

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 882 (Senator Klausmeier)  
Education, Health, and Environmental Affairs

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**Physicians - Professional Liability Insurance Coverage - Notification and Posting Requirements**

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This bill requires licensed physicians in the State to notify patients in writing, and on each visit, if the physician does not carry professional liability insurance coverage or if the physician's coverage has lapsed for any period of time and has not been renewed. The bill requires the notification to be signed by the patient at the time of his or her visit, and kept in the patient's records. The Board of Physicians must devise language regarding the notification requirements. In addition, the bill requires licensed physicians who do not carry medical liability insurance to conspicuously post such information where they practice.

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**Fiscal Summary**

**State Effect:** The bill's requirements do not affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law/Background:** In 2004 and 2005, the General Assembly adopted legislation in response to increasing concern that medical malpractice insurance had become unaffordable for individuals practicing in certain high-risk specialties such as emergency surgery, obstetrics, neurosurgery, and orthopedic surgery. One provision of the legislation placed a four-year moratorium on the annual increase of \$15,000 in the cap on noneconomic damages for medical malpractice awards.

In health care malpractice actions, noneconomic damages include payment for pain, suffering, and disfigurement, while economic damages include payment for loss of earnings and medical expenses. Studies by the U.S. Government Accountability Office have indicated that recent sharp increases in medical malpractice insurance rates are due in part to insurer losses on medical malpractice claims. Other contributing factors include decreased investment income, artificially low premium rates adopted while insurers competed for market share during boom years, and higher overall costs due largely to increased reinsurance rates for medical malpractice insurers.

The Federally Supported Health Centers Assistance Act of 1992 and 1995 granted medical malpractice liability protection through the Federal Tort Claims Act to Health Resources and Services Administration-supported health centers. Under the Act, health centers are considered federal employees and are immune from lawsuits, with the federal government acting as their primary insurer.

At least six states (Colorado, Connecticut, Kansas, Massachusetts, New Jersey, and Wisconsin) require physicians to carry minimum levels of professional liability insurance. In addition, at least five states require physicians to carry minimum levels of coverage to qualify for state liability reforms, including caps on damages. The American Medical Association advises that, while many states do not require liability insurance coverage, physicians must have minimum levels of coverage to obtain hospital staff privileges and participate in health plans.

In addition, at least five states (Alaska, Florida, Montana, Ohio, and Oregon) require physicians or similar providers to notify a patient if they do not have medical liability insurance.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1157 (Delegates Schuler and Bromwell) - Health and Government Operations.

**Information Source(s):** Department of Health and Mental Hygiene, American Medical Association, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2009  
mcp/mcr

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Analysis by: Sarah K. Volker

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510