

Company Name: _____

**Review Requirements Checklist
Medical Professional Liability**

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REVIEW REQUIREMENTS	REFERENCE	COMMENTS	REFERENCE Form/Page/Para
FORMS			
Applications			
Filing Applications	T11 NCAC 10.1201	(c) Applications or Declarations Pages that are used with Policy forms shall be submitted to and approved by the commissioner.	
Statements in Applications not Warranties	NCGS 58-3-10	All statements or descriptions in any application for a policy of insurance, or in the policy itself shall be deemed representations and not warranties, and a representation unless material or fraudulent, will not prevent a recovery on the policy.	
Arbitration			
Binding/Non Binding	NCGS-58-3-35	No arbitration clause should limit or bar the insured's right of access to the court system.	
		Arbitration will take place in the county and state in which the insured lives, unless agreed to by the company and the insured.	
Bankruptcy Provision			
Prohibited Policy Provisions	T11 NCAC 10.1204	(4) Policy Conditions: Bankruptcy or insolvency of the "insured" or "insured's" estate does not relieve the company of its obligations under any Coverage Form.	
Cancellation & Nonrenewal			
Cancellation Provisions	NCGS 58-41-15	(a) No insurance policy or renewal thereof may be cancelled by the insurer prior to the expiration of the term or anniversary date stated in the policy and without the prior written consent of the insured, except for any one of the following reasons:	
		(1) nonpayment of premium in accordance with policy provisions;	
		(2) misrepresentation or nondisclosure of material fact by insured or representative;	
		(3) increased hazard or material change in risk assumed that could not have been reasonably contemplated;	
		(4) substantial breach of contractual duties, conditions, or warranties that affects insurability of risk;	
		(5) fraudulent act against the company by insured or representative that affects insurability;	
		(6) willful failure by insured or representative to institute reasonable loss control measures;	

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		(7) loss of facultative reinsurance;	
		(8) conviction of insured of a crime arising out of acts that materially affect insurability of risk;	
		(9) determination by the Commissioner that continuation of the policy would place insurer in violation of the laws of this State;	
		(10) Insured fails to meet requirements contained in corporate charter, articles of incorporation, or bylaws of the insurer when insurer is a company organized for the sole purpose of providing members of an organization with insurance coverage in this State.	
	NCGS 58-41-15	(b) 15 days notice of cancellation before proposed effective date of the cancellation must be given by the insurer. The notice must state the precise reason for cancellation. Proof of mailing is sufficient proof of notice.	
	NCGS 58-41-15	(c) This section does not apply to any insurance policy that has been in effect less than 60 days and is not a renewal of a policy.	
	NCGS 58-41-15	(d) Cancellation for nonpayment is not effective if the amount due is paid before the effective date set forth in the notice of cancellation.	
	NCGS 58-41-15	(e) Copies of the notice required by this section shall also be sent to the agent or broker of record. Failure to send copies of the notice to such persons shall not invalidate the cancellation.	
Nonrenewal Provisions	NCGS 58-41-20	(a) No insurer may refuse to renew an insurance policy except in accordance with the provisions of this section. Any nonrenewal that is not in compliance with this section is not effective. This section does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.	
		(b) An insurer may refuse to renew a policy that has been written for a term of one year or less at the policy's expiration date by giving or mailing written notice of nonrenewal to the insured not less than 45 days prior to the expiration date of policy.	

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		(c) An Insurer may refuse to renew a policy that has been written for a term of more than one year or for indefinite term at the policy anniversary date by giving or mailing written notice of nonrenewal to the insured not less than 45 days prior to the anniversary date of the policy.	
		(d) Except as provided in G.S. 58-41-25, whenever an insurer lowers coverage limits or raises deductibles or premium rates other than at the request of the policyholder, the insurer shall give policyholder written notice of such change at least 30 days in advance of the effective date of the change.	
		(e) The notice required by this section must be given or mailed to the insured, and any designated mortgagee or loss payee at their addresses shown in policy or if not indicated in the policy at their last known addresses. Proof of mailing is sufficient proof of notice. Failure to send this notice to any designated mortgagee or loss payee invalidates the nonrenewal only as to the mortgagee's or loss payee's interest.	
		(f) Copies of the notice required by this section shall also be sent to the agent and broker of record; however, failure to send copies of the notice to such persons shall not invalidate the nonrenewal.	
Renewal Provisions	NCGS 58-41-25	Notice of renewal of policies with premium rate or coverage changes.	
		(a) If an insurer intends to renew a policy, the insurer must furnish to the insured the renewal terms and a statement of the amount of premium due for the renewal policy period. This section applies only if the insurer intends to decrease coverage, increase deductibles, impose any kind of surcharge, or increase the premium rate in the renewal policy.	
		(b) If the policy being renewed was written for a term of one year or less, the renewal terms and statement of premium due must be given or mailed not less than 45 days before renewal the expiration date of that policy. If the policy being renewed was written for a term of more than one year, or for an indefinite term, the renewal terms and statement of premium due must be given or mailed not less than 45 days before the anniversary date of that policy. The renewal terms and statement of premium due must be given or mailed to the insured and any designated mortgagee or loss payee at their addresses shown in the policy, or , if not indicated in the policy, at their last known addresses.	

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		(c) If the insurer fails to furnish the renewal terms and statement of premium due in the manner required by this section, the insured may cancel the renewal policy within the 30- day period following receipt of the renewal terms and statement of premium due. For refund purposes, earned premium for any period of coverage shall be calculated pro rata upon the premium applicable to the policy being renewal instead of the renewal policy. If an insurer fails to comply with the 45-day notice requirement of this section, the insured is entitled to the option of coverage under the policy being renewed and at the same cost of that policy until 45 days have elapsed after the insurer has provided the insured with the notice.	
		(d) If a policy has been issued for a term longer than one year, and for additional consideration a premium has been guaranteed for the entire term, it is unlawful for the insurer to increase that premium or require policy deductibles or other policy or coverage provisions less favorable to the insured during the term of the policy.	
		(e) Copies of notice required by this section shall also be given or mailed to any designated mortgagee or loss payee and may also be given or mailed to the agent or broker of record.	
Claims Made Requirements			
Claims-Made Guidelines	NCGS 58-40-140	1. When a policy provides both claims-made and occurrence coverages, the declarations page must indicate which coverages are claims-made and which coverages are occurrence.	
		2. All claims-made policies must offer the insured, upon cancellation or nonrenewal, the option to purchase an extended reporting period in accordance with the standards provided below.	
		A.) Extended Reporting Period for Non-Medical Claims	
		In the event of a cancellation or nonrenewal by the insured, or by the insurer as permitted by General Statute 58-41-15 and 58-41-20, except for non-payment of premium, there shall be a 30-day period after the effective date of the cancellation or nonrenewal during which the insured may elect to obtain an endorsement providing an extended reporting period of at least one year, for 100% of the expiring policy aggregate covering non-medical claims first reported during the extended reporting period and arising from acts, errors or omissions committed during the policy period and otherwise covered by the policy.	
		B.) Extended Reporting Period for Medical Malpractice Claims	

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		In the event of a cancellation or nonrenewal by the insured, or by the insurer as permitted by General Statute 58-41-15 and 58-41-20, except for non-payment of premium, there shall be a 30-day period after the effective date of the cancellation or nonrenewal during which the insured may elect to obtain an endorsement providing an extended reporting period of unlimited duration covering medical malpractice claims first reported during the extended reporting period and arising from acts, errors or omissions committed during the policy period and otherwise covered by the policy.	
		3. Within 45 days after the mailing or delivery of the written request of the insured, the insurer shall mail or deliver the following loss information covering a three-year period:	
		A.) Aggregate information on total closed claims, including date and description of occurrence, and any paid losses;	
		B.) Aggregate information on total open claims, including date and description of occurrence, and amounts of any payments;	
		C.) Information on notice of any occurrence, including date and description of occurrence.	
Defense Costs			
Defense Costs Within Limits	Essential Guidelines	1. Any liability filing including, but not limited to, General Liability, Professional Liability, D&O, E&O, or Personal Comprehensive Liability that proposes defense costs within the limits of the policy will be required to stamp, print, or have a sticker	
		2. The P&C Division will not specify the exact wording. The exact wording is not our concern. We simply want to ensure that the insured is put on notice as to this issue and is advised to read the policy.	
		3. Prior to approval, have the filing company submit a sample declaration page with the appropriate stamp, print, or sticker.	
Filing Standards			
General Information	T11 NCAC 10.1201	(b) Forms filings must be submitted separately and under independent cover from Rates and Rules filings. Forms filings may contain rule filings associated with the form(s) being filed.	

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Prior Approval	NCGS 58-41-50	(a) forms must be filed with and either approved by the Commissioner or 90 days have lapsed and he has not disapproved the form	
Forms Questionnaire (FC-074 5/1/96)	T11 NCAC 10.1207	All Property and Casualty Insurance Companies shall submit a completed forms filing questionnaire as prescribed by the Department. The signature at the bottom of page 2 is required.	
Submission Requirements	T11 NCAC 10.1206	All licensed insurance companies or any other licensed entity filing forms for coverages governed by NCGS 58-40 and 41 shall:	
		(1) Send letter of transmittal	
		(2) Complete questionnaire	
		(3) If the filer is filing a modification to an existing form, provide a side-by-side comparison of the existing and modified forms and explain all broadenings and restrictions of coverage.	
		(4) Provide an explanation of all broadening and restrictions	
Reference Filings	T11 NCAC 10.1202	(a) With exception of Flood Insurance, form filings by reference are not permitted.	
		(b) Adoption of forms promulgated by bureau, licensed advisory organizations, licensed joint underwriting assoc., or licensed reinsurance organization of which the insurer is a member, subscriber, service purchaser is not deemed to be a reference filing.	
Prohibited Policy Provisions	T11 NCAC 10.1204	(a) Forms will be disapproved if they contain any of the following policy provisions:	
		(1) provisions that the application is a consideration of coverage, unless application is physically attached to the policy;	
		(2) provision that rules or bylaws of the company are a part of the contract; unless such rules or bylaws are actually written into or physically attached to the policy;	
		(3) provision that a portion of the premium comes due and payable only after the occurrence of a loss, for example, a premium retention policy;	
		(4) a provision in a liability policy that relieves the company of liability on account of insolvency of the insured	
		(5) provision that knowledge of the agent is not binding on the company	
		(6) a provision purporting to limit to less than 3 years any suit on the contract by the policyholder.	

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Individual Risk Filings / Manuscript Policies (Forms that have not been filed)	T11 NCAC 10.0105	(a) Within 60 days after the inception date of a manuscript or individual risk policy, the insurer must submit to the Department of Insurance, Property and Casualty Division:	
		(1) any form or endorsement not previously filed with the Department and approved for use.	
		(2) a statement explaining why a manuscript or individual risk policy was needed.	
		(b) Continuous policies are not permitted.	
		(c) A copy of the approved filing shall be retained by the filer.	
Company name on forms	NCGS 58-3-50	Companies must do business in own name; emblems, insignias, etc.	
		Every insurance company or group of companies must conduct its business in the State in, and the policies and contracts of insurance issued by it shall be headed or entitled only by, its proper or corporate name or names.	
RATING			
Pricing			
Refer to company	NCGS 58-41-50 and T11 NCAC 10.0105 and T11 NCAC 10.1102(12) (b)	"Refer to Company" is not considered a proper rate filing. The company(insurer) must file (a) rates, range of rates or a rule stating that if an unfiled rate is used, an Individual Risk Filing will be submitted by the company (insurer).	
Minimum Premium	T11 NCAC 10.1602	(h) Minimum Premiums must be filed and approved as proper rate filings.	
Refund to Insured	Essential Guideline	In the event of cancellation, include a provision to provide a refund to the insured if it is requested by insured.	
IRPM Rating Plans	NCGS 58-41-50	IRPM Rating Plans must be filed showing the maximum/minimum debit/credit allowed by the company.	
Rating Plan Requirements			
Commercial Lines Questionnaire; All rates & Loss costs are required to be filed	NCGS 58-41-50 and T11 NCAC 10.1107	A Rate Filing Questionnaire (FC-074 5/96) must accompany each rate filing, and must be completed with the necessary supplementary exhibits to which the questionnaire refers. Complete actuarial Data should be submitted on the exhibits contained in the questionnaire.	

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		All filings are subject to actuarial review by the Actuarial Services Division of this Department. Company's must allow time for review by Department including the 60 day waiting period.	
		Provide a rate comparison with other approved plans if the plans were used in calculating the proposed rates.	
Rates must be filed	NCGS 58-41-50	See above referenced.	
Individual Risk Filings / Manuscript Policies	T11 NCAC 10.0105	(a) Within 60 days after the inception date of manuscript or individual risk policy, the insurer must submit to the Department of Insurance, Property and Casualty Division:	
		(1) a statement describing how the rates were calculated	
		(2) a statement explaining why an IRF was needed	
		(3) a certification that the rates are not excessive, inadequate, nor unfairly discriminatory	
General Filing References			
Modified File and Use; Rates must be filed with the Commissioner	NCGS 58-41-50	With the exception of inland marine insurance that is not written according to manual rates and rating plans, all rates or prospective loss cost multipliers by licensed fire and casualty companies or their designated rating organizations must be filed with Commissioner of this state, and meet statutory requirements, at least 60 days prior to use in this State.	

****A detailed reason or explanation as to why a requirement is not applicable must be given for those requirements referenced by N/A.**

The Property and Casualty Division checklist is intended to expedite the Department's overall review time of all filings. The checklist serves as a basic guide to assist the Industry in preparation of all filings prior to submission and the checklist should not be submitted to the Department for review. The checklist is not a substitute for Departmental review. All filings must comply with State Insurance Law.