

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 48
Economic Matters

(Delegate Boschert)

Patient Protection Insurance

This bill establishes the Patient Protection Insurance Program, which permits the sale of “patient protection insurance,” by a physician for coverage for losses caused by the hazard of professional negligence during a medical procedure or operation performed by the physician.

Fiscal Summary

State Effect: Potential minimal. Maryland Insurance Administration (MIA) special fund revenue increase from limited lines application and licensure fees and the \$125 rate and form filing fee. Reviewing and approving limited lines licensure applications could be handled with existing MIA resources.

Local Effect: None.

Small Business Effect: Potential meaningful. To the extent the utilization of patient protection insurance reduces medical malpractice litigation and settlements, medical malpractice premiums could decrease.

Analysis

Bill Summary: The program may operate as a self-insurance group for physicians to offer patient protection insurance policies to individuals who undergo medical procedures or operations. A physician must pay a fee to the program in order to participate, with the fee to be a percentage of medical professional liability insurance premium the physician would otherwise pay to the physician’s medical professional liability insurer. The

Insurance Commissioner may issue a limited lines license to a physician who sells patient protection insurance policies to patients in the physician's office.

"Professional negligence" is a negligent act or omission to act by a physician in the rendering of professional services that is the proximate cause of a personal injury or wrongful death. The maximum allowable coverage under a patient protection insurance policy is \$500,000 per insured per covered procedure.

An individual who purchases patient protection insurance must agree that any issue of liability for professional negligence is waived once payment is made under the terms of the policy, and the insured will not determine any issue of professional negligence by a lawsuit or resort to court process. Both parties to a contract are giving up their right to have any dispute decided in a court of law before a jury and instead are accepting the terms of the policy as to issues of professional negligence.

Current Law: Patient protection policies may not be sold in Maryland. A patient who has been injured due to medical negligence must pursue relief through specified arbitration and legal procedures. The current limit on noneconomic damages is \$650,000.

Background: For the past several years, national attention has focused on what some are calling a medical malpractice insurance crisis. There is evidence in at least some parts of the country to support the claim that medical malpractice insurance is becoming dangerously unaffordable and/or unavailable, especially for individuals practicing in certain high-risk specialties such as obstetrics, neurosurgery, and orthopedic surgery. Certain areas have seen steep premium increases, the withdrawal of major insurance companies from the medical malpractice market, insurer-instituted moratoriums on the issuance of new policies, the closure of trauma centers and hospital maternity wards, the elimination of obstetrics from OB/GYN practices, an exodus of physicians, and increases in early retirements.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 28, 2005
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