

# HOUSE BILL REPORT

## HB 1223

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**As Reported by House Committee On:**  
Financial Institutions & Insurance

**Title:** An act relating to underwriting medical malpractice coverage.

**Brief Description:** Underwriting medical malpractice coverage.

**Sponsors:** Representatives Schual-Berke, Cody, Lantz, Fromhold, Simpson, P. Sullivan, Morrell, Williams, Dickerson, Linville, Clibborn, Kagi and Ormsby.

**Brief History:**

**Committee Activity:**

Financial Institutions & Insurance: 2/17/05, 3/1/05 [DP].

**Brief Summary of Bill**

- Defines "underwriting" as the process of selecting, rejecting, or pricing a risk.
- Requires each medical malpractice insurer to file its underwriting rules and standards with the Insurance Commissioner.
- Defines "adverse action" to include cancelling, denying, nonrenewing, reducing coverage, or charging more for a medical malpractice policy.
- Prevents a medical malpractice insurer from taking an adverse action (deny, cancel, nonrenew or adjust premiums) against an insured if the insured has inquired about the nature or scope of the policy, notified the insurer about a potential claim, or had a claim closed with no payment. The insurers may only take the adverse action if there are other substantive underwriting factors.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Santos, Schual-Berke, Serben, Simpson, Strow and Williams.

**Staff:** Jon Hedegard (786-7127).

**Background:**

The Office of the Insurance Commissioner (OIC) is responsible for the licensing and regulation of insurance companies doing business in this state. This includes insurers offering coverage for medical malpractice. The forms and rates of medical malpractice policies are "use and file." After issuing any policy, an insurer must file the forms and rates with the OIC within 30 days.

Current law does not require insurers, including medical malpractice insurers, to file underwriting standards.

Under current law, rates and forms are subject to public disclosure when the filing becomes effective. Actuarial formulas, statistics, and assumptions submitted in support of the filing are not subject to public disclosure.

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### **Summary of Bill:**

#### *Underwriting Provisions.*

"Underwrite" is defined as the process of selecting, rejecting, or pricing a risk, including:

- evaluation, selection, and classifying a risk;
- application of rates and rating plans; and
- determining eligibility for coverage provisions, providing or limiting coverage amounts, or premium payment plans.

Medical malpractice insurers must file their underwriting rules, guidelines, criteria, standards, or other information used to underwrite medical malpractice coverage at least 30 days before it becomes effective. The filings of underwriting information must identify and explain:

- the class, type, and extent of coverage provided by the insurer;
- any changes that have occurred to the underwriting standards; and
- how underwriting changes are expected to affect future losses.

The information is subject to public disclosure upon receipt by the Insurance Commissioner.

An insurer is excluded from the rating provision requirements if the insurer is ordered into rehabilitation under chapter 48.31 or 48.99 RCW.

#### *Adverse Action Provisions.*

As defined, "adverse action" includes:

- cancellation, denial or nonrenewal of coverage;
- charging higher rates by using a rating rule, assigning the insured to a rating tier that does not offer the lowest rates, or placing the insured with a company that does not offer the lowest rates; and
- reducing or making unfavorable changes in the terms of amount of coverage.

When an insurer takes adverse action against an insured, the insurer may consider the following factors only in combination with other substantive underwriting factors:

- an insured has inquired about the nature or scope of coverage under a medical malpractice insurance policy;

- an insured has notified the insurer, pursuant to the provisions of the insurance contract, about a potential claim, which did not ultimately result in the filing of a claim; or
  - a claim was closed without payment.
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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Insurers are not required to file underwriting standards. It isn't clear how insurers decide what risks are acceptable and what risks are not acceptable. The bill doesn't impose criteria or standards for underwriting, it merely provides more information to the public. Physicians and facilities may be non-renewed or not accepted by an insurer even though they have no claims. The process needs more transparency.

**Testimony Against:** None.

**Persons Testifying:** Kerry Watrin, MD.

**Persons Signed In To Testify But Not Testifying:** None.