

**2007 Innovations Awards Program  
APPLICATION**

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ID # (assigned by CSG): 07-S-12WVMEDMALPRACTICE

**Please provide the following information, adding space as necessary:**

State: **WV**

Assign Program Category (applicant): **Government Operations: Administration**

1.Program Name:

**West Virginia University Health Sciences Center Medical Malpractice Deductible Program.**

2.Administering Agency(s):

**West Virginia State Board of Risk and Insurance Management (BRIM), West Virginia State Treasurer's Office and West Virginia University Health Sciences Center (HSC).**

3.Contact Person (Name and Title):

**Sandra A. Price, JD, Risk Manager, West Virginia University Health Sciences Center**

4.Address:

**PO Box 9032, Room 1033, Health Sciences Center, South, Morgantown, WV 26506**

5.Telephone Number:

**304-293-3584**

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**304-293-2284**

7.E-mail Address:

**[saprice@hsc.wvu.edu](mailto:saprice@hsc.wvu.edu)**

8.Web site Address

9. Please provide a two-sentence description of the program:

**West Virginia's self insurance program for medical malpractice coverage has been modified to allow two of the state's medical schools to operate under a deductible program; the deductible amount is \$250,000 indemnity and all costs of defending each and every claim. This encourages the schools and the physicians at the schools to work harder to control risks before they occur through education and diligence and to identify and assess risks when they occur to control the number of medical malpractice claims and suits and to help control and stabilize the costs associated with such claims and suits.**

10. How long has this program been operational (month and year)? Note: the program must be between 9 months and 5 years old on April 2, 2007, to be considered.

**The program started 7/1/05 and has been in effect for approximately 22 months.**

11. Why was the program created? What problem[s] or issue[s] was it designed to address?

**The program was created for several reasons. First, the cost of medical malpractice cases was rising, especially the cost to defend each case. Second, since medical malpractice cases in West Virginia generally take 18-24 months to be identified and three to five years to be resolved, West Virginia and West Virginia University (WVU) were putting away money to pay the costs associated with future suits and claims and were unable to maximize the return of investment income on that money.**

12. Describe the specific activities and operations of the program in chronological order.

#### **Early fall 2003**

- **BRIM contracted with risk consultants to perform a Medical Malpractice Self-Insured Retention Pricing Study and look at retention factors, subject to two distinct self-insured retention options.**

#### **November 2003**

- **The results of the pricing study were presented to BRIM and Acting Cabinet Secretary of the Department of Administration, then BRIM and HSC discussed a proposal for a Self Insurance Retention level (SIR) in conjunction with the coverage provided by BRIM.**

#### **February 2004**

- **The parties drafted a Memorandum of Understanding (MOU) in an attempt to formalize the agreement between BRIM and HSC.**

#### **May 2004**

- **The planning group met to discuss the plan and MOU.**
- **Drafts of the HSC Business Plan and Litigation Management plans were reviewed by WVU's General Counsel.**
- **HSC met with the WVU Foundation to formalize a relationship with the WVU Foundation to invest and manage the money to be invested for future payments as part of the plan.**
- **The Foundation agreed to set up a restricted account to pay claims and operational costs as part of the plan.**

#### **June 2004**

- **WVUBOG met and authorized the President of WVU to explore and, in the president's determination, negotiate and execute on behalf of the University an agreement with BRIM, and such other agreements with third parties as necessary to implement the program.**
- **The West Virginia Higher Education Policy Commission was presented with the studies and background information for the plan and as a result approved the limited-risk medical malpractice self-insurance program developed for HSC by BRIM.**

**July 2004**

- Final modifications to the MOU were made.

**August 2004**

- BRIM identifies that it did not have statutory authority to proceed with the program.

**Fall 2004**

- Legislation was drafted to provide for statutory authority for program.

**February 2005**

- Legislation was introduced

**March 2005**

- Legislation passed both houses.

**April 2005**

- Legislation was signed by the West Virginia Governor.

**July 1 2005**

- An agreement was executed with BRIM and the West Virginia Treasurer's Office and the program was implemented.

13. Why is the program a new and creative approach or method?

**It was a new and creative approach for West Virginia because three state agencies were able put aside their individual goals to work together to maximize the financial return and further reduce the medical malpractice self-insurance risks. The program benefits the citizens of West Virginia in two ways; medically by helping ensure the future viability of the medical schools in West Virginia and financially by stabilizing the cost of medical malpractice claims against state agencies and/or state employees.**

14. What were the program's start-up costs? (Provide details about specific purchases for this program, staffing needs and other financial expenditures, as well as existing materials, technology and staff already in place.)

**The start-up costs for the hiring of an additional 1.0 FTE for the Health Sciences Center Risk Management Department and associated office expenses related to that staff increase such as routine office equipment was approximately \$65,000. All other costs were absorbed by the current operating budget of the Department.**

15. What are the program's annual operational costs?

**Annual operating costs for the program have not increased beyond the hiring of the initial 1.0 FTE and are maintained at a level of approximately \$200,000 for the Risk Management Department.**

16. How is the program funded?

**The funding for the program continues to be provided by monies from the State of West Virginia's general revenue fund appropriation to the University, the West University Medical Corporation's practice plans collection efforts from patient care visits, and WVU Hospitals contribution of funds from reimbursement it receives for graduate medical education.**

17. Did this program require the passage of legislation, executive order or regulations? If YES, please indicate the citation number.

**The program first required approval by the WVU Board of Governors, (the governing body for the University) and the WV Higher Education Policy Commission (the governing body for all State Higher Education Institutions). BRIM then identified it did not have the statutory authority to implement such a program and legislation was introduced. During its annual 60 day session in 2005, the WV Legislature created the statutory authority allowing West Virginia University “to participate in a self-insurance retention program in conjunction with the state insurance program administered by BRIM to provide medical professional liability coverage to its health care professionals and students.” The Legislation was signed on by Governor Joe Manchin III on April 16, 2005. The Codified Statutory authority is WV Code §18b-5-10 with a stated purpose of addressing significant challenges of rising costs and limited availability of medical malpractice insurance and related to the cost and operation of insurance and risk management programs at the state's doctoral-granting research universities and their medical schools, the Legislature further finds that the availability of cost-efficient insurance and risk management programs is essential to the long-term financial integrity and viability of these universities and their medical and other health professional schools.**

18. What equipment, technology and software are used to operate and administer this program?

**The WVU Risk Management office operated a database of claims using antiquated software. The database was able to track information related to cases on a very limited basis. Data from this database was queried, analyzed, downloaded, and then transferred to other software for reporting purposes. However the system was cumbersome and duplicative in many instances. The staff met with database developers and put together a tailor-made database system. The new system is capable of tracking various categories of information; compiling data already generated from various sources into one single source clearinghouse; and has the ability to query and print a multitude of reports. The database is accessible by all Risk Management staff via an internal network and its implementation allows for a greater degree of efficiency and comprehensiveness in analyzing current and historical claims data.**

19. To the best of your knowledge, did this program originate in your state? If YES, please indicate the innovator’s name, present address, telephone number and e-mail address.

**No**

20. Are you aware of similar programs in other states? If YES, which ones and how does this program differ?

**Research indicated that other states have self insurance programs that include deductible amounts; however, we have been unable to determine how similar the types and levels of the deductibles at other states are to this program.**

21. Has the program been fully implemented? If NO, what actions remain to be taken?

**Yes**

22. Briefly evaluate (pro and con) the program’s effectiveness in addressing the defined problem[s] or issue[s]. Provide tangible examples.

**The deductible program added flexibility to the cash management and cash flow operations for the funds allocated to cover medical malpractice claims at the health sciences center. For the first time, the health sciences center has the opportunity to invest and earn interest on funds designated for future medical malpractice claims. On the down side, the health sciences center has absorbed a greater level of risk for medical malpractice claims and costs and must adequately manage those risks for the program to be successful. WVU manages the risks in a number of ways. An Assistant Risk Manager has been added to the staff having a background in financial and data management thus allowing the risk management office to be kept more informed of the current financial status of the program by expanding the parameters in which medical malpractice claims are monitored. This additional staff person has given the Risk Manager an opportunity to expand the number of educational programs presented to health care providers at the health sciences center to help manage medical malpractice risks. When malpractice claims are reported and assessed in a timely manner, WVU has the ability to evaluate claims quickly and determine which claims should be settled before the cost of defense (such as attorney fees, depositions, expert review and travel) becomes excessive. In the past 22 months, WVU has been able to settle two serious medical malpractice claims based on information provided by the attending physicians without incurring large legal fees and without the need to hire experts to review the cases. These two cases are clear examples of how the program can work when the physicians become engaged in claims management.**

23. How has the program grown and/or changed since its inception?

**The program, now in the second year of implementation, has allowed the risk management office to better manage and track medical malpractice claims and costs and to expand risk management educational programs better targeting risks using almost two years worth of clinical practice.**

24. What limitations or obstacles might other states expect to encounter if they attempt to adopt this program?

**Each state might encounter different obstacles because each state has different statutory schemes for medical malpractice self-insurance, for types of immunity (WV has sovereign immunity above levels of insurance), and either has no tort reform statutes, or has ineffective tort reform statutes that might hinder the management of medical malpractice claims.**

## **2007 Innovations Awards Program Program Categories and Subcategories**

Use these as guidelines to determine the appropriate Program Category for your state's submission and list that program category on page one of this application. Choose only one.

### *Infrastructure and Economic Development*

- Business/Commerce
- Economic Development
- Transportation

### *Government Operations*

- Administration
- Elections
- Public Information
- Revenue

### *Health & Human Services*

- Aging
- Children & Families
- Health Services
- Housing
- Human Services

### *Human Resources/Education*

- Education
- Labor
- Management
- Personnel
- Training and Development
- Workforce Development

### *Natural Resources*

- Agriculture
- Energy
- Environment
- Environmental Protection
- Natural Resources
- Parks & Recreation
- Water Resources

### *Public Safety/Corrections*

- Corrections
- Courts
- Criminal Justice
- Drugs
- Emergency Management
- Public Safety

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This application is also available at [www.csg.org](http://www.csg.org), in the Programs section.

**Deadline: April 16, 2007**