

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 627

S.P. 233

In Senate, March 9, 1987

Reference to the Committee on Banking and Insurance suggested and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Representative JOSEPH of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Provide Equitable Rate Making in
2 Medical Professional Liability Insurance.
3

4 Be it enacted by the People of the State of Maine as
5 follows:

6 Sec. 1. 24-A MRSa §2303, sub-§1, ¶E, as enacted
7 by PL 1969, c. 132, §1, is amended to read:

8 E. Risks Except as provided in section 2303-A,
9 risks may be grouped by classifications for the
10 establishment of rates and minimum premiums.
11 Classification rates may be modified to produce
12 rates for individual risks in accordance with
13 rating plans which establish standards for mea-
14 suring variations in hazards or expense provi-
15 sions, or both. Such standards may measure any
16 differences among risks which may have a probable
17 effect upon losses or expenses.

1 Sec. 2. 24-A MRSA §2303-A is enacted to read:

2 §2303-A. Equitable rate making in medical profes-
3 sional liability insurance

4 1. Payment classifications. The rating schedule
5 for medical malpractice insurance for allopathic phy-
6 sicians and osteopathic physicians licensed in this
7 State shall contain not more than 4 payment classifi-
8 cations based upon the amount of surgery performed
9 and the risk of diagnostic and therapeutic services
10 provided or procedures performed.

11 2. Physicians' merit rating plan. The superin-
12 tendent shall promulgate regulations, which may be
13 amended from time to time, establishing a physicians'
14 professional liability insurance merit rating plan
15 which reflects an individual physician's or surgeon's
16 experience with respect to incidents or occurrences
17 of alleged medical malpractice. In the regulations,
18 the superintendent shall establish standards and lim-
19 itations intended to insure that merit rating plans
20 are reasonable and are not unfairly discriminatory,
21 inequitable, violative of public policy or otherwise
22 contrary to the best interests of the people of this
23 State. The regulations shall include:

24 A. Reasonable standards to be applied in arriv-
25 ing at premium rates, surcharges and discounts
26 based on an evaluation of the hazards of the in-
27 sured, geographical area, specialities of prac-
28 tice, past and prospective loss and expense expe-
29 rience for medical malpractice insurance written
30 and to be written in this State, trends in the
31 frequency and severity of losses and the limited
32 nature, if any, of the practice of the insured;

33 B. Rules for recognizing experience of individu-
34 al risks; and

35 C. Any other factors deemed relevant in a system
36 of merit rating for the purpose of establishing
37 equitable merit rates.

38 3. Unfair burdens. The superintendent shall al-
39 so consider, in establishing regulations, whether
40 premium rates unfairly burden physicians who are ini-

1 tiating their practice, those who are near retire-
2 ment, those who practice part time or hold academic
3 positions.

4 4. Insurers review. Insurers shall review merit
5 rating plans which were approved by the superintend-
6 ent prior to the promulgation of rules required by
7 this section and shall, before January 1, 1989, file
8 with the superintendent statements that their merit
9 rating plans conform with the rules, or file an ap-
10 propriate plan or amendments to their existing plans
11 which will bring them into compliance with the stan-
12 dards of the rules. Any of these amendments shall
13 become effective upon approval by the superintendent.

14

STATEMENT OF FACT

15 This section provides for both collapsible rates
16 and experience-based rating for physicians' profes-
17 sional liability insurance premiums. Currently, in-
18 surance companies employ numerous rating categories;
19 under this system, doctors in high-risk specialties
20 pay for risks that should be shared by others. By
21 collapsing the categories, doctors on lower, less
22 specialized, levels will bear a small portion of the
23 cost incurred by doctors on higher levels, thus more
24 equitably spreading the risk in all categories.

25 The bill requires that malpractice rates be based
26 on 4 categories. It requires the Superintendent of
27 Insurance to establish rules which require
28 experience-based malpractice rates.

29 Further, the enactment of experience rating will
30 result in lower premium payments for those doctors
31 with good records and an increased incentive to exer-
32 cise due care.

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