HOUSE BILL REPORT
EHB 3197

As Passed House:
February 16, 2004

Title: An act relating to reporting and analysis of medical malpractice related information.

Brief Description: Requiring the reporting and analysis of medical malpractice related information.

Sponsors: By Representatives Schual-Berke, Kagi, Cody, Lantz, Morrell, Clibborn and Rockefeller.

Brief History:
Floor Activity:
Passed House: 2/14/04, 52-46.

Brief Summary of Engrossed Bill

- Requires insurers to report, on a quarterly basis, medical malpractice claims to the Insurance Commissioner.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority/Minority Report: None.

Staff: Carrie Tellefson (786-7127).

Background:

Physicians purchase medical malpractice insurance from private insurers who, in turn, purchase reinsurance to cover losses over and above a certain level. Many physician specialties have reported difficulty obtaining medical malpractice insurance coverage; others have reported significant increases in premiums.

The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of insurance companies doing business in this state. This oversight includes approval of rates and rating plans. However, the Commissioner does not generally review an insurer's underwriting standards and does not receive information related to specific classes or types of insurance coverages provided. In addition, the Commissioner

does not receive information about medical malpractice claims, judgments, or settlements.

Summary of Engrossed Bill:

Beginning on April 1, 2005, insurers that write medical malpractice insurance must report any claims resulting in judgments, settlements, or no payment to the Insurance Commissioner on a quarterly basis. If an insurer does not report to the Commissioner because of a policy limitation, the provider or facility must report a claim to the Commissioner. The Commissioner may impose a fine of up to $250 per day against insurers who fail to report. The Department of Health may impose a fine of up to $250 per day against a facility or provider that fails to report.

The reports must contain data, including the health care provider's name, address, license number, and type of specialty; the name of the facility where the injury occurred; and the names of defendants involved in the claim. In addition, the report must include the insurance policy numbers, the date of loss, the date the claim was reported to the insurer or provider, and the name and address of the claimant. This information must be kept confidential and is exempt from public disclosure, except if the provider or facility consents or if the Commissioner needs this information in order to determine multiple or duplicate claims from the same occurrence. The report must also contain the date of the filed lawsuit; the claimant's age and sex; information about the judgment or settlement, including the date and amount, whether it was the result of arbitration, judgment or mediation; whether a settlement occurred before or after trial; an itemization of damages, both economic and non-economic; and, if there is no judgment, the date and reason for final disposition and claim closure. Additionally, the report must contain a summary of the occurrence, including the final diagnosis, a description of any misdiagnosis, the operation or treatment causing the injury, a description of the injury, and the safety management actions the facility or provider has taken to make similar situations less likely. In addition, the Commissioner may, by rule, request additional information.

The Commissioner must prepare aggregate statistical summaries of closed claims based on calendar year data. The Commissioner must include trends in frequency and severity of claims; the types of malpractice; and any other information the Commissioner determines would show a trend in claims. In addition, the report must contain an analysis of the financial reports of the insurers who write medical malpractice premiums in Washington; a loss ratio analysis; and a profitability analysis of each insurer. The report must also compare loss ratios and the profitability of medical malpractice in Washington compared to other states and summarize rate filings for medical malpractice, including analyzing the trend of losses compared to prior years. The Commissioner must post reports to the internet within 30 days after they are due.

The Commissioner may adopt rules to require insurers to report data regarding the frequency and severity of open claims; the aggregate amounts reserved; changes in

reserves from the previous reporting period; and other information useful to the Commissioner in monitoring the medical malpractice insurance market.

The Commissioner must adopt rules to implement the chapter and to ensure that claimants and providers cannot be individually identified when data is disclosed.

Claimants or their attorney must report to the Commissioner the amount of any court costs, attorneys' fees, or costs of expert witnesses. The Commissioner may adopt rules requiring the submission of additional information that would help the Commissioner analyze and evaluate the costs involved in medical malpractice cases.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.