

## **Instructions for Preparation of the Tennessee Health Care Liability Counsel for Claimant Reporting Form for the Reporting Period of January 1, 2018 through December 31, 2018**

### **Applicable Law**

To determine the information required from counsel for health care liability claimants, please refer to TENN. CODE ANN. § 56-54-105.

TENN. CODE ANN. §§ 56-54-101, *et seq.*, may be viewed by entering the statute number in the “Search” box at the following web address:

<http://www.lexisnexis.com/hottopics/tncode/>.

### **Penalties**

Failure to submit all required information in the reporting form prescribed by the Commissioner on or before the March 1 deadline may subject a reporting attorney to a penalty of one hundred dollars (\$100) per day in accordance with TENN. CODE ANN. § 56-54-109. For those reporting in a timely manner, the Division will notify you if there are questions or if corrections are necessary. You will be allowed fourteen (14) days from the date of the notification to answer or correct the issues before penalties of one hundred dollars (\$100) per day may begin accruing.

### **Information and Guidelines for the 2018 Counsel for Claimant Reporting Form due March 1, 2019:**

The reporting form is a Microsoft Excel workbook that contains three (3) worksheets. All data submitted in the reporting form must be submitted on a compact disk (“CD”) or through electronic mail at the address listed at the end of these instructions. The complete and compliant report must be received at the contact address listed at the end of these instructions on or before March 1, 2019. The reporting attorney’s name must be clearly marked on the CD. **Reporting attorneys must use Excel software when completing this form.** The form can be found on our web site at <https://www.tn.gov/commerce/insurance/consumer-resources/health-insurance-information.html>. Please be assured that the report shall not identify any individual entity or health care provider pursuant to TENN. CODE ANN. § 56-54-111.

- The reporting form shall contain information identifying any claims which were contained in a prior report as a pending claim, in addition to any open, pending and closed claims.
- There is no definition by statute or rule for an open claim. The Department interprets an open claim to include any claim that resulted in an attorney opening a case file, regardless of whether a lawsuit is filed. Absent further clarification in

the law the Department defers to the attorneys reporting the open claims to determine what constitutes an open case file based on their own practices and procedures.

- Transferred and/or Moved Cases are required to be reported. If there was no resolution on the case when transferred or moved, report the old docket number on the closed tab of the reporting form and choose “Transferred/Moved” as the resolution type. Then, report the new docket number on the appropriate tab, pending, if no resolution and monies have been paid; closed, if there has been a resolution or dismissal and/or monies paid, even if not disbursed.
- Out-of-State attorneys are only required to report incidents that occurred within the State of Tennessee.
- If no attorney received, or will receive, any portion of case-specific fees, the lead counsel for the case shall report all fees. All other attorneys who worked, or will work, on the case but did not, or will not, receive a portion of the case-specific fees should be listed on the “Multiple Attorney” tab of the reporting form, along with all information requested. A separate line should be used for each attorney.
- If only one attorney within a firm received, or will receive, case-specific fees that particular attorney is required to report the total fees. All other attorneys who worked, or will work, on the case but did not, or will not, receive a portion of the case-specific fees should be listed on the “Multiple Attorney” tab of the reporting form, along with all information requested. A separate line should be used for each attorney.
- Each claimant attorney who received, or will receive, any portion of the case-specific fees shall report fee arrangements, even if pro bono, less case-specific expenses. A separate reporting form prescribed by the Commissioner must be submitted by each attorney who received, or will receive, case-specific fees.
- The reporting attorneys must complete the contact information at the top of the reporting form on both the pending and closed tabs. This information is required to confirm compliance with the law.
- There is a “pending” and a “closed” tab on the 2018 Form. Once the form is open, folder-like tabs should be seen at the bottom of the computer screen. The form should open on the “pending” tab where all open and pending cases should be reported. To report any closed cases, click on the “closed” tab before entering data. A case opened but not taken is considered a “closed” case; and, “Case Not Taken” should be the resolution type chosen.
- The reporting form will expand to include additional rows as needed to accommodate the number of cases to be reported. Begin entering data on row nine (9), the first blank line, of the reporting form.
- Cases in which resolutions have been reached by all defendants and all monies have been received, even if not disbursed, should be reported on the “closed” tab of the form. If more monies are expected to be received or there are other defendants who have not reached a resolution, report the case as “pending.”
- Fees paid from an annuity policy, should be reported in the year payment is received. These cases should be reported as pending until the final payment is received. Once the final payment has been made, report the case as closed.

- Instructions have been embedded within the reporting form. To view the instructions for filling out the form, hold the cursor over each cell under the column headings. These instructions explain the correct formatting and the type of data required. In some instances, if the attorney attempts to include information in a format other than the established format, an error message will occur.
- There are embedded formulas in columns 12-23 checking for the presence of correct entries. If information has been correctly entered, a prompt of “Good” should appear in columns 12-23 of each row where information was entered. If “Not Good” appears in prompt columns, check the column heading for the affected column number and change information in those columns as appropriate. “Good” should then appear in the prompt columns. If not, repeat the process until the incorrect information is located and corrected, and “Good” appears in columns 12-23.
- All data entered in columns should be in alpha-numeric format unless otherwise stated. When using numeric data, round to the nearest dollar amount or enter zero (0), when appropriate.
- If a column requires currency data and money was not paid and/or fees were not received, leave the dash programmed in the column and tab over to the next column. The currency columns are formatted as “accounting” so when a zero (0) is entered, the format is automatically changed to a dash. DO NOT leave a currency cell blank.
- The Department expects attorneys to use due diligence to discern the facts required to be reported.

COLUMN HEADING	DESCRIPTION OF DATA SOUGHT	TECHNICAL FORMATING OF DATA SOUGHT
(1) Docket Number	This should be the docket number assigned to the case if a lawsuit was filed.	Data should be in alpha-numeric format.
(2) Court Where Docket is Set	This should be the type and/or name of court where the case will be held, i.e. Shelby Co. Circuit Court	Date should be in alpha-numeric format.
(3) Your Internal File Identifier	This should be the internal identifier assigned to the file in your office.	Data should be in alpha-numeric format.
(4) Date of Incident	This should be the date on which the incident occurred that was the proximate cause of the health care liability case.	Data should be in Gregorian USA format with a four (4) digit year (MM/DD/YYYY). This means a two (2) digit month (with leading zeroes when necessary), a slash (/), a two (2) digit day (with leading zeroes when necessary), a slash (/), and a four (4) digit year.

(5) Was a Lawsuit Filed?	This should be a “yes” or “no” answer.	Data should be selected from the drop down menu provided on the reporting form.
(6) Will or Did TennCare Make a Payment to Healthcare Provider?	This should be a “yes” or “no” answer in most cases.	Data should be selected from the drop down menu provided on the reporting form.
(7) Resolution Type in 2018	This should be the type of resolution reached in the case in the year of 2018.	Data should be selected from the drop down menu provided on the reporting form.
(8) Total Amount Received During 2018	This should be the total awarded amount paid to claimant, including all expenses and attorney fees, during 2018, even if disbursements have not been made.	Data should be presented as currency data in units of U.S. dollars rounded to the nearest dollar amount.
(9) Portion of Amount Received By Claimant’s Counsel as Fees in 2018	This should be the portion of fee received in 2018 by the reporting attorney even if disbursements have not been made.	Data should be presented as currency data in units of U.S. dollars rounded to the nearest dollar amount.
(10) Cumulative Amount Received from Claim Inception Date thru 2018	This should be the total amount paid to claimant, including all expenses and attorney fees, from the beginning of the claim date thru 2018, even if disbursements have not been made.	Data should be presented as currency data in units of U.S. dollars rounded to the nearest dollar amount.
(11) Cumulative Amount Received by Claimant’s Counsel as Fees From Claim Inception Date thru 2018	This should be the portion of fee received by reporting attorney from the beginning of the claim date thru 2018 even if disbursements have not been made.	Data should be presented as currency data in units of U.S. dollars rounded to the nearest dollar amount.

## **Contact Information**

Questions should be sent in writing via U.S. Mail, hand delivered, facsimile, or electronic message to the following:

Tennessee Health Care Liability Reporting  
c/o Ms. Jacquie Fortenberry  
Tennessee Department of Commerce and Insurance  
Insurance Division – Policy Analysis Section  
Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243-1133  
Telephone: (615) 532-5340  
Facsimile: (615) 741-0648  
[Jacquie.Fortenberry@tn.gov](mailto:Jacquie.Fortenberry@tn.gov)