

HB 1087 -- Medical Malpractice Insurance

Sponsor: Schaaf

This bill changes the laws regarding medical malpractice insurance. The bill:

(1) Subjects malpractice insurers to Sections 383.100 - 383.111, RSMo, relating to reports from medical malpractice insurers; and Sections 383.400 - 383.412, relating to notification, data reporting, and rating requirements;

(2) Requires the Director of the Department of Insurance, beginning December 31, 2006, and annually thereafter, to report to the General Assembly the actual rates charged for malpractice insurance and a comparison to the rates of the previous year;

(3) Defines the term "insurer" to include every entity operating under Chapter 383 including self-insured health care providers;

(4) Subjects insurers that fail to report claims information as required by Sections 383.100 - 383.125 to the penalties applicable to insurance companies under Section 374.215. Guarantee associations paying claims on behalf of an insolvent insurer will be subject to the same reporting requirements as an insolvent insurer;

(5) Requires the additional first-year association charge of policyholders to be in the form of cash or a cash equivalent and not in the form of a promissory note;

(6) Establishes a procedure by which medical malpractice insurers, excluding surplus lines insurers operating under Chapter 384 or any entity self-insuring its exposure to medical malpractice liability, are allowed to make premium rate changes;

(7) Prohibits insurance companies and other entities providing malpractice insurance to health care providers in Missouri from:

(a) Increasing premium charges by more than 10% without 60 days' prior notice to the insured; however, notice is not required if the premium change is due to the request of the insured;

(b) Refusing to renew policies without 60 days' prior notice, unless the refusal to renew is based upon nonpayment of insurance premiums, license termination or suspension, termination of the insurer's reinsurance program, or a material change in the nature of the insured's health care practice;

(c) Ceasing to issue insurance policies without 180 days' prior

notice to the department; and

(d) Requiring any insurer that fails to provide the required notice, at the option of the insured, to continue the coverage;

(8) Requires the department to establish, by October 1, 2006, health care provider classification codes and risk-reporting categories, considering available history or prior court judgments for claims by any county or St. Louis City, for medical malpractice insurance premiums and regulations for their reporting;

(9) Requires insurance companies and other entities providing malpractice insurance in Missouri to report to the department, by January 1, 2007, and annually thereafter, the premium rates charged by category;

(10) Requires the department, by June 1, 2007, 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;

(11) Defines for purposes of Sections 383.308 - 383.316 the terms "base rate" and "schedule rating or individual risk-rating credits or debits";

(12) Requires the department to establish reporting standards for insurers to report base rates for health care provider classifications in categories determined to be actuarially appropriate. The department will create a database, available to the public, comparing base rates and the schedule of rating or individual risk-rating credits or debits charged by insurers. The database may distinguish between rates for different types of coverage;

(13) Requires the department to establish reporting standards for insurers or an advisory organization designated by the department to report annually on medical malpractice insurance premiums, deviations from the base rate losses, exposures, and other information the department requires for the purpose of compiling a rate-making database. The information collected will be used in assisting medical malpractice insurers in developing future rates and will be considered confidential. Any information that identifies a particular insurer will be removed;

(14) Creates penalties for violations and authorizes license suspension upon the written order of the director after notice to the insurer and a hearing;

(15) Requires the department to promulgate rules defining the

term "claim" as it relates to medical malpractice; and

(16) Requires insurers writing medical malpractice insurance to offer policies written so as to apply to injury resulting from acts or omissions occurring during the policy period, regardless of when the claim is filed.