

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5239-07  
Bill No.: SCS for HCS for HB 1837  
Subject: Insurance - General; Insurance Dept.; Health Care Professionals  
Type: Original  
Date: May 5, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Insurance Dedicated	(\$123,563)	(\$120,524)	(\$123,555)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$123,563)</b>	<b>(\$120,524)</b>	<b>(\$123,555)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### **FISCAL ANALYSIS**

#### **ASSUMPTION**

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal to the SOS for administrative rules is less than \$1,500. The SOS does not expect additional funding would be required to meet these costs. However, the SOS recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Insurance (INS)** state the INS will be required to develop risk-reporting categories, collect data to calculate median base rates, develop median base rates for insurers, certify certain medical malpractice rates, and develop a database to report on base rates charged by insurers and annually report medical malpractice rates to the governor and general assembly.

One Insurance Product Analyst II FTE (beginning in FY2007) will assist with development of the risk-reporting categories, promulgate rules, prior approve all medical malpractice rates, and report medical malpractice rates to the governor and general assembly (beginning in FY2007).

ASSUMPTION (continued)

A half-time actuary (0.5 FTE) would be required to be hired in FY2007 to begin development of risk reporting categories, review detailed information on rates, including actuarial justification and other information as prescribed by the INS, and certify certain medical malpractice rates.

One-time computer contracting costs of \$27,540 (\$90/hr X 306 hours) will be necessary to implement the provisions of the proposal. Requirements identified include: 1) Receipt of data electronically from insurers: actual rates for defined categories; base rate information; and premium, loss, exposure and other information, 2) A database to store the rates and other information electronically, along with functionality to process the data as described in the proposal language, 3) Adding security to the database to make it a protected database due to the confidential nature of some of the data, and 4) Make the data collected per this proposal available to Missouri insurers and the public through PDF files and on the INS website, and 5) Various reporting requirements, including rate increase/decrease reports for the governor and the general assembly.

Medical malpractice insurers will be required to re-file policy forms to conform with the cancellation provisions. There were approximately 89 insurers that have written premium for medical malpractice insurance in calendar year 2004. Insurers are required to file policy form amendments with the INS along with a \$50 filing fee. The INS estimates one-time revenues to the Insurance Dedicated Fund of \$4,450 (89 insurers X \$50 filing fee).

**Oversight** assumes the INS would not need additional equipment and expenses for the 0.5 Actuary FTE that would be contracted/hired in FY 07.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - Department of Insurance</u>			
Form filing fees	\$4,450	\$0	\$0
<u>Costs - Department of Insurance</u>			
Personal service costs (1.5 FTE)	(\$65,979)	(\$81,154)	(\$83,183)
Fringe benefits	(\$29,070)	(\$35,756)	(\$36,650)
Equipment and expense	(\$32,964)	(\$3,614)	(\$3,722)
Total <u>Cost</u> - Department of Insurance	<u>(\$128,013)</u>	<u>(\$120,524)</u>	<u>(\$123,555)</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>(\$123,563)</u></b>	<b><u>(\$120,524)</u></b>	<b><u>(\$123,555)</u></b>

FISCAL IMPACT - Local Government

FY 2007  
(10 Mo.)

FY 2008

FY 2009

\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal enacts and modifies various provisions relating to malpractice insurance, to wit, 383 association assessments, reporting of medical malpractice data, medical malpractice rates, and disclosure requirements for cancelling medical malpractice insurance policies.

**383 ASSOCIATION ASSESSMENTS** - This proposal provides that 383 malpractice associations articles of association and bylaws shall specify and define the types of assessments its members pay to cover losses and expenses incurred by the association. The articles of association and bylaws shall also specify the type of assessments that apply to members and former members. The proposal also provides that the articles of association and bylaws shall specify the exact method by which assessment amounts are determined, the time assessments must be paid, and other criteria (section 383.016).

**383 MALPRACTICE ASSOCIATIONS** - This proposal subjects 383 malpractice associations to the medical malpractice reporting requirements of Sections 383.100 to 383.125 and subjects such organizations to certain notification, data reporting and rating requirements (Section 383.035).

**FILING OF INFORMATION BY MEDICAL MALPRACTICE INSURANCE COMPANIES** - This proposal modifies the definition of "insurer" to include 383 medical malpractice associations and self-insured health care providers for the purposes of filing medical malpractice claim reports (Section 383.105). The proposal requires the director of the Department of Insurance to establish by rule reporting standards in which insurers shall report annually insurance premiums, losses, exposure, and other information the director may require. This data will assist the department to monitor marketplace rates, financial solvency, affordability and the availability of medical malpractice insurance. The data collected shall be compiled in such a manner to assist medical malpractice insurers in developing future base rates, schedule rating or individual rating factors. The proposal requires the director to establish risk-reporting categories for medical malpractice insurance and establish regulations for the reporting of all base rates and premiums charged by such categories. These risk-reporting categories shall be established prior to May 30, 2007. Beginning June 1, 2008, medical malpractice insurers and self-insured health care providers must provide an annual report describing the actual rates or assessments charged for insurance for each of the risk-reporting categories (Section 383.106).

DESCRIPTION (continued)

**PUBLISHING OF MARKET RATES** - The proposal requires the director to establish and publish market rates using the data collected under the proposal. The market rate shall reflect the median of the actual rates charged by insurers (those who have at least a 3% market share) for the various risk-reporting categories for the preceding year (Section 383.107).

The director shall, utilizing the information provided by Section 383.106, publish comparisons of the base rates charged by each insurer (Section 383.108).

**PENALTIES FOR NOT FILING OR REPORTING INFORMATION** - If an insurer violates any of the provisions relating to reporting medical malpractice information, the director may issue administrative orders and seek other remedies outlined in the act to assure compliance (Section 383.124).

**RATE FILING** - Under this proposal, every insurer shall file with the director all rates and supplementary rate information which is to be used in the state. Such rates and supplementary rate information shall be filed before use. All rates and supplementary rate information shall, as soon as filed, be open to public inspection at any reasonable time (section 383.196).

**MEDICAL MALPRACTICE RATES** - Under the proposal, medical malpractice insurers are prohibited from issuing and selling policies that have base rates that are excessive, inadequate, or unfairly discriminatory. The proposal delineates a multitude of factors that the director will use to determine whether a rate is excessive, inadequate, or unfairly discriminatory. Rates will be based upon Missouri loss experience only, not experience from other states unless the failure to do so will jeopardize the financial stability of the insurer. Investment income and losses for the insurer's previous ten-year period may also be considered. The proposal allows insurers to charge an additional premium surcharge or discount based on the health care provider's loss experience, training, and other factors (Section 383.198).


**NOTICE PRIOR TO INCREASING RATES, REFUSAL TO RENEW POLICIES OR CEASING BUSINESS** - The proposal prohibits medical malpractice insurers from increasing rates by more than 15% without providing at least 60 days written notice to the insured (section 383.199). The proposal prohibits medical malpractice insurers from refusing to renew a policy without providing 60 days written notice. The proposal also prohibits medical malpractice insurers from ceasing the issuance of such policies without first providing at least 180 days notice to the Department of Insurance (Section 383.450).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Insurance  
Office of Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
May 5, 2006