
**Financial Institutions &
Insurance Committee**

HB 1929

Brief Description: Regulating medical malpractice rate filings.

Sponsors: Representatives Kirby, Morrell, Campbell and Lantz.

Brief Summary of Bill

- Requires public hearings on medical malpractice rate increases that are 15 percent or greater.
- Allows public hearings on medical malpractice rate changes other than a 15 percent or greater increases.
- Allows any party to intervene or comment.
- Awards advocacy and witness fees and expenses in specified circumstances.

Hearing Date: 2/17/05

Staff: Jon Hedegard (786-7127).

Background:

The Insurance Commissioner (Commissioner) 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 Commissioner within 30 days. The Commissioner may disapprove of a rate of form. The Commissioner must notify an insurer of the reason the filing is disapproved and state when the filing is no longer effective. An insurer may demand a hearing to contest the action of the Commissioner. The hearing is presided over by the Commissioner, a designee of the Commissioner, or an administrative law judge if requested by the insurer. The hearing is conducted under Chapter 48.04 RCW and Chapter 34.05 RCW.

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 a filing are not subject to public disclosure.

Summary of Bill:

Rate increases over 15 percent.

If a medical malpractice rate filing rate increase is 15 percent or greater, the Commissioner must order a public hearing.

All other rate changes.

The Commissioner must notify the public of any medical malpractice rate filing by an insurer for a rate change that is less than a 15 percent increase. The filing is approved 45 days after public notice unless:

- a consumer or his or her representative requests a hearing within thirty days and the Commissioner grants the request;
- the Commissioner decides to hold a hearing; or
- the Commissioner disapproves the filing.

Notice.

The public notice must be made via distribution to the news media, posting on the web site maintained by the Commissioner, and by mail to any member of the public who requests placement on a mailing list maintained by the Commissioner for this purpose.

Involvement in hearings or proceedings.

With respect to a hearing or administrative or legal proceedings, any person may:

- initiate or intervene as a party;
- comment in writing or in person at any public hearing on the proceedings; or
- challenge any action of the Insurance Commissioner.

Impact on rate filings.

If rate hearings are held, the insurer may not use those rates until the Commissioner approves the filing, either as originally submitted or as amended, after the public hearing. Upon a final determination of a disapproval or amendment of a rate filing, the insurer must issue an endorsement changing the rate to comply with the Commissioner's disapproval. The endorsement is effective on the date the rate is no longer effective.

Advocacy fees, witness fees, and expenses.

The Commissioner or a court shall award reasonable advocacy and witness fees and expenses to any person who demonstrates that:

- the person represents the interests of consumers; and
- the person made a substantial contribution to the adoption of any order, rule, or decision by the commissioner or a court.

When an award of fees or expenses occurs in a proceeding related to a rate application, the award must be paid by the applicant.

Contemporaneous judicial proceedings.

If a judicial proceeding directly involving the rate filing and initiated by the insurer or an intervener begins, the Commissioner has thirty days after conclusion of the judicial proceedings to approve or disapprove the rate filing. The Commissioner may disapprove an application without a hearing if a stay is in effect barring the Commissioner from holding a hearing.

Open Records Act and Administrative Procedures Act.

All medical malpractice insurance rate filings and related material submitted to the Commissioner by the insurer are subject to the public disclosure act, chapter 42.17 RCW.

Hearings and other administrative proceedings must be conducted under chapter 34.05 RCW.

Appropriation: None.

Fiscal Note: Not requested.

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