

# FINAL BILL REPORT

## SSB 5263

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Synopsis as Enacted

**Brief Description:** Modifying medical malpractice closed claim reporting requirements.

**Sponsors:** Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Franklin, Hobbs, Berkey and Hatfield; by request of Insurance Commissioner).

**Senate Committee on Financial Institutions & Insurance**

**House Committee on Insurance, Financial Services & Consumer Protection**

**Background:** Risk retention groups (RRGs) were created by the federal Liability Risk Retention Act of 1986. RRGs are captive insurance companies, owned by their members, to provide third-party liability coverage such as medical malpractice insurance. Other examples are professional liability, errors and omissions, and directors and officers insurance.

RRGs must be chartered and licensed as liability insurance companies under the laws of one of the 50 states. This includes a feasibility study approved by the chartering state. Washington law, when implementing the federal law, requires that every policy RRG issues state, in large type, that RRGs may not be subject to all of the insurance laws and regulations of the state. RRGs are not allowed to join or contribute to any insurance insolvency guaranty fund. Once state-chartered and licensed, they may conduct interstate operations.

In 2006, a comprehensive Health Care Liability Reform Act was enacted in Washington. It imposes reporting requirements for closed medical malpractice claims beginning January 1, 2008. The information required from the insuring entities is that which helps the insurance commissioner monitor losses and claim development patterns in the medical malpractice insurance market. The insuring entities required to report include RRGs. Reported information is protected and exempt from public disclosure.

If a claim is not covered by insurance, the health care provider or facility named in the malpractice claim must make the report to the insurance commissioner. RRGs may not make this report on behalf of their insured clients because their clients are insured and an RRG may interpret the law such that federal law preempts this state requirement.

**Summary:**When a medical malpractice claim is not reported by the insuring entity, the health care provider or facility named in the malpractice claim must make the required reporting to the insurance commissioner. This captures reporting of the closed claim when that claim is insured by an RRG and when the insuring entity is an unauthorized insurer asserting some other legal reason why it is not required to report to the insurance commissioner.

**Votes on Final Passage:**

Senate	47	0
House	97	0

**Effective:** July 22, 2007