

**Notice of Public Hearing**  
LSA Document #10-245**Notice of Public Hearing**

Under [IC 4-22-2-24](#), notice is hereby given that on November 10, 2010, at 10:00 a.m., at the Department of Insurance, 311 West Washington Street, Suite 300, Indianapolis, Indiana, the Department of Insurance will hold a public hearing on a proposed rule regarding medical malpractice to amend [760 IAC 1-21](#) regarding definitions; the use of means other than insurance for establishing proof of financial responsibility; financial responsibility of hospitals, psychiatric hospitals and nursing homes; surcharge payments and amounts; and scope of insurance coverage.

The proposed amendments clarify that Patient's Compensation Fund (PCF) coverage will not be extended to employees of a physician who individually qualifies for PCF coverage. Physicians pay surcharge under [760 IAC 1-60](#) based on the individual's specialty. These rates were actuarially set to cover the PCF's risk for each individual physician only. Therefore, when a physician who is a sole proprietor wishes to participate in the PCF and also wants PCF coverage for his or her nurses and other employees, such coverage does not extend to the employees. To cover the employees, the sole proprietor physician could incorporate. The physician would then pay the physician specialty class surcharge to individually qualify and pay a separate surcharge to qualify the corporation. The physician's employees would be included in the corporation's qualification. The Department estimates that it would cost approximately \$1,000 for a sole proprietor physician to incorporate. This includes costs of filing with the Secretary of State and retaining legal counsel to assist with the filing. The Department estimates that it will cost approximately \$100 annually for a sole proprietor physician to qualify a corporation. The amendments add physician assistants and clinical nurse specialists to the definition of independent ancillary provider. Physician assistants who choose to participate in the PCF must pay 35% of a specialty class 1 physician (currently \$2,648, or \$926.80 per physician assistant). The total potential annual impact to physician assistants is \$648,760. Clinical nurse specialists who choose to participate in the PCF must also pay 35% of a specialty class 1 physician (currently \$2,648, or \$926.80 per clinical nurse specialist). The total potential annual impact to clinical nurse specialists is \$424,474.40. The amendments also reduce the surcharge owed to the PCF by an ancillary provider from 110% to 100% of the premium charged by the insurer. [IC 34-18-5-2](#) requires the amount of the surcharge to be determined based upon actuarial principles and actuarial studies. The surcharge must be adequate for the payment of claims and expenses from the PCF. Therefore, the PCF's actuaries have determined that these amendments are necessary.

Copies of these rules are available on the Department of Insurance's website at [www.in.gov/idoi](http://www.in.gov/idoi).

Copies of these rules are now on file at the Department of Insurance, 311 West Washington Street, Suite 300 and Legislative Services Agency, Indiana Government Center North, 100 North Senate Avenue, Room N201, Indianapolis, Indiana and are open for public inspection.

Stephen W. Robertson  
Executive Director and Acting Commissioner  
Department of Insurance

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