

~~(4)~~ (IV) FOR AN AGREEMENT APPLICABLE TO A 12-MONTH PERIOD INITIATED ON OR AFTER JANUARY 1, 2008, MAINTAIN MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICIES ISSUED OR DELIVERED IN THE STATE AT RATES ALLOWED UNDER AN APPROVED RATE FILING FOR THAT PERIOD, LESS THE VALUE OF THE GUARANTEE PROVIDED UNDER SUBSECTION (M) OF THIS SECTION.

(2) FOR AN AGREEMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE BASE PREMIUM ALLOWED UNDER AN APPROVED RATE FILING, LESS THE VALUE OF THE GUARANTEE PROVIDED UNDER SUBSECTION (M) OF THIS SECTION FOR EACH SPECIALTY, MAY NOT EXCEED THE BASE PREMIUM FOR THE PREVIOUS 12-MONTH PERIOD BY MORE THAN 5%.

(K) (1) A MEDICAL PROFESSIONAL LIABILITY INSURER ENTERING INTO AN AGREEMENT WITH THE COMMISSIONER SHALL ESTABLISH A SEPARATE ACCOUNT:

(I) THAT IS CREDITED WITH:

1. EARNED PREMIUMS ON MEDICAL PROFESSIONAL LIABILITY INSURANCE POLICIES ISSUED OR DELIVERED IN THE STATE DURING THE PERIOD IN WHICH AN AGREEMENT IS IN EFFECT;

2. INVESTMENT INCOME EARNED ON THE AVERAGE MONTHLY BALANCE OF THE ACCOUNT AT A STATED MONTHLY RATE OF INTEREST EQUIVALENT TO THE 2-YEAR UNITED STATES TREASURY RATE OF INTEREST, AS PUBLISHED BY THE FEDERAL RESERVE BOARD, IN EFFECT ON THE EFFECTIVE DATE OF THE AGREEMENT PLUS 50 BASIS POINTS;

3. FOR A MEDICAL PROFESSIONAL LIABILITY INSURER THAT IS A MUTUAL INSURER, THE VALUE OF A DIVIDEND, IF ANY, THAT MAY BE ISSUED DURING THE PERIOD IN WHICH AN AGREEMENT IS IN EFFECT; AND

4. THE LESSER OF 10% OF THE SURPLUS OF A MEDICAL PROFESSIONAL LIABILITY INSURER WITH A RISK-BASED CAPITAL RATIO AT OR ABOVE 600%, OR THE EXCESS OF THE RISK-BASED CAPITAL RATIO OVER 600% ON THE DATE THAT AN AGREEMENT IS EXECUTED; AND

(II) THAT IS DEBITED WITH:

1. INDEMNITY PAYMENTS;

2. ALLOCATED LOSS ADJUSTMENT EXPENSE PAYMENTS;

3. UNDERWRITING EXPENSE INCURRED;

4. UNALLOCATED LOSS ADJUSTMENT EXPENSE INCURRED;

5. PROVISION FOR DEATH, DISABILITY, AND RETIREMENT;

6. REINSURANCE COST INCURRED;

7. GENERAL OPERATING EXPENSES; AND

8. UNDERWRITING PROFITS AS ALLOWED UNDER THE LAST APPROVED RATE FILING PRIOR TO JANUARY 1, 2005.