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**SUBSTITUTE HOUSE BILL 2816**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Simpson, G., Clibborn, Linville, Morrell, Edwards and Kagi; by request of Insurance Commissioner)

READ FIRST TIME 02/06/04.

1       AN ACT Relating to cancellation and nonrenewal of medical  
2 malpractice liability insurance policies; and amending RCW 48.18.290  
3 and 48.18.2901.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 48.18.290 and 1997 c 85 s 1 are each amended to read  
6 as follows:

7       (1) Cancellation by the insurer of any policy which by its terms is  
8 cancellable at the option of the insurer, or of any binder based on  
9 such policy which does not contain a clearly stated expiration date,  
10 may be effected as to any interest only upon compliance with the  
11 following:

12       (a)(i) For policies other than medical malpractice liability  
13 insurance: Written notice of such cancellation, accompanied by the  
14 actual reason therefor, must be actually delivered or mailed to the  
15 named insured not less than forty-five days prior to the effective date  
16 of the cancellation (~~except for cancellation of insurance policies~~  
17 ~~for~~);

18       (ii) For policies that provide medical malpractice liability  
19 insurance: Written notice of such cancellation, accompanied by the

1 actual reason therefore, must be actually delivered or mailed to the  
2 named insured not less than ninety days prior to the effective date of  
3 the cancellation;

4 (iii) For policies canceled due to nonpayment of premiums,  
5 ((which)) written notice ((shall be)) must be actually delivered or  
6 mailed to the named insured not less than ten days prior to ((such date  
7 and except for cancellation of fire insurance policies)) the effective  
8 date of the cancellation; and

9 (iv) For fire insurance policies canceled under chapter 48.53 RCW,  
10 ((which)) written notice ((shall not be)) must be actually delivered or  
11 mailed to the named insured not less than five days prior to ((such  
12 date)) the effective date of the cancellation;

13 (b) Like notice must also be so delivered or mailed to each  
14 mortgagee, pledgee, or other person shown by the policy to have an  
15 interest in any loss which may occur thereunder. For purposes of this  
16 subsection (1)(b), "delivered" includes electronic transmittal,  
17 facsimile, or personal delivery.

18 (2) The mailing of any such notice shall be effected by depositing  
19 it in a sealed envelope, directed to the addressee at his or her last  
20 address as known to the insurer or as shown by the insurer's records,  
21 with proper prepaid postage affixed, in a letter depository of the  
22 United States post office. The insurer shall retain in its records any  
23 such item so mailed, together with its envelope, which was returned by  
24 the post office upon failure to find, or deliver the mailing to, the  
25 addressee.

26 (3) The affidavit of the individual making or supervising such a  
27 mailing, shall constitute prima facie evidence of such facts of the  
28 mailing as are therein affirmed.

29 (4) The portion of any premium paid to the insurer on account of  
30 the policy, unearned because of the cancellation and in amount as  
31 computed on the pro rata basis, must be actually paid to the insured or  
32 other person entitled thereto as shown by the policy or by any  
33 endorsement thereon, or be mailed to the insured or such person as soon  
34 as possible, and no later than forty-five days after the date of notice  
35 of cancellation to the insured for homeowners', dwelling fire, and  
36 private passenger auto. Any such payment may be made by cash, or by  
37 check, bank draft, or money order.

1 (5) This section shall not apply to contracts of life or disability  
2 insurance without provision for cancellation prior to the date to which  
3 premiums have been paid, or to contracts of insurance procured under  
4 the provisions of chapter 48.15 RCW.

5 **Sec. 2.** RCW 48.18.2901 and 2002 c 347 s 1 are each amended to read  
6 as follows:

7 (1) Each insurer shall be required to renew any contract of  
8 insurance subject to RCW 48.18.290 unless one of the following  
9 situations exists:

10 (a) The insurer gives the named insured at least forty-five or  
11 ninety days' notice in writing as provided for in RCW 48.18.290(1)(a)  
12 (i) or (ii), that it (~~proposes to refuse to renew~~) will cancel the  
13 insurance contract upon its expiration date; and sets forth in that  
14 writing the actual reason for refusing to renew;

15 (b) At least twenty days prior to its expiration date, the insurer  
16 has communicated, either directly or through its agent, its willingness  
17 to renew in writing to the named insured and has included in that  
18 writing a statement of the amount of the premium or portion thereof  
19 required to be paid by the insured to renew the policy, and the insured  
20 fails to discharge when due his or her obligation in connection with  
21 the payment of such premium or portion thereof;

22 (c) The insured has procured equivalent coverage prior to the  
23 expiration of the policy period;

24 (d) The contract is evidenced by a written binder containing a  
25 clearly stated expiration date which has expired according to its  
26 terms; or

27 (e) The contract clearly states that it is not renewable, and is  
28 for a specific line, subclassification, or type of coverage that is not  
29 offered on a renewable basis. This subsection (1)(e) does not restrict  
30 the authority of the insurance commissioner under this code.

31 (2) Any insurer failing to include in the notice required by  
32 subsection (1)(b) of this section the amount of any increased premium  
33 resulting from a change of rates and an explanation of any change in  
34 the contract provisions shall renew the policy if so required by that  
35 subsection according to the rates and contract provisions applicable to  
36 the expiring policy. However, renewal based on the rates and contract  
37 provisions applicable to the expiring policy shall not prevent the

1 insurer from making changes in the rates and/or contract provisions of  
2 the policy once during the term of its renewal after at least twenty  
3 days' advance notice of such change has been given to the named  
4 insured.

5 (3) Renewal of a policy shall not constitute a waiver or estoppel  
6 with respect to grounds for cancellation which existed before the  
7 effective date of such renewal, or with respect to cancellation of fire  
8 policies under chapter 48.53 RCW.

9 (4) "Renewal" or "to renew" means the issuance and delivery by an  
10 insurer of a contract of insurance replacing at the end of the contract  
11 period a contract of insurance previously issued and delivered by the  
12 same insurer, or the issuance and delivery of a certificate or notice  
13 extending the term of a contract beyond its policy period or term.  
14 However, (a) any contract of insurance with a policy period or term of  
15 six months or less whether or not made continuous for successive terms  
16 upon the payment of additional premiums shall for the purpose of RCW  
17 48.18.290 and 48.18.293 through 48.18.295 be considered as if written  
18 for a policy period or term of six months; and (b) any policy written  
19 for a term longer than one year or any policy with no fixed expiration  
20 date, shall, for the purpose of RCW 48.18.290 and 48.18.293 through  
21 48.18.295, be considered as if written for successive policy periods or  
22 terms of one year.

23 (5) A midterm blanket reduction in rate, approved by the  
24 commissioner, for medical malpractice insurance shall not be considered  
25 a renewal for purposes of this section.

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