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BULLETIN

TO: All Workers' Compensation Insurance Carriers and Self-Insurance Pools writing business in Tennessee

FR: Paula A. Flowers, Commissioner *Paula A. Flowers*
Department of Commerce and Insurance

RE: Schedule Rating Factors in Workers' Compensation

DT: April 30, 2004

The purpose of this Bulletin is to communicate the Department's position regarding the use of schedule rating factors in workers' compensation insurance coverage. As set forth in previous bulletins, Tennessee Code Annotated § 56-5-320 requires all workers' compensation insurance carriers writing business in the State of Tennessee to adhere to the policy forms and rating rules published by the Commissioner's designated rate service organization, which is currently the National Council on Compensation Insurance (NCCI). Thus, all workers' compensation insurers are required to follow NCCI's Schedule Rating Table when using schedule rating factors. The Schedule Rating Table provides that the maximum modification rate an insurer may use in Tennessee is a credit or debit of twenty-five percent (25%) of the employer's total modified premium.

The Schedule Rating Table also provides a list of factors that may be used for schedule rating. These factors include premises, classification peculiarities, medical facilities, safety devices, employee selection, training and supervision, management cooperation with insurance carrier, and management safety organization. Insurers must comply with Note One to the Experience Rating Plan Manual Appendix which states, "[t]he premium for a risk may be modified in accordance with the table below [Schedule Rating Table] to reflect such characteristics of the risk that are not reflected in its experience." It is the position of this Department that schedule rating may only be done in accordance with the Schedule Rating Table.

Tennessee Code Annotated § 56-5-317 states that the Commissioner may impose a civil penalty of up to five hundred dollars (\$500) for violation of Title 56, Chapter 5, Part 3. Any violation of the positions set forth herein will be treated by this Department as a violation of Tennessee Code Annotated § 56-5-320 and subject an insurer to the sanctions set forth in Tennessee Code Annotated § 56-5-317.

Should a self-insured workers' compensation pool choose to use schedule rating, such pool must, pursuant to Rule 0780-1-54-.15, file and receive approval for its manual rules dealing with schedule rating or use those filed by the NCCI. The Department will not approve any rules which allow for modification in excess of twenty-five percent (25%) of the employer's total modified premium.

Should you have any questions concerning this bulletin, please contact the Insurance Division at 615-741-2241.