

## HB 1837 -- Malpractice Insurance

Sponsor: Yates

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

(1) Allows licensed long-term care facilities, limited liability companies, corporations, limited liability partnerships, partnerships, and other entities formed for the practice of law or medicine to become members of an association providing malpractice insurance to its members;

(2) Makes associations writing malpractice insurance subject to reporting, notification, and rating requirements;

(3) Requires the Director of the Department of Insurance to submit an annual report to the General Assembly regarding the actual and base rates charged for malpractice insurance and any changes from the previous year's rates;

(4) Requires insurers writing medical malpractice insurance to Missouri health care providers to submit an annual report by March 31 of each year containing policy information including the following:

(a) Number of policies written, canceled, renewed, and not renewed;

(b) Total premiums collected and losses paid; and

(c) Claims pending, paid, and closed;

(5) Requires insurers to report to the director and the appropriate licensing board any malpractice claims paid;

(6) Specifies that any malpractice insurer failing to report required claims information in a timely manner will be subject to penalties applicable to insurance companies under Section 374.215, RSMo;

(7) Removes the 30-day period the director has to approve a malpractice insurance policy to be used by an association;

(8) Requires the surcharge paid to the association by policyholders in the first year to be paid in the form of cash or cash equivalent and not in the form of a promissory note;

(9) Requires medical malpractice insurers to obtain rate approval from the director and specifies the review procedure for

approving or rejecting rates. Rates cannot be 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;

(10) Allows insurers to charge an additional premium surcharge or discount based on the health care provider's loss experience, training, and other factors. Applications will be deemed approved if not rejected within 60 days;

(11) Specifies that no insurer can increase malpractice insurance rates by more than 25% or refuse to renew a policy without at least 60 days' written notification. Insurers cannot cease issuing policies in this state without 180 days' written notice to the insured and the director. If an insurer fails to give notice, the policyholder has the right to continue coverage under the policy;

(12) Requires, by June 30, 2007, the department to establish risk-reporting categories by physician specialty for medical malpractice insurance base rates. Annually, insurers will report actual rates charged including assessments for each risk-reporting category. The department will annually publish a report containing market rates reflecting the median actual rates charged for each risk-reporting category;

(13) Defines "base rate" and "schedule rating or individual risk rating credits or debits";

(14) Allows the department to establish reporting standards for premiums received and policies written by category. The department will publish this information in a manner appropriate for assisting insurers in developing future base rates;

(15) Considers rate increases or decreases of more than 25% to be unreasonable;

(16) Establishes penalty provisions for violations of Sections 383.100 - 383.125 and Sections 383.300 - 383.314;

(17) Prohibits insurers from using claims experience incorporating other states' claims experience in setting higher rates in Missouri;

(18) Requires, by January 1, 2011, all insurers writing medical malpractice insurance to offer policies which will apply to injuries resulting from acts or omissions occurring during the policy period, regardless of the timing of the filing of a claim; and

(19) Allows insurers who may be obligated to provide defense in a civil action to request the court to determine the extent of the insurer's liability.