



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 2/6/2004, by Susan Garrett

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.18	from Ch. 73, par. 767.18
215 ILCS 5/155.21a new	
225 ILCS 60/20	from Ch. 111, par. 4400-20
735 ILCS 5/2-101	from Ch. 110, par. 2-101

Amends the Illinois Insurance Code. In provisions pertaining to the rates and rating schedules of companies writing medical liability insurance, provides that if a company's rate filing seeks a rate increase of 10% or more, such a rate increase may not go into effect without prior approval of the Director of the Department of Insurance. Requires the company to provide the Director with information as the Director deems appropriate to evaluate the company's filing. Provides that if, after a hearing, the Director finds that the rate increase is excessive under standards that shall be adopted by the Director by rule, the Director shall reduce the amount of the rate increase, and the reduced rate shall go into effect. Provides that if, after a hearing, the Director finds that the rate increase is appropriate under those standards, the rate shall go into effect. Requires the Department of Insurance and all medical organizations to disclose and make accessible to the public a listing of all registered and operating medical liability insurance providers in this State including all addresses and telephone numbers and the names of all agents and brokers associated with such providers. Amends the Medical Practice Act of 1987. In provisions pertaining to continuing education, requires risk management training. Amends the Code of Civil Procedure. Provides that every medical malpractice action must be commenced in the county where the occurrence or incident took place. Effective immediately.

LRB093 21065 SAS 47094 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning medical malpractice.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 155.18 and by adding Section 155.21a as
6 follows:

7 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

8 Sec. 155.18. (a) This Section shall apply to insurance on
9 risks based upon negligence by a physician, hospital or other
10 health care provider, referred to herein as medical liability
11 insurance. This Section shall not apply to contracts of
12 reinsurance, nor to any farm, county, district or township
13 mutual insurance company transacting business under an Act
14 entitled "An Act relating to local mutual district, county and
15 township insurance companies", approved March 13, 1936, as now
16 or hereafter amended, nor to any such company operating under a
17 special charter.

18 (b) The following standards shall apply to the making and
19 use of rates pertaining to all classes of medical liability
20 insurance:

21 (1) Rates shall not be excessive or inadequate, as herein
22 defined, nor shall they be unfairly discriminatory. No rate
23 shall be held to be excessive unless such rate is unreasonably
24 high for the insurance provided, and a reasonable degree of
25 competition does not exist in the area with respect to the
26 classification to which such rate is applicable.

27 No rate shall be held inadequate unless it is unreasonably
28 low for the insurance provided and continued use of it would
29 endanger solvency of the company.

30 (2) Consideration shall be given, to the extent applicable,
31 to past and prospective loss experience within and outside this
32 State, to a reasonable margin for underwriting profit and

1 contingencies, to past and prospective expenses both
2 countrywide and those especially applicable to this State, and
3 to all other factors, including judgment factors, deemed
4 relevant within and outside this State.

5 Consideration may also be given in the making and use of
6 rates to dividends, savings or unabsorbed premium deposits
7 allowed or returned by companies to their policyholders,
8 members or subscribers.

9 (3) The systems of expense provisions included in the rates
10 for use by any company or group of companies may differ from
11 those of other companies or groups of companies to reflect the
12 operating methods of any such company or group with respect to
13 any kind of insurance, or with respect to any subdivision or
14 combination thereof.

15 (4) Risks may be grouped by classifications for the
16 establishment of rates and minimum premiums. Classification
17 rates may be modified to produce rates for individual risks in
18 accordance with rating plans which establish standards for
19 measuring variations in hazards or expense provisions, or both.
20 Such standards may measure any difference among risks that have
21 a probable effect upon losses or expenses. Such classifications
22 or modifications of classifications of risks may be established
23 based upon size, expense, management, individual experience,
24 location or dispersion of hazard, or any other reasonable
25 considerations and shall apply to all risks under the same or
26 substantially the same circumstances or conditions. The rate
27 for an established classification should be related generally
28 to the anticipated loss and expense factors of the class.

29 (c) Every company writing medical liability insurance
30 shall file with the Director of Insurance the rates and rating
31 schedules it uses for medical liability insurance.

32 (1) This filing shall occur at least annually and as often
33 as the rates are changed or amended.

34 (2) For the purposes of this Section any change in premium
35 to the company's insureds as a result of a change in the
36 company's base rates or a change in its increased limits

1 factors shall constitute a change in rates and shall require a
2 filing with the Director.

3 (3) It shall be certified in such filing by an officer of
4 the company and a qualified actuary that the company's rates
5 are based on sound actuarial principles and are not
6 inconsistent with the company's experience.

7 (d) If after a hearing the Director finds:

8 (1) that any rate, rating plan or rating system
9 violates the provisions of this Section applicable to it,
10 he may issue an order to the company which has been the
11 subject of the hearing specifying in what respects such
12 violation exists and stating when, within a reasonable
13 period of time, the further use of such rate or rating
14 system by such company in contracts of insurance made
15 thereafter shall be prohibited;

16 (2) that the violation of any of the provisions of this
17 Section applicable to it by any company which has been the
18 subject of hearing was wilful, he may suspend or revoke, in
19 whole or in part, the certificate of authority of such
20 company with respect to the class of insurance which has
21 been the subject of the hearing.

22 (e) Notwithstanding any other provision of this Section, a
23 hearing must be held by the Director if a company's filing
24 seeks a rate increase of 10% or more. Such a rate increase may
25 not go into effect without prior approval of the Director.
26 Before the hearing, the company shall provide to the Director
27 such information as the Director deems appropriate to evaluate
28 the company's filing. If, after a hearing, the Director finds
29 that the rate increase is excessive under standards that shall
30 be adopted by the Director by rule, the Director shall reduce
31 the amount of the rate increase and the reduced rate shall go
32 into effect. If, after a hearing, the Director finds that the
33 rate increase is appropriate under those standards, the rate
34 shall go into effect.

35 (Source: P.A. 79-1434.)

1 (215 ILCS 5/155.21a new)

2 Sec. 155.21a. Disclosure of medical liability insurance
3 companies. The Department of Insurance and all medical
4 organizations must disclose and make accessible to the public a
5 listing of all registered and operating medical liability
6 insurance providers in this State including all addresses,
7 telephone numbers, and the names of all agents and brokers
8 associated with such providers.

9 Section 10. The Medical Practice Act of 1987 is amended by
10 changing Section 20 as follows:

11 (225 ILCS 60/20) (from Ch. 111, par. 4400-20)

12 (Section scheduled to be repealed on January 1, 2007)

13 Sec. 20. Continuing education. The Department shall
14 promulgate rules of continuing education for persons licensed
15 under this Act that require 150 hours of continuing education,
16 including risk management training, per license renewal cycle.
17 These rules shall be consistent with requirements of relevant
18 professional associations, speciality societies, or boards.
19 The rules shall also address variances in part or in whole for
20 good cause, including but not limited to illness or hardship.
21 In establishing these rules, the Department shall consider
22 educational requirements for medical staffs, requirements for
23 specialty society board certification or for continuing
24 education requirements as a condition of membership in
25 societies representing the 2 categories of licensee under this
26 Act. These rules shall assure that licensees are given the
27 opportunity to participate in those programs sponsored by or
28 through their professional associations or hospitals which are
29 relevant to their practice. Each licensee is responsible for
30 maintaining records of completion of continuing education and
31 shall be prepared to produce the records when requested by the
32 Department.

33 (Source: P.A. 92-750, eff. 1-1-03.)

1 Section 15. The Code of Civil Procedure is amended by
2 changing Section 2-101 as follows:

3 (735 ILCS 5/2-101) (from Ch. 110, par. 2-101)

4 Sec. 2-101. Generally. Except as otherwise provided in this
5 Act, every action must be commenced (1) in the county of
6 residence of any defendant who is joined in good faith and with
7 probable cause for the purpose of obtaining a judgment against
8 him or her and not solely for the purpose of fixing venue in
9 that county, or (2) in the county in which the transaction or
10 some part thereof occurred out of which the cause of action
11 arose.

12 Except as otherwise provided in this Act, every medical
13 malpractice action must be commenced in the county where the
14 occurrence or incident took place.

15 If a check, draft, money order, or other instrument for the
16 payment of child support payable to or delivered to the State
17 Disbursement Unit established under Section 10-26 of the
18 Illinois Public Aid Code is returned by the bank or depository
19 for any reason, venue for the enforcement of any criminal
20 proceedings or civil cause of action for recovery and attorney
21 fees shall be in the county where the principal office of the
22 State Disbursement Unit is located.

23 If all defendants are nonresidents of the State, an action
24 may be commenced in any county.

25 If the corporate limits of a city, village or town extend
26 into more than one county, then the venue of an action or
27 proceeding instituted by that municipality to enforce any fine,
28 imprisonment, penalty or forfeiture for violation of any
29 ordinance of that municipality, regardless of the county in
30 which the violation was committed or occurred, may be in the
31 appropriate court (i) in the county wherein the office of the
32 clerk of the municipality is located or (ii) in any county in
33 which at least 35% of the territory within the municipality's
34 corporate limits is located.

35 (Source: P.A. 91-212, eff. 7-20-99.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.