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**SUBSTITUTE HOUSE BILL 2837**

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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, Cody, Simpson, G., Kagi, Lantz, Linville, Morrell, Wallace, Kenney, O'Brien, Miloscia, Sommers, Rockefeller, Moeller, Clibborn, Edwards, Darneille and Dickerson)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to underwriting medical malpractice coverage;  
2 adding a new section to chapter 48.19 RCW; and adding a new section to  
3 chapter 48.18 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.19 RCW  
6 to read as follows:

7 (1) For the purposes of this section, "underwrite" means the  
8 process of selecting, rejecting, or pricing a risk, and includes each  
9 of these processes:

10 (a) Evaluation, selection, and classification of risk;

11 (b) Application of rates, rating rules, and classification plans to  
12 risks that are accepted; and

13 (c) Determining eligibility for:

14 (i) Coverage provisions;

15 (ii) Providing or limiting the amount of coverage or policy limits;

16 or

17 (iii) Premium payment plans.

18 (2) Each medical malpractice insurer must file its underwriting  
19 rules, guidelines, criteria, standards, or other information the

1 insurer uses to underwrite medical malpractice coverage. However, an  
2 insurer is excluded from this requirement if the insurer is ordered  
3 into rehabilitation under chapter 48.31 or 48.99 RCW.

4 (a) Every filing of underwriting information must identify and  
5 explain:

6 (i) The class, type, and extent of coverage provided by the  
7 insurer;

8 (ii) Any changes that have occurred to the underwriting standards;  
9 and

10 (iii) How underwriting changes are expected to affect future  
11 losses.

12 (b) The information under (a) of this subsection must be filed with  
13 the commissioner at least thirty days before it becomes effective and  
14 is subject to public disclosure upon receipt by the commissioner.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.18 RCW  
16 to read as follows:

17 (1) For the purposes of this section:

18 (a) "Adverse action" includes, but is not limited to, the  
19 following:

20 (i) Cancellation, denial, or nonrenewal of medical malpractice  
21 insurance coverage;

22 (ii) Charging a higher insurance premium for medical malpractice  
23 insurance than would have been charged, whether the charge is by any of  
24 the following:

25 (A) Application of a rating rule;

26 (B) Assignment to a rating tier that does not have the lowest  
27 available rates; or

28 (C) Placement with an affiliate company that does not offer the  
29 lowest rates available to the insured within the affiliate group of  
30 insurance companies; or

31 (iii) Any reduction or adverse or unfavorable change in the terms  
32 of coverage or amount of any medical malpractice insurance, including,  
33 but not limited to, the following: Coverage provided to the insured  
34 physician is not as broad in scope as coverage requested by the insured  
35 physician but is available to other insured physicians of the insurer  
36 or any affiliate.

37 (b) "Affiliate" has the same meaning as in RCW 48.31B.005(1).

1 (c) "Claim" means a demand for payment by an allegedly injured  
2 third party under the terms and conditions of an insurance contract.

3 (d) "Tier" has the same meaning as in RCW 48.18.545(1)(h).

4 (2) When an insurer takes adverse action against an insured, the  
5 insurer may consider the following factors only in combination with  
6 other substantive underwriting factors:

7 (a) An insured has inquired about the nature or scope of coverage  
8 under a medical malpractice insurance policy;

9 (b) An insured has notified the insurer, pursuant to the provisions  
10 of the insurance contract, about a potential claim, which did not  
11 ultimately result in the filing of a claim; or

12 (c) A claim was closed without payment.

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