
SENATE BILL 5804

State of Washington

58th Legislature

2003 Regular Session

By Senators Keiser, Thibaudeau, Kline and Kohl-Welles

Read first time 02/13/2003. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to creating a joint underwriting association for
2 gynecologists and obstetricians; and adding a new chapter to Title 48
3 RCW.

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

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Association" means the joint underwriting association
9 established under this chapter.

10 (2) "Gynecologist and obstetrician insurance" or "insurance" means
11 insurance coverage against the legal liability of the insured and
12 against loss damage or expense incident to a claim arising out of the
13 death or injury of a person as a result of negligence or malpractice in
14 rendering professional service by a licensee.

15 (3) "Licensee" means a person or facility licensed to provide
16 gynecological or obstetrical services.

17 NEW SECTION. **Sec. 2.** The insurance commissioner shall approve by
18 December 31, 2003, a reasonable plan for the establishment of a

1 nonprofit, joint underwriting association for gynecologist and
2 obstetrician insurance subject to the conditions and limitations
3 contained in this chapter. This plan must include a market assistance
4 plan to be used prior to activating a joint underwriting association.

5 NEW SECTION. **Sec. 3.** The association is comprised of all insurers
6 possessing a certificate of authority to write and engaged in writing
7 medical malpractice insurance within this state and general casualty
8 companies. Every insurer must be a member of the association and must
9 remain a member as a condition of its authority to continue to transact
10 business in this state. Only licensees may participate in the joint
11 underwriting authority.

12 NEW SECTION. **Sec. 4.** A licensee may apply to the association to
13 purchase insurance and the association must offer a policy with
14 liability limits of one million dollars per claim and three million
15 dollars per annual aggregate, or any other minimum level of mandated
16 coverage as determined by the department of licensing. The insurance
17 commissioner shall require the use of a rating plan for malpractice
18 insurance that permits rates to be modified according to practice
19 volume. Any rating plan for malpractice insurance used under this
20 section must be based on sound actuarial principles.

21 NEW SECTION. **Sec. 5.** The insurance commissioner may select an
22 insurer to administer a plan established under this chapter. The
23 insurer must be admitted to transact the business of insurance of the
24 state of Washington.

25 NEW SECTION. **Sec. 6.** The insurance commissioner may not approve
26 a policy written on a claims made basis by an insurer doing business in
27 this state unless the insurer guarantees to the commissioner the
28 continued availability of suitable liability protection for licensees
29 subsequent to the discontinuance of professional practice by a licensee
30 or the sooner termination of the insurance policy by the insurer for so
31 long as there is a reasonable probability of a claim for injury for
32 which the licensee might be liable.

1 NEW SECTION. **Sec. 7.** A risk management program for insureds of
2 the association must be established as a part of the plan. This
3 program must include but not be limited to: Investigation and analysis
4 of frequency, severity, and causes of adverse or untoward outcomes;
5 development of measures to control these injuries; systematic reporting
6 of incidents; investigation and analysis of patient complaints; and
7 education of association members to improve quality of care and risk
8 reduction.

9 NEW SECTION. **Sec. 8.** The insurance commissioner may adopt all
10 rules necessary to ensure the efficient, equitable operation of the
11 association, including but not limited to, rules requiring or limiting
12 certain policy provisions.

13 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
14 a new chapter in Title 48 RCW.

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