

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE BIENNIAL)
REPORTING OF RATE MODIFIERS BY) ORDER
MEDICAL MALPRACTICE LIABILITY)
INSURERS TRANSACTING BUSINESS)
IN THIS STATE BY FEBRUARY 1, 2009)

This matter having been opened by the Commissioner of Banking and Insurance (“Commissioner”) pursuant to the authority of N.J.S.A. 17:1-8.1, 17:1-15e, and 17:23-20 et seq., and all powers expressed or implied therein; and

IT APPEARING that in the recent past, the medical malpractice liability insurance market has been strained in New Jersey, as well as throughout the nation, and that the issues of availability and affordability of medical malpractice liability insurance have been matters of concern; and

IT FURTHER APPEARING that the Department of Banking and Insurance (“Department”) is concerned that premiums for medical malpractice liability insurance have been subject to significant variations resulting from underwriting cycles; and

IT FURTHER APPEARING that while the Department normally becomes aware of these changes only when rate revisions are filed, insurers often increase or decrease the use of internal rating factors, known as rate modifiers, prior to filing new rates; and

IT FURTHER APPEARING that shifts toward smaller discounts or toward surcharges indicate the beginning of a “hard” market, where coverage becomes less available and affordable; and

IT FURTHER APPEARING that shifts toward larger discounts indicate the beginning of a “soft” market, where coverage becomes more available and affordable; and

IT FURTHER APPEARING that the Department believes that it is reasonable and appropriate to require medical malpractice liability insurers authorized to transact business and writing physicians and surgeons coverage in this State to file information so that the Department may evaluate the impact of rate modifiers on premiums for the six month periods January 1 through June 30 and July 1 through December 31 in accordance with Order No. A07-105; and

IT FURTHER APPEARING that the Department proposed new rules, N.J.A.C. 11:27-13, to generally codify and enhance the reporting requirements set forth in Order No. A07-105; and

IT FURTHER APPEARING that the proposed rules appeared in the November 3, 2008 issue of the New Jersey Register at 40 N.J.R. 6384(a), and comments on the proposed new rules may be submitted until January 2, 2009 and that, consequently, the proposed new rules cannot be adopted and become effective prior to February 1, 2009, the due date of the next biannual report required by Order No. A07-105; and

IT FURTHER APPEARING that, in order to provide guidance to insurers, and ensure consistency in the reports filed, the Department believes that it is reasonable and appropriate to require that insurers file the biannual report due February 1, 2009 in accordance with the form set forth in the Appendix to the proposed new rules, attached hereto as Exhibit 1 and made a part hereof; and

IT FURTHER APPEARING that in recognition that the said information is proprietary, the information provided shall be kept confidential and shall not be considered a

public record for purposes of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. pursuant to N.J.S.A. 17:23-24f, except to the extent such information is filed pursuant to N.J.S.A. 17:29AA-1 et seq.

THEREFORE IT IS on this 20th day of November, 2008

ORDERED that all insurers authorized to transact medical malpractice liability insurance and writing physicians and surgeons coverage in this State shall file with the Department the information set forth in Exhibit 1, attached hereto and made a part hereof, no later than February 1, 2009, for the six month period of July 1 through December 31.

IT IS FURTHER ORDERED that the information filed pursuant to this Order shall be deemed proprietary and therefore kept confidential and not be considered a public record pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. and 17:23-24f, except information otherwise filed pursuant to N.J.S.A. 17:29AA-1 et seq.

IT IS FURTHER ORDERED that the information required to be filed pursuant to this Order shall be filed either electronically to reports@dobi.state.nj.us, or on a CD-ROM to:

Office of Property and Casualty
New Jersey Department of Banking and Insurance
20 West State St.
P.O. Box 325
Trenton, NJ 08625-0325

Failure to comply with the terms of this Order may result in the imposition of penalties as authorized by law.

/s/ Steven M. Goldman
Steven M. Goldman
Commissioner