DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 311 (18 **Del.C.** §311) and 75 Del. Laws, c. 350 (2006)
18 **DE Admin. Code** 2201

FINAL

ORDER

2201 Implementation of Medical Malpractice Relief Initiative Pilot Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

In the November 1, 2025 edition of the *Register of Regulations,* at 29 **DE Reg.** 378 (11/01/25), the Commissioner of the Delaware Department of Insurance (Commissioner) published a notice of intent to repeal Regulation 2201.

The pilot program created through Regulation 2201, Implementation of Medical Malpractice Relief Initiative Pilot Program, expired by operation of law 12 months after its effective date in accordance with Senate Bill 350 of the 143rd General Assembly.

The Department received no public comments regarding the proposal

II. FINDINGS OF FACTS

The Commissioner finds that the repeal of Regulation 2201, as proposed in the November 1, 2025 Register of Regulations, having been properly noticed and open for public comment, should be adopted for the reasons set forth in the proposal.

III. ASSESSMENT OF IMPACT

The Commissioner has reviewed Regulation 2201 and has determined that, if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

IV. DECISION TO ADOPT THE PROPOSED REPEAL

For the foregoing reasons, the Commissioner concludes that it is appropriate to repeal 18 **DE Admin. Code 2201**, as discussed in the above Findings of Fact.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be 10 days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED.

The 16 day of January, 2026

Trinidad Navarro
Commissioner
Delaware Department of Insurance

2201 Implementation of Medical Malpractice Relief Initiative Pilot Program

~~**1.0 Purpose**~~

~~The purpose of this section is to provide regulations governing the Medical Malpractice Relief Initiative Pilot Program established by the Fiscal Year 2007 Appropriations Act.~~

~~**2.0 Authorization**~~

~~These regulations are adopted in accordance with 18 **Del.C.** §311 and the Fiscal Year 2007 Appropriations Act.~~

~~**3.0 Scope**~~

~~These regulations shall govern the application of entities seeking state funding pursuant to the Medical Malpractice Relief Initiative Pilot Program for the purpose of establishing a Delaware-domiciled risk retention and/or captive entity.~~

~~**4.0 Approval**~~

~~4.1 No entity shall receive funding pursuant to the Medical Malpractice Relief Initiative Pilot Program unless such entity receives the recommendation of the Delaware Insurance Commissioner and the approval of the~~

Controller General, the Co-Chairs of the Joint Finance Committee, and Director of the Office of Management and Budget.

4.2 An entity seeking low or no interest loans pursuant to the Medical Malpractice Relief Initiative Pilot Program for the purpose of fostering the establishment of risk reduction group(s) and/or captive insurance entities shall make application to the Delaware Department of Insurance on forms provided by the Department.

4.3 The Delaware Insurance Commissioner shall review any applications submitted pursuant to these provisions and shall determine whether to recommend such applicant for receipt of Medical Malpractice Relief Initiative Pilot Program funding. The Insurance Commissioner may require any documents reasonably necessary to verify the information contained in an application.

4.4 If the Insurance Commissioner decides to recommend an applicant for funding, the Commissioner shall make a funding recommendation for such applicant to the Controller General, the Co-Chairs of the Joint Finance Committee, and the Director of the Office of Management and Budget for their final review and approval.

4.5 If the Commissioner recommends funding for the application, the Commissioner's recommendation shall include the amount and type of funding, when said funds must be repaid to the State, and any conditions to be placed on the funding award.

5.0 Requirements and Considerations for Funding Awards

5.1 No applicant for funding under the Medical Malpractice Relief Initiative Pilot Program shall be recommended for funding unless the Insurance Commissioner finds that the applicant:

5.1.1 Is organized for the purpose of increasing the availability of medical malpractice insurance and reducing the costs of medical malpractice insurance through enhanced risk management and lower administrative costs; and

5.1.2 Is a Delaware-domiciled captive insurance company licensed pursuant to 18 **Del.C.** §6903 or a Delaware-domiciled risk retention group chartered pursuant to 18 **Del.C.** §8003.

5.2 In reviewing such applications and determining whether to recommend an applicant for funding, the Insurance Commissioner shall consider all factors the Commissioner considers relevant to the success of the applicant and the protection of Delaware consumers, including but not limited to the following criteria:

5.2.1 The likelihood that receiving the funding will assist the applicant in increasing the availability of and reducing the cost of medical malpractice insurance and of increasing the predictability of such costs;

5.2.2 The need of the medical professionals who are members of the applicant for an alternative to the traditional medical malpractice insurance market;

5.2.3 The applicant's structure and business plan;

5.2.4 The number of medical professionals who are members of the applicant; and

5.2.5 The applicant's provisions for and emphasis on risk management.

6.0 Funding

Funding pursuant to this program shall be limited to low or non-interest loans, via a surplus note, letter of credit, or otherwise. Funding awards must be conditioned upon binding agreements requiring that such funds be repaid to the State.

7.0 Length of Pilot Program

The pilot portion of any program funded under this provision must be completed within 12 months of approval of these regulations.