

HCS SCS SB 905 & 910 -- MEDICAL MALPRACTICE INSURANCE

SPONSOR: Engler (Yates)

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 13 to 0.

This substitute changes the laws regarding malpractice insurance. In its main provisions, the substitute:

- (1) Allows limited liability companies, corporations, limited liability partnerships, partnerships, and other entities formed for the practice of law or medicine to become members of an association providing malpractice insurance to its members;
- (2) Requires the malpractice association's articles of association and bylaws to specify and define the types of assessments its members and former members might have to pay to cover losses and expenses incurred by the association;
- (3) Makes associations writing malpractice insurance subject to reporting, notification, and rating requirements;
- (4) Requires the Director of the Department of Insurance to establish risk reporting categories and reporting standards for insurers to annually report medical malpractice insurance premiums, loss, exposure, and other information the director may require. The director will compile this information in a manner appropriate for assisting medical malpractice insurers in developing future base rates, schedule rating, or individual risk rating factors and other aspects of their rating plans;
- (5) Requires the director to annually establish and publish a market rate reflecting the mean of the actual rates charged for each risk reporting category and publish comparisons of the base rates charged by each insurer;
- (6) Allows the director to issue administrative orders and seek other remedies specified in the substitute to assure compliance for violations of the provisions relating to reporting medical malpractice information;
- (7) Prohibits medical malpractice insurers from charging rates that are excessive, inadequate, or unfairly discriminatory. Rates will be based upon Missouri loss experience if available, not experience from other states unless the failure to do so will jeopardize the financial stability of the insurer; and
- (8) Prohibits an insurer from increasing malpractice insurance rates by more than 15% or refusing to renew a policy without at

least 60 days' written notification unless requested by the insured or due to changes in the insured's practice or risk characteristics. Insurers cannot cease issuing policies in this state without 180 days' written notice to the insured and the director. If an insurer fails to give notice, the policyholder has the right to continue coverage under the policy.

FISCAL NOTE: No impact on General Revenue Fund in FY 2007, FY 2008, and FY 2009. Estimated Cost on Other State Funds of \$123,563 in FY 2007, \$120,524 in FY 2008, and \$123,555 in FY 2009.

PROPOSERS: Supporters say that the bill will help decrease the cost of medical malpractice insurance. Doctors are leaving the state because of the high cost of insurance. Reporting and publishing of the rates companies charge will help consumers to be informed and shop around for insurance. It will also help to increase competition.

Testifying for the bill were Senator Engler; Department of Insurance; Missouri State Medical Association; Missouri Association of Trial Attorneys; Missouri Academy of Family Physicians; Missouri State Chiropractors Association; Eastern Missouri Psychiatric Society; and Missouri Association of Osteopathic Physicians and Surgeons.

OPPONENTS: Those who oppose the bill say that there are too many reporting requirements. Tort reform is already helping to stabilize the market and to increase competition. The bill will force rate increases, and no one will enter a market that is over regulated.

Testifying against the bill were Missouri Insurance Coalition; American Insurance Association; and Missouri Physicians Mutual.

Marc Webb, Legislative Analyst