

SENATE BILL REPORT

EHB 3197

As Reported By Senate Committee On:
Judiciary, February 27, 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: Representatives Schual-Berke, Kagi, Cody, Lantz, Morrell, Clibborn and Rockefeller.

Brief History:

Committee Activity: Judiciary: 2/27/04 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators McCaslin, Chair; Brandland, Hargrove, Haugen, Kline and Thibaudeau.

Staff: Jinnah Rose-McFadden (786-7421)

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 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 Bill: Beginning on April 1, 2005, insurers that provide medical malpractice insurance must, on a quarterly basis, report to the Insurance Commissioner any medical malpractice claim resulting in a judgment, settlement, or disposition resulting in non-payment. Upon resolution of a claim, a report must be filed within 60 days. If, based on a limitation in the insurance policy, an insurer does not report a claim to the commissioner, the provider or facility must report the claim. The commissioner may impose a fine of up to \$250 per day for an insurer's failure to report. The Department of Health may impose a fine of up to \$250 per day for a facility or provider's failure to report. In addition, a claimant, or a claimant's attorney, must report to the commissioner the court costs, costs of experts, and attorneys' fees in any medical malpractice action resulting in a final judgment, settlement, or disposition resulting in non-payment.

An insurer's report must identify: the health care provider's name, address, license number, and area of specialty; the name of the facility; the names of defendants; the name and address of a claimant; insurance policy numbers; the date of loss; and the date the claim was reported to the insurer or provider. With some exceptions, this information must be kept confidential and is exempt from public disclosure. Additionally, a report must contain: the date of any filed lawsuit; the claimant's age and sex; information about any judgment or settlement, and whether a settlement occurred before or after trial; an itemization of damages; if there is no judgment, the date and reason for final disposition and claim closure; a summary of the occurrence, including the operation or treatment causing the injury, a description of the injury, and the safety management actions the facility or provider have taken to make similar situations less likely.

The commissioner must prepare, and make available by March 31 of each year, aggregate statistical summaries of closed claims. Beginning in 2006, the commissioner must prepare an annual report by June 30 of each year, that summarizes and analyzes closed claim reports. The commissioner must post reports to the internet within 30 days.

The commissioner must adopt rules to implement this chapter, ensuring that claimants and providers cannot be individually identified when data is disclosed. Additionally, the commissioner may adopt rules requiring insurers to include additional information in their reports to the commissioner.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: No one.