

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1730, L.D. 2389, Bill, "An Act to Strengthen Oversight of Medical Malpractice Insurance and Stabilize Premiums"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 24-A MRSA §2304, sub-§4, as enacted by PL 1969, c. 132, §1, is amended to read:

4. -A- Except as provided in section 2304-A, a rate filing and its supporting data are confidential until the filing becomes effective.

Sec. 2. 24-A MRSA §2304-A is enacted to read:

§2304-A. Physicians and surgeons liability insurance rates

Physicians and surgeons liability insurance rate filings are first subject to this section, but any other provisions of this chapter not inconsistent with this section also apply. Notwithstanding this section, filings made by advisory organizations are subject to this section only to the extent permitted by law, and laws prohibiting activities or the filing of certain information by advisory organizations supersede the provisions of this section.

1. Contents of filing. Every filing subject to this section must include the data, statistics, schedules or information necessary for the superintendent to determine whether the filing complies with this chapter. The superintendent may waive any noncompliance with this subsection if the superintendent determines that the noncompliance is immaterial. The required information includes, but is not limited to:

A. Rates:

(1) Current rates by rating class at basic limits and larger optional limits of coverage; and

(2) Proposed rates by rating class at basic limits and larger optional limits of coverage;

B. Historical experience:

(1) Maine total limits premium, paid claims, paid allocated loss adjustment expenses, incurred claims, incurred allocated loss adjustment expenses, and incurred loss ratio for not less than the 5 most recent years available;

(2) Maine basic limits written or earned premium or exposure, paid claims, paid allocated loss adjustment expenses, incurred claims, incurred allocated loss adjustment expenses, and incurred loss ratio or pure premium for not less than the 5 most recent years available; and

(3) Any other experience used to support the proposed changes;

C. Adjustment factors:

(1) Premiums or exposure at basic limit adjusted to current rate level or exposure, and a description of the method used to adjust historical earned premium or exposure to current level;

(2) Loss development exhibits showing the change in paid and incurred losses and allocated loss adjustment expenses from period to period, evaluated at least annually, and an explanation of the loss development method used to project the ultimate value of claims and allocated loss adjustment expenses;

(3) Trend factor calculations and application, including the following:

(a) An explanation of the trending procedure and assumptions;

(b) Trend based on experience in this State as well as other actuarially sound sources of trend information; and

(c) Frequency and severity trend factor calculations, shown separately; and

2 (4) Credibility weighting of alternative sources of
3 data, including a description of the methodology used
4 and the appropriateness of the method to its use in the
5 filing;

6
7 D. Classification exposure, premium and loss experience in
8 the State for not less than the 5 most recent years
9 available, and other experience determined to be credible in
10 selecting the proposed classification relativities.
11 Classification experience must be provided in any filing in
12 which the filer has proposed changes to the classification
13 relativities, but not less frequently than every 3 years;

14
15 E. Expense provisions used in developing the proposed
16 rates, an explanation of the procedure used to develop these
17 provisions, and the actual historical expenses for each of
18 the 3 most recent years available in the following
19 categories: commissions; other acquisition expenses;
20 general expenses; taxes, licenses and fees; unallocated loss
21 adjustment expenses; and other expenses;

22
23 F. An evaluation of any law changes that will become
24 effective during the period in which rates will be in effect
25 or any law changes in effect but not evaluated in a prior
26 filing and not reflected in the reported experience;

27 G. An estimate of the investment income that will be earned
28 on loss and loss adjustment expense reserves and unearned
29 premium reserves during the period the rates are to be in
30 effect and claims remain unpaid, and evidence that the
31 filing gives full consideration to that estimated income.
32 The filing must include the expected expense and claim
33 payout pattern and an explanation of the derivation of the
34 payout pattern; and

35
36 H. Information regarding cost or expense control programs,
37 procedures or practices implemented by the filer to improve
38 efficiency of the company or to control or limit premium
39 charges to insureds.

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41 2. Additional information. The superintendent may require,
42 at any time, any additional information the superintendent
43 determines necessary.

44
45 3. Assertion of confidential status. Any insurer, rating
46 organization or advisory organization that asserts that any
47 portion of a filing is entitled to confidential status for
48 purposes of subsection 5, shall identify that portion of the
49 filing at the time of filing and shall state the basis for the
50 assertion.

4. Notice of filing. The superintendent shall maintain a list of all persons who request notice of physicians and surgeons liability insurance rate filings. Within 10 days of receipt of such a rate filing, the superintendent shall notify each person on that list.

5. Interested persons. Immediately after receiving a filing under this section, the superintendent shall grant access to the entire filing, including confidential information, to any interested person who pays premiums for physicians and surgeons liability coverage to the company that made the filing, and to any person or organization representing a group of such persons. Any person who has access to confidential information under this section shall maintain the confidentiality of that information by means of a confidentiality agreement or pursuant to a protective order of the superintendent.

6. Public hearing. The superintendent may hold a public hearing on any filing, as provided in sections 229 to 235. At the request of any person described in subsection 5, the superintendent shall, as required by section 229, hold a public hearing on the filing.

7. Procedures; rules. The superintendent may adopt rules under Title 5, chapter 375, establishing procedures for the administration of this section.

Sec. 3. Bureau of Insurance study. The Department of Professional and Financial Regulation, Bureau of Insurance shall review the study conducted in 1989 by the Minnesota Department of Commerce relating to closed medical malpractice liability claims in Minnesota, North Dakota and South Dakota. The purpose of the review is to determine what closed claims information should be collected in the State in order to provide a data base to evaluate the effects of past law changes and the likely effect of proposals to change laws relating to tort law and insurance regulation, or for any purpose that the bureau considers appropriate to assist it in performing its functions. After determining the information that is appropriate to collect, the bureau shall examine any medical malpractice rate filing made during 1990 to determine whether the filing produces that information, directly or by extraction. To the extent the filing does not produce that information, the bureau shall recommend an appropriate, cost-effective manner of collecting the information, through a rate filing, a closed claims study or otherwise. The bureau shall report its determinations and recommendations by January 1, 1991, to the Joint Standing Committee on Banking and Insurance and to the Office of the Executive Director of the Legislative Council.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1990-91

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF**

Bureau of Insurance

All Other \$10,000

Provides funds for a consultant to collect claims information from medical malpractice rate filings.

FISCAL NOTE

1990-91

Allocations:

Other Special Revenue funds \$10,000

Revenue:

Other Special Revenue funds \$10,000

The Bureau of Insurance will require an additional allocation of \$10,000 in fiscal year 1990-91 for a consultant to collect claims information from medical malpractice rate filings. The Bureau of Insurance will need to increase its annual assessment to fund this additional cost, resulting in \$10,000 of additional dedicated revenue to the bureau in fiscal year 1990-91.'

STATEMENT OF FACT

This amendment replaces the original bill and clarifies the right of interested parties to a medical malpractice rate filing to receive notice and participate in a hearing. The amendment also clarifies the right of interested parties to receive rate filing information subject to confidentiality restrictions. It also sets forth categories of information that must be included in a filing.

The amendment also provides an allocation for the Department of Professional and Financial Regulation, Bureau of Insurance to contract with a consultant to review medical malpractice rate filings in Maine to attempt to find information to start a data

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2 base for a study of closed medical malpractice claims in Maine.
The consultant's work would be performed in conjunction with the
4 bureau's review of a Minnesota closed claims study and
recommendations to the Legislature on additional efforts needed
to complete a valid closed claims study in Maine.
6

Reported by the Committee on Banking and Insurance
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House
4/4/90 (Filing No. H-1060)