

HB 3197 - H AMD
By Representative

1 On page 2, line 8, after "(7)" insert "Legal services
2 provider" means an attorney licensed or otherwise authorized to
3 practice law in Washington and any professional services
4 corporation or other entity that provides legal services to a
5 claimant.

6 (8)"

7 On page 3, line 26, after "damages," insert "as defined in RCW
8 4.56.250,"

9 On page 3, line 28, after "damages" insert ", as defined in RCW
10 4.56.250"

11 On page 5, after line 25, insert the following:

12 "NEW SECTION. **Sec. 6.** (1) Beginning on March 1, 2005, every
13 legal services provider that provides legal services to a claimant
14 in Washington state with the expectation of receiving compensation
15 under a contract or other agreement for providing such services
16 must report to the commissioner by the first of each month any
17 claim related to medical malpractice for which the legal services
18 provider provided legal services, if the claim resulted in a final:

19 (a) Judgment in any amount;

20 (b) Settlement in any amount; or

21 (c) Disposition of a medical malpractice claim resulting in no
22 payment obtained by the legal services provider by or on behalf of
23 a claimant for whom the legal services provider provided services.

24 (2) Reports under this section must be filed with the
25 commissioner within thirty days after the claim is resolved.

26 (3) The commissioner may impose a fine against any legal
27 services provider that violates the requirements of this section.

1 NEW SECTION. **Sec. 7.** The reports required under section 6 of
2 this act must contain the following data in a form prescribed by
3 the commissioner for each claim:

4 (1) The legal services provider's name, address, professional
5 license number, and type of legal practice or expertise for which
6 the legal services provider has malpractice insurance; the name of
7 the legal services provider's firm, if not a sole practitioner, and
8 the location of the legal services provider's main place of
9 business; and the names and professional license numbers, if
10 applicable, of all other legal services providers providing
11 services to the claimant relating to the claim. This information
12 is confidential and exempt from public disclosure, but may be
13 disclosed publicly if the provider or firm provides written
14 consent;

15 (2) The date the claimant entered into a legal services
16 contract or other agreement with the legal services provider;

17 (3) The time and labor required, the novelty and difficulty of
18 the questions involved, and the skill requisite to perform the
19 legal services properly;

20 (4) The fee customarily charged in the locality for similar
21 legal services;

22 (5) The experience, reputation, and ability of the legal
23 services provider or providers performing the legal services;

24 (6) Whether the fee for the legal services was fixed or
25 contingent;

26 (7) Whether the fixed or contingent fee agreement was in
27 writing;

28 (8) The terms of the fee agreement;

29 (9) The name and address of the claimant. This information is
30 confidential and exempt from public disclosure, but may be
31 disclosed publicly, if the claimant provides written consent;

32 (10) The date of suit, if filed;

33 (11) The claimant's age and sex;

34 (12) Specific information about the judgment or settlement
35 including:

36 (a) The date and amount of any judgment or settlement;

37 (b) Whether the settlement:

38 (i) Was the result of an arbitration, judgment, or mediation;
39 and

- 1 (ii) Occurred before or after trial;
- 2 (c) The dollar amount originally demanded, designated, or
- 3 sought in any judgment or settlement;
- 4 (d) The dollar amount actually obtained in any judgment or
- 5 settlement;
- 6 (e) The dollar amount of any judgment or settlement that was
- 7 paid out to the claimant;
- 8 (f) An itemization of:
 - 9 (i) Economic damages, as defined in RCW 4.56.250, including
 - 10 incurred and anticipated medical expense and lost wages;
 - 11 (ii) Noneconomic damages, as defined in RCW 4.56.250;
 - 12 (iii) Loss adjustment expense, including but not limited to
 - 13 court costs, attorneys' fees, and costs of expert witnesses;
 - 14 (g) If there is no judgment or settlement:
 - 15 (i) The date and reason for final disposition; and
 - 16 (ii) The date the case was closed;
- 17 (13) A summary of the occurrence that created the claim, which
- 18 must include:
 - 19 (a) The final diagnosis for which the patient sought or
 - 20 received treatment;
 - 21 (b) A description of any misdiagnosis made by the provider of
 - 22 the actual condition of the patient;
 - 23 (c) The operation, diagnostic, or treatment procedure that
 - 24 caused the injury; and
 - 25 (d) A description of the principal injury that led to the
 - 26 claim; and
 - 27 (14) Any other information required by the commissioner, by
 - 28 rule, that helps the commissioner analyze and evaluate the nature,
 - 29 causes, location, cost, and damages involved in medical malpractice
 - 30 cases.

31 NEW SECTION. **Sec. 8.** Beginning in 2006, the commissioner must
32 prepare an annual report by June 30th that summarizes and analyzes
33 the reports for medical malpractice filed by legal services
34 providers under section 6 of this act. The report must include an
35 analysis of reports of prior years for which data are collected and
36 must show:

- 37 (1) Trends in the availability, quality, and cost of legal
- 38 services provided to claimants;

1 (2) The proportionate share of settlements or awards that go to
2 legal services providers; and

3 (3) The proportionate share of settlements or awards that are
4 received by claimants.

5 NEW SECTION. **Sec. 9.** Nothing in sections 6 through 8 of this
6 act require a legal services provider to disclose information that
7 is protected by the attorney-client privilege under RCW
8 5.60.060(2)."

9 On page 5, line 28, strike "6" and insert "10"

10 Renumber the remaining sections consecutively and correct internal
11 references accordingly.

EFFECT: Requires attorneys to report to the Insurance
Commissioner any medical malpractice claim for which the
attorney provided legal services to the claimant. The report
must include detailed information, similar to that required of
insurers in the underlying bill, relating to the name, address,
and location of the attorney, the occurrence that created the
claim, the disposition of the claim, and details about the
judgment or settlement in the case. In addition, the attorney
must provide information regarding: the novelty and difficulty
of the issues involved in the representation; the fee
arrangement with the claimant; and the dollar amount originally
sought in the claim, the amount actually obtained in a judgment
or settlement, and the amount actually paid to the claimant.
The attorney is not required to report information that would
violate the attorney-client privilege.

The Insurance Commissioner must prepare an annual report based
on this information that includes:

(1) Trends in the availability, quality, and cost of
legal representation;

(2) The proportionate share of settlements or awards that
go to legal services providers; and

(3) The proportionate share of settlements or awards that
are received by claimants.