

Legislative Analysis



MEDICAL MALPRACTICE INSURANCE: NON-RENEWAL REQUIREMENTS

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House Bill 5256 (Substitute H-1)

Sponsor: Rep. John Proos

Committee: Insurance

First Analysis (11-8-05)

BRIEF SUMMARY: The bill would amend the Insurance Code to specify that an insurance company could refuse to renew a medical malpractice insurance policy only by mailing a written notice to the insured at least 60 days in advance.

FISCAL IMPACT: There is no fiscal impact on the State of Michigan or local units of government.

THE APPARENT PROBLEM:

Surgeons and other health providers purchase malpractice insurance to protect themselves against lawsuits over bad patient outcomes. Currently, the Insurance Code only requires insurance companies to provide 10 days written notice when they cancel a malpractice (or any other casualty) policy. Obviously, this offers a health care provider little time to shop around for new coverage. An amendment to current law has been proposed to address this problem in the case of non-renewals of medical malpractice policies. The proposed legislation would require at least 60 days written notice that a policy was not going to be renewed when its term expired, so that physicians and others could make other arrangements.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to specify that an insurance company could refuse to renew a medical malpractice insurance policy only by mailing a written notice to the insured at least 60 days in advance.

As with notices of cancellation, the mailing would have to be sent to the address of the insured last known to the insurance company or an authorized agent, with postage fully prepaid.

MCL 500.3020

BACKGROUND INFORMATION:

Malpractice insurance refers to insurance that is defined elsewhere in the Insurance Code as:

Insurance of persons lawfully engaged in the practice of medicine, surgery, dentistry, or dispensing drugs or medicines, and partnerships or corporations lawfully engaged in the operation of hospitals or sanitariums, against loss resulting from all claims and suits alleging malpractice, error or mistake and based upon professional services rendered or which should have been rendered by insured and/or his or her assistants or employees, and to defend and indemnify insured against any loss resulting from all other suits for civil damages arising out of the practice by insured of his profession; except that indemnity under such insurance shall not extend to claims or suits based on criminal acts or on services rendered while under the influence of liquor or drugs.

ARGUMENTS:

For:

A representative of the Michigan State Medical Society has said that the bill will "provide a clear and definitive time frame for insurers to provide notice while allowing physicians and other practitioners the ability to find an alternative source of liability coverage if necessary. Providing 60 days notice . . . mirrors language in many surrounding states."

POSITIONS:

The Office of Financial and Insurance Services (OFIS) has indicated that it is neutral on the bill. (11-3-05)

The Michigan State Medical Society supports the bill. (11-3-05)

The Michigan Osteopathic Association has indicated support for the bill. (11-3-05)

The Insurance Institute of Michigan has indicated that it is neutral on the substitute. (11-3-05)

ProNational Insurance Company has indicated it is neutral on the substitute. (11-3-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.