

SECOND REGULAR SESSION

HOUSE BILL NO. 2097

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEMPSEY (Sponsor) AND YATES (Co-sponsor).

Read 1st time March 30, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4336L.01I

AN ACT

To repeal section 383.105, RSMo, and to enact in lieu thereof five new sections relating to medical malpractice insurance data collection.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 383.105, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 383.105, 383.106, 383.107, 383.108, and 383.124, to read as follows:

- 383.105. 1. Every insurer providing medical malpractice insurance to a Missouri health care provider and every health care provider who maintains professional liability coverage through a plan of self-insurance shall submit to the director of the department of insurance a report of all claims, both open claims filed during the reporting period and closed claims filed during the reporting period, for medical malpractice made against any of its Missouri insureds during the preceding three-month period.
2. The report shall be in writing and contain the following information:
- (1) Name and address of the insured and the person working for the insured who rendered the service which gave rise to the claim, if the two are different;
 - (2) Specialty coverage of the insured;
 - (3) Insured's policy number;
 - (4) Nature and substance of the claim;
 - (5) Date and place in which the claim arose;
 - (6) Name, address and age of the claimant or plaintiff;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (7) Within six months after final disposition of the claim, the amounts paid, if any, and
16 the date and manner of disposition (judgment, settlement or otherwise);

17 (8) Expenses incurred; and

18 (9) Such additional information as the director may require.

19 3. As used in [this section] **sections 383.100 to 383.125**, "insurer" includes every
20 insurance company authorized to transact insurance business in this state, every unauthorized
21 insurance company transacting business pursuant to chapter 384, RSMo, every risk retention
22 group, every insurance company issuing insurance to or through a purchasing group, **every entity**
23 **operating under this chapter**, and any other person providing insurance coverage in this state[.
24 With respect to any insurer transacting business pursuant to chapter 384, RSMo, filing the report
25 required by this section shall be the obligation of the surplus lines broker or licensee originating
26 or accepting the insurance], **including self-insured health care providers**.

383.106. 1. To effectively monitor the insurance marketplace, rates, financial
2 **solvency, and affordability and availability of medical malpractice coverage, the director**
3 **shall establish by rule reporting standards for insurers by which the insurers or an**
4 **advisory organization designated by the director shall annually report such Missouri**
5 **medical malpractice insurance premium, loss, exposure, and other information as the**
6 **director may require.**

7 **2. Prior to May 30, 2007, the director shall establish risk-reporting categories for**
8 **medical malpractice insurance, as defined in section 383.150, and shall establish rules for**
9 **the reporting of all base rates and premiums charged by such categories. The director**
10 **shall consider the history of prior court judgments for claims under this chapter in each**
11 **county of the state in establishing the risk-reporting categories.**

12 **3. The director shall collect the information required in this section and compile**
13 **it in a manner appropriate for assisting Missouri medical malpractice insurers in**
14 **developing their future base rates, schedule rating or individual risk-rating factors, and**
15 **other aspects of their rating plans. In compiling the information and making it available**
16 **to Missouri insurers and the public, the director shall remove any individualized**
17 **information that identifies a particular insurer as the source of the information. The**
18 **director may combine such information with similar information obtained through insurer**
19 **examinations so as to cover periods of more than one year.**

20 **4. Beginning June 1, 2008, and not less than annually thereafter, all insurers,**
21 **including self-insured health care providers, regarding medical malpractice insurance, as**
22 **defined in section 383.150, shall provide to the director an accurate report as to the actual**
23 **rates, including assessments levied against members, charged by such company for such**
24 **insurance for each of the risk-reporting categories established under this section.**

2 **383.107.** Not later than December 31, 2009, and at least annually thereafter, the
3 director shall establish and publish, utilizing the information provided under section
4 **383.106**, a market rate reflecting the median of the actual rates charged for each of the
5 risk-reporting categories for the preceding year by all insurers with at least a three percent
6 market share of the medical malpractice insurance market as of December thirty-first of
the prior year.

2 **383.108. 1.** The director shall establish reporting standards for insurers by which
3 the insurers shall report their base rates for the risk-reporting categories designated by the
4 director in the categories the director determines to be actuarially appropriate.

2 **2.** The director shall collect the information required in subsection 1 of this section
3 and shall create a database to be made available to the public that compares the base rates
4 charged by each insurer actively writing medical malpractice insurance.

2 **383.124. 1.** If the director determines that a person has engaged, is engaging, or is
3 about to engage in a violation of sections 383.100 to 383.125 or a rule promulgated thereto,
4 or that a person has materially aided, is materially aiding, or is about to materially aid an
5 act, practice, omission or course of business constituting a violation of sections 383.100 to
6 **383.125** or a rule promulgated thereto, the director may issue an administrative order or
7 orders as authorized under section 374.046, RSMo. A violation of any provision under
8 sections 383.100 to 383.125 is a level two violation under section 374.049, RSMo. The
9 director of insurance may suspend or revoke the license or certificate of authority of any
10 person for any such willful violation as authorized under section 374.047, RSMo.

2 **2.** If the director believes that a person has engaged, is engaging, or is about to
3 engage in a violation of sections 383.100 to 383.125 or a rule promulgated thereto, or that
4 a person has materially aided, is materially aiding, or is about to materially aid an act,
5 practice, omission or course of business constituting a violation of sections 383.100 to
6 **383.125** or a rule promulgated thereto, the director may maintain a civil action for relief
7 authorized under section 374.048, RSMo. A violation of any provision under sections
8 **383.100** to **383.125** is a level two violation under section 374.049, RSMo.

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