

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW
YORK
TITLE 11. INSURANCE DEPARTMENT
CHAPTER V. RATES AND RATING ORGANIZATIONS
SUBCHAPTER B. COMMERCIAL AND INDUSTRIAL RISKS
PART 152. PHYSICIANS AND SURGEONS PROFESSIONAL INSURANCE MERIT RATING PLAN

Section 152.1 Preamble.

(a) Section 2343(d) of the Insurance Law requires that the Insurance Department promulgate a regulation establishing a Physicians and Surgeons Professional Liability Merit Rating Plan which regulation was to take effect on January 1, 1986. A merit rating plan is a system of rules for imposing rate surcharges or credits, within the existing class and territory matrix, based upon an individual's past history of claims or disciplinary actions. The plan is intended to produce a more accurate individual premium by using past claim history to predict the likelihood of future claims.

(b) At the time this regulation was first promulgated some insurers had a formal merit rating plan, while others imposed surcharges and credits on an ad hoc judgmental basis. The department believed it was in the best interests of insurers, physicians, and the public to maintain stability in the rating system by requiring all insured physicians to be experience-rated under the same set of criteria. A physician's merit rating plan was established by Section 152.3 of this Part and all insurers were required to utilize that plan, unless the superintendent approved the use of an alternative plan pursuant to Section 152.4 of this Part. The plan, which applies to all claims-made and occurrence policies, is intended to be revenue-neutral: i.e., any additional funds generated by surcharges must be offset by a rate discount factor that is applied to the base rates; over the long term and for all insurers within the entire system. After reviewing the use of the plan established by the Insurance Department and approved alternative merit rating plans, the superintendent has determined that the use of alternative merit rating plans may be expanded and that insurers need not be restricted to the use of the plan established in this Part.

(c) Section 2343(e) of the Insurance Law provides that the superintendent may approve an appropriate premium reduction for an insured physician who successfully completes a risk management course. Standards for the risk management course must be prescribed by the superintendent by regulation, and the course must be approved by the superintendent.

(d) The superintendent has determined that a premium credit as hereinafter permitted may be appropriate for all physicians who successfully complete an approved risk management program meeting the standards contained in section 152.6 of this Part ("qualified risk management program").

(e) Section 42 of Part A of Chapter 1 of the Laws of 2002, as amended by Section 16 of Part J of Chapter 82 of the Laws of 2002, requires all physicians, surgeons and dentists

participating in the excess medical malpractice insurance program established by the Legislature in 1986 to participate in a proactive risk management program. Section 42 authorizes the superintendent to promulgate regulations which provide for the establishment and administration of proactive risk management programs.

Section 152.2 Definitions.

As used in this Part:

(a) The term "claim" shall mean written notice or demand upon the insured, including suit, filed by a claimant or other person acting on behalf of the claimant, and received by the insurer, that alleges injuries or damages sustained from an accident. A single incident may result in no more than one chargeable loss for each physician.

(b) The term "chargeable loss" shall mean: for claims closed prior to July 1, 1981, the sum of all indemnity payments on any one closed claim must be at least \$15,000; for claims closed or outstanding on and after July 1, 1981, the sum of all indemnity payments on any one closed or outstanding claim must be at least \$30,000.

(c) The term "physician," when used in connection with the excess medical malpractice risk management program, shall mean a physician, surgeon or dentist participating in the excess medical malpractice insurance program.

(d) The term "excess medical malpractice program" means the program established by section 19 of Chapter 294 of the Laws of 1985, as extended by section 18 of Chapter 266 of the Laws of 1986, as amended.

(e) The term "insurer" includes the Plan established pursuant to Part 430 of this Title* (Regulation 170)

Section 152.3 Insurance Department Merit Rating Plan Model.

(a) Evaluation period to be used:

Chargeable losses paid in the ten-year review period and disciplinary actions imposed in the five-year period prior to the latest policy effective date shall be included for evaluation purposes. If, for any claim, the length of time between the occurrence and settlement dates is more than thirteen years, then such claim can no longer be, or become, a chargeable loss even though settlement occurs in the ten-year review period. Physicians licensed to practice for less than ten years shall be rated only on their years of practice. In issuing new and renewal policies for the period beginning July 1, 1986, insurers shall use the full ten-year experience period (or less, for physicians licensed less than 10 years). Upon request, physicians, insurers, and managers of insurance programs shall furnish to current insurers claims and disciplinary information necessary to calculate an accurate surcharge. Existing insurers shall request and obtain this information.

(b) Surcharges for disciplinary actions:

The following surcharges shall apply where there has been;

1. Licensing Board disciplinary proceedings within the past five years:

- i. License revoked in any state: surcharge 100%.
- ii. License suspended in any state: surcharge 75%.
- iii. Probation invoked in any state: surcharge 50%.

2. Hospital disciplinary proceedings involving malpractice or incompetency within the past five years (excluding disciplinary proceedings for lateness in recordkeeping and/or lateness in submitting proof of insurance coverage):

- i. Privileges revoked by any hospital: surcharge 100%.
- ii. Privileges restricted or suspended by any hospital: surcharge 75%.

(c) Assignment of points for chargeable losses:

For each chargeable loss, one point shall be assigned. These "points" generate surcharges according to the following schedule of percentages, which is based on the specialty classifications currently filed by the Medical Malpractice Insurance Association. In this schedule, downstate refers to the following New York State counties: Nassau, Suffolk, Bronx, Kings, Queens, Richmond, Rockland, Sullivan, New York, Orange and Westchester; upstate refers to all other New York State counties. (Note: these factors will be adjusted periodically as more experience data becomes available):

Surcharge Points	1	2	3	4	5	6	7	or more
1- 7 Downstate	0	0	10%	35%	80%	130%	200%	
8- 16 Downstate	0	10%	35%	70%	110%	150%	200%	
1- 7 Upstate	0	10%	35%	70%	110%	150%	200%	
8- 16 Upstate	5%	15%	45%	85%	120%	160%	200%	

Surcharges are developed by determining the chargeable losses paid within the evaluation period, adding the number of points for each loss, and multiplying the otherwise applicable premium by 100% plus the surcharge. For example, if a physician's base rate for his class and territory is \$50,000, and he has accumulated seven surcharge points, his premium is:

$$200\% \text{ (surcharge)} + 100\% \text{ (base)} = 300\%$$

300% of \$50,000 = \$150,000

Surcharges for disciplinary actions are added to any surcharges generated by chargeable losses. For example, if an upstate Class 10 physician's base rate for his class and territory is \$10,000, and he has accumulated two surcharge points and has had probation invoked in any state, his premium is:

15% (for two points) + 50% (for probation) + 100% (base) = 165%

165% of \$10,000 = \$16,500

In no event shall the total surcharge from both chargeable losses and disciplinary actions exceed 200%.

(d) Credits.

Insurers who insure physicians in the first year of practice, or physicians in part-time practice (e.g., semi-retired or in full-time teaching) must file an appropriate rate credit.

Other credits may be filed with the superintendent for approval pursuant to Section 2305(b) of the Insurance Law. Such credits must be adequately supported and comply with Section 2303 of the Insurance Law. Any surcharge or credit generated by other provisions of this regulation will apply to the reduced premium.

(e) Appeals procedure.

Insurers shall establish and file for approval a mechanism for physicians to: (1) appeal the determination of the insurer; and (2) explain the circumstances of their chargeable losses or disciplinary procedures. Surcharge "points" shall be waived or reduced by insurers if circumstances indicate that they are not truly predictive of future claims. While the surcharge is being appealed, the insured must pay the otherwise applicable rate for his class and territory including all surcharges whether or not they are being appealed.

(f) Refund of surcharge.

Surcharges must be returned if: (1) indemnity payments, which generated the surcharge, are subsequently reduced below the chargeable level; or upon appeal, as outlined in subsection (e) above, it is determined that a disciplinary procedure of chargeable loss is not truly predictive of future claims. The method for refund of the surcharge is at the option of the insurer but shall be reasonably prompt and uniform for all its insureds. Surcharges shall be returned for the policy period in which the payment was reduced or the surcharge was successfully appealed and for two prior policy periods, if applicable.

(g) Reclassification of physician.

If a physician is reclassified from a higher-rated to a lower-rated specialty, "points" assigned for incidents which were not related to the practice of the lower-rated specialty shall not be used for merit rating purposes.

(h) Notice to insureds.

When a policy has been surcharged under a merit rating plan, insurers are directed to state prominently, either on the declarations page or the premium bill, or on a notice attached to the declarations page or premium bill, the following, or its substantive equivalent:

"Your premium rates are higher than they otherwise would be because, during the measuring experience period which applied to your insurance, you had the following chargeable losses or disciplinary actions under our merit rating plan. This plan has been filed with and approved by the New York Insurance Department pursuant to regulation No. 124 of the department. The attached description of our merit rating plan includes a list of events for which we may surcharge you, the circumstances under which surcharges may be removed and refunded, and the procedure you should follow if you wish to appeal this surcharge. We trust this will answer any questions you have concerning your surcharge. If you have any further questions, you may call us at. .

Section 152.4 Alternative plans.

A plan may be submitted for the superintendent's approval which varies in one or more aspects from the rules established in this Part. Any merit rating plan must consider the criteria established in Section 2343(d) of the Insurance Law. The plan must be intended to be revenue-neutral and must:

(a) reflect an individual physician's or surgeon's experience with respect to incidents or occurrences of alleged medical malpractice;

(b) be reasonable and not unfairly discriminatory, inequitable, violative of public policy or other wise contrary to the best interests of the people of this state;

(c) consider the following hazards;

(1) hazards of the insured:

(2) geographical area;

(3) specialties of practice; and

(4) loss and expense experience, trends in frequency, and severity of losses; and

(d) clearly state rules for recognizing the experience of individual risks

Section 152.5 Amount and application of risk management premium credits.

(a) Insurers may file, for approval by the superintendent, a premium credit of up to five percent for insured physicians who successfully complete a qualified risk management program.

(b)(1) The premium credit shall be effective with the next anniversary date of the policy following completion of the basic course of the risk management program. However, if an insured completes the risk management course within 60 days after the policy anniversary date, the credit may be applied retroactively to that anniversary date.

(2) Where a policy is paid for on other than an annual basis insurers may provide for the risk management premium credit to become effective on the premium due date next following completion of the basic course.

(3) Premium credits after the second year following the insured's first receiving the premium credit may only be applied if the insured successfully completes the follow-up course as provided in Section 152.6(e) of this Part.

Section 152.6 Standards for qualified risk management program.

In order to qualify for the credit, a risk management program must meet the following minimum standards:

(a) The program must be administered by the insurer or, after the insurer has investigated the entity's qualifications, by an entity designated by the insurer to administer the program on its behalf.

(b) The program must contain at least two components:

(1) a basic risk management course; and

(2) a follow-up course to be taken every two years after first receiving the risk management premium credit.

(c) The basic risk management course must:

(1) consist of either:

(i) a lecture (or other classroom setting) format, of at least five hours in length exclusive of any breaks, covering topics related to risk management, including but not limited to recordkeeping, informed consent, legislation, legal environment, communication with patients, and office procedures; or

(ii) an internet-based course format, requiring interaction by the insured, that is equivalent to the time and content of the lecture format described in subparagraph (i) of this paragraph; and

(2) require the insured, subsequent to the lecture or internet-based course, to complete a project (such as the critical review of case studies), that is designed to demonstrate and reinforce the concepts taught in the program, which must be returned to the insurer (or the entity conducting the risk management program) within 60 days after completion of the basic course lecture or internet-based course.

(d) Satisfactory completion of both the lecture or the internet-based course and the project is required in order to grant a premium credit.

(e) In order to remain eligible for the risk management premium credit, the insured must complete the follow-up course component, which must:

(1)(i) consist of a lecture (or other classroom setting) format of at least three hours in length exclusive of breaks; or

(ii) consist of an internet-based course format, requiring interaction by the insured, which is equivalent to the time and content of the lecture format described in subparagraph (i) of this paragraph;

(2) be designed to reinforce the concepts covered in the basic risk management course and to bring to the insured's attention any relevant developments since completion of the basic course;

(3) unless provided in the basic risk management course, contain material specific to the insured's medical specialty; and

(4) require the insured, subsequent to the lecture format or the internet-based course, to complete a project (such as the critical review of case studies), that is designed to demonstrate and reinforce the concepts taught in the program, which must be returned to the insurer (or the entity conducting the risk management program) within 60 days after completion of each follow-up course.

(f) If the program is presented in a lecture format, it must contain a methodology for verifying that the insured is present for the entire lecture period for both the basic and follow-up courses, and that the required project is completed by the insured in a satisfactory manner. If the program is presented in an internet-based course format, it must contain a methodology for verifying that the insured has logged on, taken and completed both the basic and follow-up courses, and completed the required project in a satisfactory manner. In addition, the insurer or the entity conducting the internet-based course must require the insured to affirm that he or she was the person who actually took the course and that he or she is aware that any premium credit granted by the insurer is based on his or her affirmation.

(g) If the program is presented in the lecture format, it must be taught by persons with appropriate expertise in the subject areas being covered. If the program is presented in an internet-based format, the program must be developed by persons or entities with appropriate technological expertise, and the course content must be developed by persons or entities with appropriate expertise in the subject areas covered.

(h) The program must contain a provision whereby insureds who transfer their coverage from another insurer with an approved risk management program will continue to receive the credit, if and only if such insureds have completed all requirements for the credit.

Section 152.7 Implementation.

(a) Insurers may continue to use merit rating plans which have been approved by the superintendent. The offsets that must be applied to the base rates in order to insure that these plans are revenue neutral, should be incorporated in all subsequent rate filings. These offsets shall be periodically reviewed by all insurers.

(b) An insurer wishing to modify its approved merit rating plan shall submit the modified plan to the superintendent for approval. An insurer entering the physicians and surgeons professional liability market in New York may utilize the merit rating plan model set forth in this Part or may submit an alternative merit rating plan. A submission shall include a detailed explanation of how the proposed merit rating plan complies with Section 152.4 of this Part.

(c) Any insurer that intends to offer the premium credit provided for in section 152.5 of this Part must submit its proposed risk management program to the superintendent and obtain approval prior to the granting of any such credit.

(d) The risk management program must specify:

(1) the amount of the credit;

(2) the length of the basic and follow-up courses;

(3) the specific basic and follow-up courses;

(4) the qualifications required for developers of the internet-based program and instructors in each subject area;

(5) the methodology for monitoring attendance during the lecture course format and for assuring that the eligible insured is the person who has taken and completed the internet-based course;

(6) a description of the required project;

- (7) the methodology for verifying satisfactory completion of all components of the program prior to the granting, or continuation, of any premium credit;
- (8) the identity of the entity, if any, designated by the insurer to administer the risk management program on its behalf, the qualifications of that entity, and the steps the insurer will take to monitor the program;
- (9) the methodology for informing insureds of the availability of the risk management credit and the dates, locations, and if applicable, the internet address, of each risk management program offered by the insurer;
- (10) the amount of tuition and other fees, if any, to be charged insureds participating in the program ; and
- (11) for internet-based program format, a description of the type of interaction required of the insured, and the basis for the insurer's determination that the component is equivalent to the time and content of the lecture component.

(e) Insurers shall:

- (1) review and update their risk management programs at least annually;
- (2) submit all changes to the superintendent for prior approval; and
- (3) notify all insureds of the dates, locations, and if applicable, the internet address, of each risk management course offered by the insurer.

Section 152.8 Records maintenance and reporting requirements.

In order to be eligible for participation in the medical malpractice excess insurance program (or remain eligible if currently participating in that program), a physician must successfully complete an excess medical malpractice risk management program that meets the following requirements:

- (a) The program must consist of at least two components:
 - (1) an excess medical malpractice risk management basic course; and
 - (2) an excess medical malpractice risk management follow-up course to be taken every year thereafter.
- (b) The excess medical malpractice risk management basic course must:
 - (1) meet the requirements for Category 1 continuing medical education credit;
 - (2) be in either:

(i) a lecture (or other classroom setting) format, of at least five hours in length exclusive of any breaks, covering topics related to risk management, including but not limited to recordkeeping, informed consent, legislation, legal environment, communication with patients, office procedures, and critical review of case studies, at least two hours of which shall consist of subject matter that is dedicated to topics related to the higher potential exposure of the excess insurance risk; or

(ii) an internet-based format, requiring interaction by the insured physician, that is equivalent to the time and content of the lecture format described in subparagraph (i) of this paragraph.

(3) require the insured physician, subsequent to the lecture or internet-based course set forth in paragraph (2), to complete a project (such as the critical review of case studies), that is designed to demonstrate and reinforce the concepts taught in the course, which must be returned to the insurer (or the entity conducting the risk management program) within 60 days after completion of the basic course lecture or internet-based course.

(c) Satisfactory completion of both the lecture or the internet-based course, and the project is required in order to participate in the excess medical malpractice insurance program.

(d) In order to remain eligible for participation in the excess medical malpractice insurance program in succeeding policy years, the physician must complete an annual excess medical malpractice follow-up course, which must:

(1)(i) consist of a lecture (or other classroom setting) format of at least three hours in length exclusive of breaks. At least one hour of the course shall consist of subject matter that is dedicated to topics related to the higher potential exposure of the excess insurance product; or

(ii) consist of an internet-based course format, requiring interaction by the insured physician, that is equivalent to the time and content of the lecture format described in subparagraph (i) of this paragraph;

(2) be designed to reinforce the concepts covered in the excess medical malpractice basic risk management course and to bring to the insured's attention any relevant developments since completion of the basic course;

(3) unless provided in the excess medical malpractice risk management basic course, contain material specific to the insured's medical specialty; and

(4) require the insured physician, subsequent to the lecture or the internet-based component of the course, to complete a project (such as the critical review of case studies), that is designed to demonstrate and reinforce the concepts taught in the course, which must be returned to the insurer (or the entity conducting the risk management program) within 60 days after completion of each follow-up course.

(e) If the program is presented in the lecture format, it must contain a methodology for verifying that the insured physician is present for the entire lecture period for both the basic and follow-up courses, and that the required project is completed by the insured physician in a satisfactory manner. If the program is presented in an internet-based format, it must contain a methodology for verifying that the insured physician has logged on, taken and completed both the basic and follow-up courses, and completed the required project in a satisfactory manner. In addition, the insurer or the entity conducting the internet-based program must require the insured physician to affirm that he or she was the person who actually took the program and that he or she is aware that any benefit granted pursuant to completion of the program is based on his or her affirmation.

(f) If the program is presented in the lecture format, it must be taught by persons with appropriate expertise in the subject areas being covered. If the program is presented in an internet-based format, the program must be developed by persons or entities with appropriate technological expertise, and the program content must be developed by persons or entities with appropriate expertise in the subject areas covered.

(g) The program must contain a provision whereby insureds who transfer their excess medical malpractice insurance coverage from another insurer will continue to participate in the excess medical malpractice insurance program, if and only if such insureds have completed all requirements for such participation.

(h)(1) The program must be administered by the insurer or, after the insurer has investigated the entity's qualification, by an entity designated by the insurer to administer the program on its behalf.

(2)(i) The Medical Society of the State of New York ("The Medical Society") shall review those portions of the basic and follow-up courses dedicated to the excess risk of each insurer's program in order to assure that the subject matter addresses the excess exposure and is consistent among all insurers offering the program.

(ii) The Medical Society shall develop guidelines subject to approval by the Superintendent, to be used to evaluate the courses submitted to it for review. A copy of these guidelines shall be provided to an insurer upon request.

(iii) The Medical Society shall complete its review and provide a determination of any course submitted to it within 30 days of receiving all needed information; failure to render a determination within such period is deemed a denial.

(iv) An insurer may, within 30 days, appeal an adverse determination by the Medical Society to the superintendent.

11 NYCRR 152.9 Excess medical malpractice risk insurance coverage eligibility requirements

(a) Except as provided in subdivision (c) of this section, in order to be eligible for participation in the excess medical malpractice insurance program effective July 1st of any policy year, a physician must have completed all of the requirements for the excess medical malpractice basic or follow-up course, as applicable, prior to that date.

(b) If a physician does not qualify for participation in the excess medical malpractice insurance program effective July 1st of any policy year because such physician failed to complete the appropriate excess medical malpractice basic or follow-up risk management course prior that date, and such physician subsequently completes those requirements during that policy year, excess medical malpractice insurance coverage can be provided to such physician effective the date that all the excess medical malpractice risk management requirements are satisfactorily completed. Such physician must also complete any required excess medical malpractice followup course during that policy year in order to continue to participate in the excess medical malpractice insurance program effective July 1st of the following policy year. Therefore, a physician who has a lapse in eligibility will have to take two excess medical malpractice risk management courses within a policy year in order to continue to be eligible for the excess medical malpractice insurance program the following policy year. (For example, a physician who does not complete the basic or followup course required for eligibility beginning July 1, 2005, until August 1, 2005, becomes eligible for excess medical malpractice insurance on August 1, 2005. In order to continue to be eligible for excess medical malpractice insurance effective July 1, 2006, the physician must complete the excess medical malpractice risk management follow-up course requirements by July 1, 2006.)

(c) A physician participating in the excess medical malpractice program during the policy year July 1, 2002 -- June 30, 2003 who completed all the requirements for the excess risk management basic course by June 30, 2004 will be deemed to have met the requirement for both policy years July 1, 2002 -- June 30, 2003 and July 1, 2003 -- June 30, 2004.

11 NYCRR 152.10 Coordination of excess medical malpractice risk management course with qualified risk management program

In recognition of the fact that some physicians are also participating in qualified risk management program filed by their insurer pursuant to section 152.6 of this Part, and in order to facilitate participation in the excess medical malpractice risk management program, the following rules shall apply:

(a) The excess medical malpractice risk management basic course must be successfully completed even if the participating physician has previously completed the basic risk management course described in section 152.6(c) of this Part.

(b) For a physician who has not previously participated in a qualified risk management program, satisfactory completion of the five hour excess medical malpractice risk management program basic course will also qualify for completion of the qualified risk management program basic course if the physician's insurer has an approved qualified risk management program pursuant to section 152.6 of this Part.

(c) A physician also participating in a qualified risk management program who would otherwise be required to complete both the three hour qualified risk management program follow-up course pursuant to section 152.6(e) of this Part and the five hour excess medical malpractice risk management program basic course in the same year may satisfy both requirements by successfully completing the five hour excess medical malpractice risk management basic course.

(d) A physician also participating in a qualified risk management program who would otherwise be required to complete both the three hour qualified risk management follow-up course pursuant to section 152.6(e) of this Part and the three hour excess medical malpractice risk management program follow-up course in the same year may satisfy both requirements by successfully completing the three hour excess medical malpractice risk management follow-up course.

11 NYCRR 152.11 Implementation of excess medical malpractice risk management programs

(a) An insurer that writes medical malpractice insurance for physicians must submit a proposed excess medical malpractice risk management program to the superintendent and obtain approval prior to the participation of any insured in the program.

(b) The risk management program must specify:

(1) the length of the basic and follow-up courses;

(2) the specific basic and follow-up courses;

(3) the qualifications required for developers of the internet-based program and instructors in each subject area;

(4) the methodology for monitoring attendance during the lecture course format and for assuring that the eligible insured physician is the person who has taken and completed the internet-based course;

(5) a description of the required project;

(6) the methodology for verifying satisfactory completion of all components of the program prior to the certifying of an insured physician to be eligible to participate in the excess medical malpractice insurance program;

(7) the identity of the entity, if any, designated by the insurer to administer the risk management program on its behalf, the qualifications of that entity, and the steps the insurer will take to monitor the program;

(8) the methodology for informing insureds of the availability of the risk management course and the dates, locations, and if applicable, the internet address of each risk management course offered by the insurer;

(9) for internet-based components, a description of the type of interaction required of the insured physician, and the basis for the insurers determination that the component is equivalent to the time and content of the lecture component; and

(10) evidence from an entity accredited to grant continuing medical education credit that the basic course qualifies for Category 1 continuing medical education credit.

(c) An insurer shall:

(1) review and update its excess medical malpractice risk management program at least annually;

(2) submit all changes to the superintendent for prior approval; and

(3) notify all insureds of the dates, locations, and if applicable, the internet address of each risk management program offered by the insurer.

(d) Any insured physician participating in a risk management program for the purpose of eligibility for the excess medical malpractice insurance program in this state shall not be charged a fee or other assessment in connection with this program.

11 NYCRR 152.12 Records maintenance, audits and reporting requirements

(a) Every insurer that offers a risk management premium credit shall maintain loss and expense statistics separately for those insureds receiving and not receiving the credit, and such statistics shall be made available to the superintendent upon request.

(b) An insurer shall conduct a risk management audit at least annually of all insured physicians participating in its excess medical malpractice risk management programs pursuant to this Part. Such audits may be in the form of self-review surveys completed by each insured physician.

(c) An insurer that utilizes self-review surveys in lieu of physical audits shall develop self-review procedures specific to the type of practice, varying by specialty type and size of the practice engaged in by the insured, and any other criteria it determines appropriate to evaluating the effectiveness of the excess medical malpractice risk management program.

(d) The self-review procedures shall be designed to provide information to the insurer to determine that participants are properly following the procedures and principles presented in the course, to assist the insurer in developing revisions and improvements to its excess

medical malpractice risk management programs and to provide for the establishment of best practices in risk management methods.

(e) An insurer offering a risk management premium credit or an insurer offering a risk management program for the purpose of eligibility in the excess medical malpractice insurance program shall annually, no later than March 1st, submit to the superintendent a report indicating, by territory and medical specialty:

(1) total number of insureds;

(2) number of insureds receiving the premium credit; and

(3) number of insureds participating in risk management programs qualifying for excess medical malpractice insurance coverage.