
SENATE BILL 5263

State of Washington 60th Legislature 2007 Regular Session

By Senators Franklin, Hobbs, Berkey and Hatfield; by request of Insurance Commissioner

Read first time 01/15/2007. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to medical malpractice closed claim reporting; and
2 amending RCW 48.140.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.140.020 and 2006 c 8 s 202 are each amended to read
5 as follows:

6 (1) For claims closed on or after January 1, 2008:

7 (a) Every insuring entity or self-insurer that provides medical
8 malpractice insurance to any facility or provider in Washington state
9 must report each medical malpractice closed claim to the commissioner.

10 (b) If a claim is not covered or not reported by an insuring entity
11 or self-insurer, the facility or provider named in the claim must
12 report ~~((it))~~ either instance to the commissioner after a final claim
13 disposition has occurred due to a court proceeding or a settlement by
14 the parties.

15 (i) Instances in which a claim is not reported by an insuring
16 entity include, but are not limited to, situations in which the
17 insuring entity contends that it cannot be regulated, such as:

18 (A) A risk retention group that refuses to report closed claims and

1 asserts that the federal liability risk retention act (95 Stat. 949; 15
2 U.S.C. 3901 et seq.) preempts state law; or

3 (B) An unauthorized insurer refuses to report closed claims and
4 asserts a federal exemption or other jurisdictional preemption.

5 (ii) Instances in which a claim may not be covered by an insuring
6 entity or self-insurer include, but are not limited to, situations in
7 which the:

8 ~~((i))~~ (A) Facility or provider did not buy insurance or
9 maintained a self-insured retention that was larger than the final
10 judgment or settlement;

11 ~~((ii))~~ (B) Claim was denied by an insuring entity or self-insurer
12 because it did not fall within the scope of the insurance coverage
13 agreement; or

14 ~~((iii))~~ (C) Annual aggregate coverage limits had been exhausted
15 by other claim payments.

16 (2) Beginning in 2009, reports required under subsection (1) of
17 this section must be filed by March 1st, and include data for all
18 claims closed in the preceding calendar year and any adjustments to
19 data reported in prior years. The commissioner may adopt rules that
20 require insuring entities, self-insurers, facilities, or providers to
21 file closed claim data electronically.

22 (3) The commissioner may impose a fine of up to two hundred fifty
23 dollars per day against any insuring entity, except a risk retention
24 group, that violates the requirements of this section.

25 (4) The department of health, department of licensing, or
26 department of social and health services may require a provider or
27 facility to take corrective action to assure compliance with the
28 requirements of this section.

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