

UNOFFICIAL COPY OF HOUSE BILL 157
EMERGENCY BILL

C4

5lr0197

By: ~~Chairman, Economic Matters Committee (By Request - Departmental-
Insurance Administration, Maryland) Delegates Busch and Edwards~~

Introduced and read first time: January 20, 2005

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2005

CHAPTER _____

1 AN ACT concerning

2 ~~Medical Professional Liability Insurance - Reporting Requirements~~
3 ~~Maryland Health Care Provider Rate Stabilization Fund - Medical~~
4 ~~Assistance Program Account - Health Care Provider Rates~~

5 FOR the purpose of requiring that ~~certain information be contained in a certain~~
6 ~~report on claims or actions for damages for personal injury; requiring that the~~
7 ~~report be filed with the Maryland Insurance Commissioner; requiring the~~
8 ~~Commissioner to impose a certain penalty for failure to file the report with the~~
9 ~~Commissioner; and generally relating to medical professional liability insurance~~
10 ~~reporting requirements~~ the Secretary of Health and Mental Hygiene to increase
11 fee-for-service health care provider rates and to pay managed care organization
12 health care providers consistent with fee-for-service health care provider rates
13 for obstetric services performed by family practitioners; making this Act an
14 emergency measure; and generally relating to health care provider rates.

15 BY repealing and reenacting, with amendments,

16 Article - Insurance

17 Section ~~4-401~~ 19-807

18 Annotated Code of Maryland

19 (~~2003~~ 2002 Replacement Volume and 2004 Supplement)

20 (As enacted by Chapter 1 of the Acts of the General Assembly of 2005)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Insurance

2 4401.

3 (a) This section applies to:

4 (1) each insurer that provides professional liability insurance to:

5 (i) a physician, nurse, dentist, podiatrist, optometrist, or
6 chiropractor licensed under the Health Occupations Article; or

7 (ii) a hospital licensed under the Health General Article; and

8 (2) each self-insured hospital.

9 (b) An entity subject to this section shall report quarterly any claim or action
10 for damages for personal injury if the claim or action:11 (1) is claimed to have been caused by an error, omission, or negligence in
12 the performance of the insured's professional services or is based on a claimed
13 performance of the insured's professional services without consent; and

14 (2) resulted in:

15 (i) a final judgment in any amount;

16 (ii) a settlement in any amount; or

17 (iii) a final disposition that does not result in payment on behalf of
18 the insured.

19 (c) A report required under this section shall contain:

20 (1) the name and address of the insured;

21 (2) the policy number of the insured;

22 (3) the date of the occurrence from which the claim or action arose;

23 (4) the JURISDICTION AND date of filing suit, if any;

24 (5) the date and amount of final judgment or settlement, if any;

25 (6) THE SPECIFIC AMOUNT OF THE FINAL JUDGMENT OR SETTLEMENT,
26 IF ANY, THAT IS FOR:

27 (I) PAST MEDICAL EXPENSES;

28 (II) FUTURE MEDICAL EXPENSES;

29 (III) PAST LOST WAGES;

- 1 (IV) FUTURE LOST WAGES;
- 2 (V) ECONOMIC DAMAGES; AND
- 3 (VI) NONECONOMIC DAMAGES;
- 4 ~~[(6)] (7) if there is no final judgment or settlement, the date and reason~~
5 ~~for final disposition;~~
- 6 ~~[(7)] (8) a summary of the occurrence from which the claim or action~~
7 ~~arose; and~~
- 8 ~~[(8)] (9) any other information as may be required.~~

9 (d) A report required under this section shall be filed within 90 days after the
10 end of the quarter during which an event described in subsection (b)(2)(i), (ii), or (iii)
11 of this section occurred.

12 (e) (1) A report that relates to a physician shall be filed with the State Board
13 of Physicians.

14 (2) A report that relates to a hospital shall be filed with the Secretary of
15 Health and Mental Hygiene.

16 (3) A report that relates to a nurse, dentist, podiatrist, optometrist, or
17 chiropractor shall be filed with the appropriate licensing board for these health care
18 providers.

19 (4) A REPORT FILED UNDER PARAGRAPH (1), (2), OR (3) OF THIS
20 SUBSECTION ALSO SHALL BE FILED WITH THE COMMISSIONER.

21 (f) (1) Subject to paragraph (2) of this subsection, a report filed in
22 accordance with this section shall be treated as a personal record under § 10-624(e) of
23 the State Government Article.

24 (2) Each report shall be released to the Maryland Health Care
25 Commission.

26 (g) An insurer that reports under this section or its agents or employees, the
27 State Board of Physicians or its representatives, and any appropriate licensing
28 authority that receives a report under this section shall have the immunity from
29 liability described in § 5-701 of the Courts Article for any action taken by them under
30 this section.

31 (h) (1) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION, FAILURE
32 TO REPORT TO THE COMMISSIONER IN ACCORDANCE WITH THIS SECTION SHALL
33 RESULT IN THE IMPOSITION OF A PENALTY BY THE COMMISSIONER OF UP TO \$5,000.

34 (2) Failure to report TO AN ENTITY SPECIFIED IN SUBSECTION (E)(1), (2),
35 OR (3) OF THIS SECTION in accordance with this section shall result in the imposition
36 by a circuit court of a civil penalty of up to \$5,000.

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take~~
 2 ~~effect June 1, 2005.~~
 3 ~~19-807.~~

4 (a) The Commissioner shall disburse money from the Medical Assistance
 5 Program Account to the Secretary.

6 (b) (1) In fiscal year 2005, disbursements from the Medical Assistance
 7 Program Account shall be used by the Secretary to increase capitation rates paid to
 8 managed care organizations.

9 (2) Beginning in fiscal year 2006 and annually thereafter, to maintain
 10 the rate increases provided under this paragraph, disbursements from the Medical
 11 Assistance Program Account of \$15,000,000 shall be used by the Secretary to increase
 12 fee-for-service health care provider rates and to pay managed care organization
 13 health care providers consistent with fee-for-service health care provider rates for:

14 (I) procedures commonly performed by:

15 [(i)] 1. obstetricians;

16 [(ii)] 2. neurosurgeons;

17 [(iii)] 3. orthopedic surgeons; and

18 [(iv)] 4. emergency medicine physicians; AND

19 (II) OBSTETRIC SERVICES PERFORMED BY FAMILY
 20 PRACTITIONERS.

21 (3) Portions of the Medical Assistance Program Account that exceed the
 22 amount provided under paragraph (2) of this subsection shall be used by the
 23 Secretary only to:

24 (i) increase capitation payments to managed care organizations
 25 consistent with § 15-103(b)(18) of the Health - General Article;

26 (ii) increase fee-for-service health care provider rates;

27 (iii) pay managed care organization health care providers consistent
 28 with the fee-for-service health provider rates; and

29 (iv) after fiscal year 2009:

30 1. maintain increased capitation payments to managed care
 31 organizations;

32 2. maintain increased rates for health care providers; and

33 3. support generally the operations of the Maryland Medical

1 Assistance Program.

2 (c) (1) Health care provider rate increases under subsection (b)(2) and
3 (3)(ii), (iii), and (iv)2 of this section shall be determined by the Secretary in
4 consultation with managed care organizations, the Maryland Hospital Association,
5 the Maryland State Medical Society, the American Academy of Pediatrics, Maryland
6 Chapter, and the American College of Emergency Room Physicians, Maryland
7 Chapter.

8 (2) The Secretary shall submit the plan for Medicaid health care
9 provider rate increases under paragraph (1) of this subsection to the Senate Budget
10 and Taxation Committee, Senate Finance Committee, House Appropriations
11 Committee, and House Health and Government Operations Committee prior to
12 adopting regulations implementing the increase.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
14 measure, is necessary for the immediate preservation of the public health or safety,
15 has been passed by a yea and nay vote supported by three-fifths of all the members
16 elected to each of the two Houses of the General Assembly, and shall take effect from
17 the date it is enacted.