

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 83 (Delegate Brown)
Economic Matters

Insurance - Professional Liability Insurers - Reporting Requirements

This bill requires the Maryland Insurance Commissioner to conduct an annual survey of medical malpractice liability claims and report the findings to the Legislative Policy Committee.

The bill terminates September 30, 2008.

Fiscal Summary

State Effect: The bill's reporting requirements for insurers codify current regulatory practice. The Maryland Insurance Administration could handle the bill's other reporting requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires an insurer that provides professional liability insurance to a health care provider in the State to submit information on: (1) the nature and cost of reinsurance; (2) the claims experience by category of health care providers; (3) the amount of claims settlements and claims awards; (4) the amount of reserves for claims incurred by unreported claims; (5) the number of structured settlements used in payment of claims; and (6) any other information relating to health care malpractice claims. The bill requires the Commissioner to adopt regulations on submitting these reports.

The bill authorizes the Commissioner to require other lines of liability insurance to submit reports. The bill requires the Commissioner to report to the Legislative Policy Committee the Commissioner's findings on the effect of the State's limitations on punitive, economic, and noneconomic damages in personal injury actions by September 1 of each year.

Current Law: The Insurance Commissioner, by regulation, collects information on medical malpractice liability closed claim payments of \$100,000 or more. However, the Commissioner is not required to report on medical malpractice liability claims.

In a personal injury action, "economic damages" means compensation for loss of earnings and medical expenses. For a personal injury action that arises on or after July 1, 1986, the trier of fact in the case must itemize the damage award to reflect the monetary amount intended for: (1) past medical expenses; (2) future medical expenses; (3) past loss of earnings; (4) future loss of earnings; (5) noneconomic damages; and (6) other damages. In a personal injury action, "noneconomic damages" means compensation for pain, suffering, inconvenience, physical impairment, disfigurement, loss of consortium, or other nonpecuniary injury. For a personal injury action in which the cause of action arises on or after July 1, 1986, an award for noneconomic damages may not exceed \$350,000. In a personal injury action in which the cause of action arises on or after October 1, 1994, an award for noneconomic damages may not exceed \$500,000, increasing by \$15,000 on October 1 of each year beginning October 1, 1995. Currently, the limit is \$620,000. Evidence of the defendant's financial means is not admissible in a personal injury action until there has been a finding of liability and that punitive damages are supportable under the facts of the case.

Background: Chapter 639 of 1986 was Maryland's major tort reform legislation. Chapter 477 of 1994 amended the provisions enacted by Chapter 639. The damage limitation provisions described in the current law section above were enacted by Chapters 639 and 477.

Under Chapter 639, an insurer that provided professional liability insurance to a health care provider was required to submit to the Commissioner information on the nature and cost of reinsurance, the claims experience by category of health care provider, the amount of claim settlements and awards, and other information relating to health care malpractice claims. The Commissioner, in turn, was required to submit an annual report on the information gathered to the Legislative Policy Committee. Chapter 639 was originally slated to terminate on October 31, 1996. Chapter 111 of 1996 extended the termination date to October 31, 2001.

Additional Information

Prior Introductions: A similar bill, HB 712, was introduced in the 2001 session and received an unfavorable report from the House Economic Matters Committee. HB 712 would have extended the October 31, 2001 sunset applicable to Section 2 of Chapter 639 of 1986, as amended by Chapter 111 of 1996, to October 31, 2011.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2003
mam/jr

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