

MEDICAL MALPRACTICE – FUND QUALIFIED

This checklist is for Medical Professional Liability filings made when coverage provided will insure health care providers who are eligible for qualification under the Nebraska Hospital-Medical Liability Act. All of the items in this checklist must be adhered to in order for the filing to be considered for approval.

Filing and Policy Requirements	Statutory and Regulatory Reference	Requirement Description
General Filing Requirements		
Nebraska Hospital Medical Liability Act	NE Statute 44-2801 to 44-2855 Bulletin CB-96	The Act provides for eligible healthcare providers to utilize their medical professional liability insurance as evidence of financial responsibility when electing to participate in the Excess Liability Fund. Impact of the Nebraska Hospital-Medical Liability Act on exclusionary or restrictive policy provisions.
SERFF filing required	Bulletin CB-50 (Amended)	As of May 1, 2010, all filings submitted to Nebraska are required to be submitted electronically, using the NAIC System for Electronic Rate and Form Filing. Contact person: Connie Van Slyke, 402-471-4647
Retaliatory Fees	NE Statute 44-150	Nebraska is a retaliatory state and all fees, premium taxes, deposits, and other charges will be charged at the rate in Nebraska law or the rate charged by the domiciliary state, whichever is higher.
Unfair Trade Practices Act	NE Statute 44-1521 to 44-1535	Purpose is to regulate unfair trade practices in the business of insurance, in accordance with the intent of the Congress of the United State as expressed in Public Law 79-15, by defining or providing for the determination of, all acts and practices so defined or determined.
Form Filing Requirements		
Forms	NE Statute 44-7508 NE Statute 44-7513	All forms must be filed and approved prior to use.

Form Filing Requirements (cont.)		
Filing and Policy Requirements	Statutory and Regulatory Reference	Requirement Description
Filing Standards	Bulletin CB-50 (Amended) NE Statute 44-7501 to 44-7535 NE Statute 44-2836(4)	Nebraska Filing Bulletin – When revising currently approved forms, a comparison of the existing form should be included with all changes clearly identified (red-lined copies). An insurer does not need to file forms and endorsements that an advisory organization has filed on its behalf. See Nebraska Rate and Form Act. A forms list is REQUIRED for all filings and if the filing also includes coverages for those that do not qualify for the Fund the forms list should list 1) Forms used on Fund qualified only 2) Forms used on Non-Fund qualified only and 3) Forms used on both. No exclusions or limitations allowed.
Applications	NE Statute 44-7508.01 Bulletin CB-40 (Amended)	Must be filed if coverage is bound. Cannot refuse to write based solely on previous cancellation.
Arbitration	NE Statute 25-2602-01	Uniform Arbitration.
Nebraska Property & Liability Insurance Guaranty Association Act	NE Statute 44-2401 to 44-2418	Provides a method for the payment of certain claims against insolvent insurance companies, as defined in sections 44-2401 to 44-2418 to avoid unnecessary delay in payment of such claims, to avoid financial loss to claimants or to policyholders, to assist in the detection and prevention of insurer insolvencies, and to provide an association of insurers against which the cost of such protection may be assessed in an equitable manner.
Cancellation & Non-Renewal	NE Statute 44-2836	There must be 30 days of written notice before the termination can become effective – this includes non-payment of premium. Notice must be mailed to 1) the Insured at last known address and 2) to the Director at his office by certified or registered mail.
Fraud & Misrepresentation	NE Statute 44-358	Policies; misrepresentation; warranties; conditions, effect
Coverage Territory	NE Statute 44-2801	Intent of the Act is to provide coverage for Nebraska insureds and healthcare providers as defined in 44-2803 in the state of Nebraska.

Form Filing Requirements (cont.)		
Filing and Policy Requirements	Statutory and Regulatory Reference	Requirement Description
Coverage Type	NE Statute 44-2824 NE Statute 44-2813 NE Statute 44-2805	Is the coverage Occurrence or Claims-made? The policy must cover each occurrence for each patient (definition of “medical incident”). A mother and a fetus/child CANNOT be considered as one claim (each have to have their own cause of action and own limit). Definitional reference for Occurrence Definitional reference for Patient <i>Example</i> of appropriate wording: “Result in injury or damages to a claimant will be considered one medical incident only”.
Definition of CRNA	NE Statute 44-2803	Is a CRNA defined as a health care provider in accordance with the Act.
Nebraska State Specific Endorsement or Statement	NE Statute 44-2836(4)	Required endorsement or statement in the policy certifying that “this policy is intended to provide all coverage required to qualify a health care provider for the Fund”.
Coverage in Place 24 Hours Per Day/7 Days Per Week	NE Statute 44-2836	The Act requires coverage be in place 24 hours per day 7 days a week once qualified. Therefore, the following are not allowed: Leave of Absence, Full Time Equivalency Position, Moonlighting, and Suspension.
Other Insurance	NE Statute 44-2836	Coverage under the Act is primary coverage and is NOT shared with other insureds.
Loss Settlement	NE Statute 44-2836 Bulletin CB-94 Title 210, Chapter 60	Does the insurer assume all obligations to pay an award imposed against its insured? Unfair Property and Casualty Settlement Practices Rule.
Deductibles	Chapter 32	Insurer must pay and seek reimbursement from insured.
Telemedicine	Notice – 3-7-2018	Out-of-State Health Care Providers Using Telemedicine to Treat Patients in Nebraska, Excess Liability Fund Coverage Option

Rate Filing Requirements		
Filing and Policy Requirements	Statutory and Regulatory Reference	Requirement Description
Rates	NE Statute 44-7506 NE Statute 44-7510 NE Statute 44-7511	All rates and rules must be filed and approved prior to use.
Policy Limits	NE Statute 44-2824	Required limits are \$500,000 for each occurrence AND **\$1,000,000 for all occurrences or claims made in a policy year for each named insured – physicians or certified registered nurse anesthetists and their employers, employees, partners or LLC members OR **\$3,000,000 for all occurrences or claims made in a policy year – Hospitals and their employees. **Shared Limits are NOT allowed. **Defense within limits is NOT allowed – must be outside of limits.
Pricing	NE Statute 44-354 NE Statute 44-7509	Special fees are prohibited Rate flex of 40% is allowed
Additional Criteria Required	NE Statute 44-7511	Include any information (i.e. loss development, trend, market analyses, etc.) necessary to explain and justify the changes being made. Clearly show the requested change versus the indicated change and provide an adequate explanation when the request differs from the indicated.
Health Care Provider Qualification		
Has the health care provider filed proof of financial responsibility?	NE Statute 44-2824 Title 210, Chapter 32.004	Required limits are \$500,000 for each occurrence AND **\$1,000,000 for all occurrences or claims made in a policy year for each named insured – physicians or certified registered nurse anesthetists and their employers, employees, partners or LLC members OR **\$3,000,000 for all occurrences or claims made in a policy year – Hospitals and their employees.

Health Care Provider Qualification (cont.)		
Filing and Policy Requirements	Statutory and Regulatory Reference	Requirement Description
Is this an acceptable proof of financial responsibility?	Title 210, Chapter 32.004.01A	Acceptable proof includes: **Certificate of professional liability insurance **Copy of professional liability insurance policy or declarations page **Written statement or binder from insurance company representative or agent.
Does the proof of financial responsibility include the correct information?	Title 210, Chapter 32.004.01B	The following information is required: **Name of each qualified health care provider and insurer **Limits of coverage **Policy inception and expiration date **Premium for insurance coverage for limits required to qualify under the act without credit for deductibles (if applicable) **Any retroactive dates (if applicable) **Whether it is an “occurrence” or “claims-made” policy **Deductible amount (if applicable)
Has the surcharge (or any special surcharge) been paid?	Title 210, Chapter 32.004 Title 210, Chapter 32.005	The surcharge must be paid within 30 days after proof of financial responsibility.
Is the policy an “occurrence” or “claims-made” policy?	Title 210, Chapter 32.007	Must state form of coverage
Is the health care provider still covered?	Title 210, Chapter 32.007	If not, they are no longer able to receive coverage under the Excess Liability Fund unless they have purchased an extended reporting endorsement from the Fund.