



# SENATE BILL No. 335

February 4, 1993, Introduced by Senators BOUCHARD, EHLERS, GEAKE, WELBORN and MC MANUS and referred to the Committee on Health Policy.

A bill to amend sections 2477 and 2477d of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 2477 as amended and section 2477d as added by Act No. 173 of the Public Acts of 1986, being sections 500.2477 and 500.2477d of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2477 and 2477d of Act No. 218 of the  
2 Public Acts of 1956, section 2477 as amended and section 2477d as  
3 added by Act No. 173 of the Public Acts of 1986, being sections  
4 500.2477 and 500.2477d of the Michigan Compiled Laws, are amended  
5 to read as follows:

6 Sec. 2477. (1) ~~Every~~ EACH insurer providing professional  
7 liability insurance to a person licensed by the Michigan board of  
8 medicine, the Michigan board of osteopathic medicine and surgery,

SENATE BILL No. 335

1 the Michigan board of podiatric medicine and surgery, the  
2 Michigan board of dentistry, and the hospitals licensed by the  
3 state department of public health in this state shall submit the  
4 ~~following~~ data PRESCRIBED IN THIS SECTION at the times pre-  
5 scribed to the state insurance commissioner. All data shall be  
6 provided with respect to any complaint filed against such AN  
7 insured in any court, if the complaint seeks damages for personal  
8 injury claimed to have been caused by the negligence of the  
9 insured relating to the insured's professional services ~~—~~ or  
10 the performance of professional services by the insured without  
11 consent or informed consent ~~—~~ or a breach of warranty or con-  
12 tract for a medical result relating to the insured's professional  
13 services.

14 (2) The following data and information shall be furnished to  
15 the commissioner within 30 days of the filing of an answer on  
16 behalf of the insured:

- 17 (a) The name and license number of such insured.  
18 (b) The date of the injury.  
19 (c) The date of the filing of the complaint.  
20 (d) The nature of the complaint.  
21 (e) Any other information the commissioner may require.

22 (3) The following data and information shall be furnished to  
23 the commissioner, the appropriate licensing board in the depart-  
24 ment of licensing and regulation, and, if the insured or person  
25 is a hospital, to the ~~state department~~ DIRECTOR of public  
26 health within 30 days from any judgment, settlement, or other  
27 dismissal involving the insured:

1 (a) The date of any judgment, settlement, or other  
2 dismissal.

3 (b) The amount of any judgment against the insured.

4 (c) The amount of any settlement paid on behalf of the  
5 insured, whether such settlement was negotiated by suit or with-  
6 out the filing of a complaint for damages.

7 (d) Of the amounts ~~provided~~ DESCRIBED in subdivisions (b)  
8 and (c), the amount attributable to economic damages and the  
9 amount attributable to noneconomic damages.

10 (e) Any other information the commissioner may require.

11 (4) The insurance commissioner, the licensing board, and the  
12 ~~department~~ DIRECTOR of public health shall retain the informa-  
13 tion and maintain the files in the form and for a period as ~~he~~  
14 ~~or she shall determine~~ DETERMINED necessary BY THE COMMISSIONER,  
15 LICENSING BOARD, OR DIRECTOR OF PUBLIC HEALTH in ~~his or her~~  
16 ~~sole~~ THEIR INDIVIDUAL discretion. The commissioner, the licens-  
17 ing board, and the department of public health shall maintain the  
18 data and information filed in accordance with this section as  
19 confidential records and shall not release the data and informa-  
20 tion except for bona fide research, educational, licensing, actu-  
21 arial, department of social services subrogation, or legislative  
22 purposes; however, the name of the insurer shall be omitted. The  
23 commissioner, the chairperson of the licensing board, and the  
24 director of public health in his or her sole discretion shall  
25 determine the validity of any request for the information.

26 (5) AN INSURER THAT PROVIDES PROFESSIONAL LIABILITY  
27 INSURANCE TO A PERSON WHO IS LICENSED BY THE MICHIGAN BOARD OF

1 MEDICINE OR THE MICHIGAN BOARD OF OSTEOPATHIC MEDICINE AND  
2 SURGERY AND WHO PRACTICES IN THE MEDICAL SPECIALTY AREA OF ANES-  
3 THESIOLOGY, EMERGENCY MEDICINE, OR OBSTETRICS AND GYNECOLOGY OR  
4 AN INSURER THAT PROVIDES PROFESSIONAL LIABILITY INSURANCE TO A  
5 HOSPITAL IN WHICH 1 OF THOSE MEDICAL SPECIALTIES IS PRACTICED  
6 SHALL SUBMIT THE FOLLOWING DATA TO THE COMMISSIONER IN A FORM  
7 PRESCRIBED BY THE COMMISSIONER:

8 (A) FOR THE 5 YEARS IMMEDIATELY PRECEDING DECEMBER 1, 1993,  
9 A REPORT OF EACH COMPLAINT DESCRIBED IN SUBSECTION (1) FILED  
10 AGAINST A SPECIALIST DESCRIBED IN THIS SUBSECTION. THE REPORT  
11 REQUIRED UNDER THIS SUBDIVISION SHALL CONTAIN THE CLASSIFICATION  
12 OF RISK AND THE MEDICAL SPECIALTY INVOLVED.

13 (B) AN ANNUALIZED BREAKDOWN OF THE PROFESSIONAL LIABILITY  
14 INSURANCE PREMIUMS EARNED BY THE INSURER FROM SPECIALISTS AND  
15 HOSPITALS DESCRIBED IN THIS SUBSECTION FOR THE YEARS 1994 TO  
16 1999.

17 (6) ~~-(5)-~~ There ~~shall be~~ IS no liability on the part of,  
18 and a cause of action of any nature ~~shall~~ DOES not arise  
19 against, an insurer reporting ~~hereunder~~ UNDER THIS SECTION or  
20 its agents or employees, or the commissioner or his or her repre-  
21 sentatives, for any action taken by them pursuant to this  
22 section.

23 Sec. 2477d. (1) The commissioner shall publish a report  
24 every 2 years ~~which~~ THAT does all of the following:

25 (a) Describes the condition of the medical malpractice  
26 insurance market in this state.

1 (b) Contains information regarding specific claims  
2 experiences filed with the commissioner pursuant to sections 2477  
3 to 2477c.

4 (c) Makes recommendations concerning the medical malpractice  
5 insurance market in this state.

6 (2) BY DECEMBER 1, 1999, THE COMMISSIONER SHALL FILE A WRIT-  
7 TEN REPORT WITH THE GOVERNOR AND THE LEGISLATURE ON THE RESULTS  
8 OF THE MEDICAL LIABILITY DEMONSTRATION PROJECT ESTABLISHED UNDER  
9 SECTIONS 17090 TO 17098 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF  
10 THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.17090 TO 333.17098 OF  
11 THE MICHIGAN COMPILED LAWS. THE REPORT REQUIRED UNDER THIS SUB-  
12 SECTION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOW-  
13 ING INFORMATION:

14 (A) THE NUMBER OF COMPLAINTS FILED AGAINST PERSONS LICENSED  
15 BY THE MICHIGAN BOARD OF MEDICINE OR THE MICHIGAN BOARD OF OSTEO-  
16 PATHIC MEDICINE AND SURGERY AND PRACTICING IN THE MEDICAL SPE-  
17 CIALTY OF ANESTHESIOLOGY, EMERGENCY MEDICINE, OR OBSTETRICS AND  
18 GYNECOLOGY AND PARTICIPATING IN THE MEDICAL LIABILITY DEMONSTRA-  
19 TION PROJECT AS A RESULT OF MEDICAL MALPRACTICE CLAIMS ACCRUING  
20 ON OR AFTER JANUARY 1, 1994.

21 (B) THE NUMBER OF CLOSED CLAIMS DESCRIBED IN SUBDIVISION (A)  
22 INCLUDING FOR EACH CLAIM THE DEFENSE COSTS AND INDEMNITY PAYMENTS  
23 AS A RESULT OF SETTLEMENT OR VERDICT.

24 (C) THE EFFECT OF THE MEDICAL LIABILITY DEMONSTRATION  
25 PROJECT ON PROFESSIONAL LIABILITY CLAIMS EXPERIENCE AND PREMIUMS  
26 OF PERSONS PARTICIPATING IN THE MEDICAL LIABILITY DEMONSTRATION  
27 PROJECT.

1 (D) EACH COMPLAINT DESCRIBED IN SECTION 2477(1) FILED  
2 AGAINST A SPECIALIST DESCRIBED IN SECTION 2477(5) BASED ON A  
3 CLAIM THAT ACCRUED ON OR AFTER JANUARY 1, 1994, BUT BEFORE  
4 JANUARY 1, 1999. THE PART OF THE REPORT REQUIRED UNDER THIS SUB-  
5 DIVISION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE INFOR-  
6 MATION REQUIRED UNDER SECTION 2477(5)(A) ALONG WITH A FINDING, IF  
7 ANY, OF WHETHER THE SPECIALIST'S PRACTICE WAS CONSISTENT WITH THE  
8 PRACTICE PARAMETERS AND RISK MANAGEMENT PROTOCOLS PROMULGATED AS  
9 RULES UNDER SECTION 17095 OF THE PUBLIC HEALTH CODE, ACT NO. 368  
10 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.17095 OF THE  
11 MICHIGAN COMPILED LAWS.

12 (3) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDA-  
13 TORY ACT THAT ADDED THIS SUBSECTION, EACH MEDICAL MALPRACTICE  
14 INSURER SHALL DEVELOP AND TRANSMIT TO THE COMMISSIONER A RATE  
15 PROJECTION BASED UPON THE IMPACT ON MEDICAL MALPRACTICE INSURANCE  
16 PREMIUMS OF THE MEDICAL LIABILITY DEMONSTRATION PROJECT DESCRIBED  
17 IN SUBSECTION (2), THE MICHIGAN MEDICAL LIABILITY DETERMINATION  
18 ACT, AND OTHER CHANGES TO THE LAW OF MEDICAL MALPRACTICE IN THIS  
19 STATE ENACTED IN CONJUNCTION WITH THE AMENDATORY ACT THAT ADDED  
20 THIS SUBSECTION. THE COMMISSIONER SHALL REPORT THE INFORMATION  
21 OBTAINED UNDER THIS SUBSECTION TO THE STANDING COMMITTEES IN THE  
22 SENATE AND HOUSE OF REPRESENTATIVES WITH JURISDICTION OVER MAT-  
23 TERS PERTAINING TO INSURANCE AND COMMERCE. IF THE APPLICATION OF  
24 THE LAWS DESCRIBED IN THIS SUBSECTION IS STAYED OR ENJOINED BY A  
25 COURT OF COMPETENT JURISDICTION, THE RATE PROJECTION REQUIRED  
26 UNDER THIS SUBSECTION SHALL BE TRANSMITTED TO THE COMMISSIONER  
27 WITHIN 180 DAYS AFTER THE STAY OR INJUNCTION IS DISSOLVED.

1       (4) THE COMMISSIONER SHALL COMMISSION A STUDY TO DETERMINE  
2 IF THERE IS A LACK OF MEDICAL MALPRACTICE INSURANCE COMPETITION  
3 IN THIS STATE AND, IF SO, TO RECOMMEND METHODS TO INCREASE SUCH  
4 COMPETITION. THE COMMISSIONER SHALL REPORT THE RESULTS OF THE  
5 STUDY TO THE LEGISLATURE WITHIN 1 YEAR AFTER THE EFFECTIVE DATE  
6 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

7       Section 2. This amendatory act shall not take effect unless  
8 all of the following bills of the 87th Legislature are enacted  
9 into law:

10       (a) Senate Bill No. 334.

11

12       (b) Senate Bill No. 336.

13