective shares of the deficit by one of the following procedures:

(a) applying a surcharge determined by the association at a rate not to exceed two percent of the annual premiums on future policies affording those kinds of insurance which form the basis for their participation in the association; or

(b) deducting the members' share of the deficit from past or future premium taxes due the state.

If the commissioner fails to authorize a procedure in 60 days, the association may recover its deficit pursuant to clause (b). The association shall submit an amended certification and shall adjust the recovery procedure as its incurred losses become finalized.

Subd. 7. **Temporary member contributions.** If sufficient funds are not available for the sound financial operation of the association, pending recovery as provided in subdivision 6, all members shall, on a temporary basis contribute to the association in the manner provided in section 62F.07. The contribution shall be reimbursed to the members by the recovery procedure authorized in subdivision 6.

History: 1976 c 242 s 7; 1980 c 596 s 9; 1982 c 374 s 2; 1986 c 313 s 5; 1986 c 444; 1987 c 337 s 73