

HCS HB 1305 -- MEDICAL MALPRACTICE INSURANCE

SPONSOR: Byrd

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 15 to 3.

This substitute makes changes to the laws regarding medical malpractice insurance. In its main provisions, the substitute:

- (1) Includes policies providing professional malpractice insurance to health care providers within the definition of "commercial casualty insurance" for purposes of Sections 379.882 - 379.888, RSMo. Under current law, professional malpractice insurance is not included;
- (2) Subjects malpractice insurers to Sections 379.882 - 379.893 regarding commercial casualty insurance, Section 379.321.6 dealing with rate filing and notice requirements of commercial casualty insurance, and Section 374.202 - 374.207 on the examination powers of the Director of the Department of Insurance;
- (3) Establishes a procedure by which medical malpractice insurers can make premium rate changes otherwise presumed unreasonable under Section 383.405, including: prior notice to the director; a hearing, including evidence presentation by the insurer and opponents, which may be a public hearing at the director's discretion; and an appeals process for the insurer if the director determines the rate change to be unjustified;
- (4) Establishes penalties for violations and authorizes license suspension upon written order of the director after notice to the insurer and a hearing;
- (5) Prohibits insurance companies and other entities providing malpractice insurance to health care providers in Missouri from:
 - (a) Increasing premium charges more than \$1,000 without 60 days' prior notice to the insured;
 - (b) Refusing to renew policies without 60 days' prior notice, unless the refusal to renew is based upon nonpayment of insurance premiums or license termination or suspension; and
 - (c) Ceasing to issue insurance policies without 180 days' prior notice to the department;
- (6) Requires the department to establish 12 to 24 risk-reporting categories for medical malpractice insurance premiums and

regulations for their reporting by May 30, 2005;

(7) Requires insurance companies and other entities providing malpractice insurance to health care providers in Missouri to provide the department, by June 1, 2005, and annually thereafter, reports on premium rates charged by category;

(8) Requires the department, by December 31, 2006, and annually thereafter, to establish and publish a market rate reflecting the median of the actual rates charged for each risk-reporting category for the preceding year; and

(9) Provides that, after January 1, 2007, insurance premium rates charged by insurance companies and other entities providing malpractice insurance to health care providers in Missouri which are no greater than 20% higher or lower than the published market rate will be presumed reasonable, and rates greater than 20% higher or lower will be presumed unreasonable.

The effective date of the substitute is contingent upon the passage and approval of House Bill 1304 or any substitute thereof.

FISCAL NOTE: No impact on General Revenue Fund in FY 2005, FY 2006, and FY 2007. Estimated Net Cost on Other State Funds of \$137,082 in FY 2005, \$126,330 in FY 2006, and \$129,507 in FY 2007.

PROPOSERS: Supporters say that the bill will allow some self-correction and flexibility in competition for insurers, while setting a maximum yearly percentage increase in premium rates for doctors.

Testifying for the bill were Representative Byrd; Department of Insurance; Missouri Association of Trial Attorneys; Missouri State Medical Association; and Missouri Association for Osteopathic Physicians and Surgeons.

OPPOSERS: Those who oppose the bill say that it will erase the currently competitively friendly insurance market in Missouri, will provide barriers to the entry of new insurers, and will not produce the intended results.

Testifying against the bill were American Insurance Association; and Missouri Insurance Coalition.

Julie Jinkens McNitt, Legislative Analyst