

February 6, 1985

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 5 (1985)

February 6, 1985

To: ALL INSURERS AUTHORIZED TO TRANSACT CASUALTY INSURANCE BUSINESS IN THIS STATE AND RATE SERVICE ORGANIZATIONS

Re: PHYSICIANS AND SURGEONS PROFESSIONAL LIABILITY INSURANCE RATES

As reported in a January 14, 1985 Department news release, the Findings, Conclusions and Recommendations, concerning Medical Malpractice Insurance Association (MMIA) physicians and surgeons professional liability insurance rates, submitted by special Hearing Officer, Judge Domenick L. Gabrielli, have been approved and adopted, pursuant to my Order of January 11, 1985. Copies of Judge Gabrielli's Report and of this Order are available at the Department.

Judge Gabrielli determined that the appropriate rate for the 1983-84 policy year should be 41 percent above the interim rate granted MMIA by the Department. Given this 41 percent increase, Judge Gabrielli determined that an additional 8 percent increase for the 1984-85 policy year was also justified. This represents a total increase of 52 percent ($1.41 \times 1.08 = 1.52$), in connection with MMIA.

The January 11, 1985 Order further calls for medical malpractice insurers in this State to submit rate filings in regard to physicians and surgeons professional liability insurance for 1984-85, so that medical malpractice insurance rates in New York State will be adequate to enable every insurer to meet all legitimate claims. The Order states:

"It is clear from the Gabrielli Report, testimony and other evidence produced at the hearing that the data base used in the analysis of the appropriate rate for MMIA in regard to physicians and surgeons professional liability insurance in New York has great relevance to, and in many respects is, the data base utilized by other medical malpractice insurance carriers in this State."

"In the absence of observable and measurable factors to the contrary, the rate that is appropriate for MMIA is also the lowest appropriate base rate for physicians and surgeons professional liability coverage in New York State."

Thus, I have concluded that the approved MMIA rate is also the appropriate base rate for other insurers writing physicians and surgeons professional liability coverage in New York State. However, in filing for revised rates, other insurers may justify, if they can, differences from the base rate level.

Accordingly, every rate service organization authorized to make filings on behalf of its members and subscribers, as well as all carriers that file their own rates for physicians and surgeons professional liability insurance in this State, should promptly submit a rate filing (or an amended rate filing) for the 1984-85 policy year in order to bring physicians and surgeons professional liability insurance rates, whether for occurrence or claims-made coverage, to the level

actuarially equivalent, unless sufficient evidence justifies deviations, to the MMIA occurrence rate level determined to be appropriate by the Order.

All insurers that have permits under former Section 168-d of the Insurance Law (Article 63, Special Risks, as recodified) and that issue, under any such permit in the Free Trade Zone, coverage for physicians and surgeons professional liability, should likewise amend their rates to make them actuarially equivalent to the MMIA occurrence rate level determined to be appropriate by my Order.

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

Superintendent of Insurance