

HOUSE BILL NO. HB0206

Health care malpractice insurance regulation.

Sponsored by: Representative(s) Simpson, Buchanan and Ross

A BILL

for

1 AN ACT relating to insurance; regulating health care
2 malpractice insurance as a noncompetitive insurance market;
3 specifying requirements for rate regulation of health care
4 malpractice insurance; providing for reporting on
5 regulation of health care malpractice insurance; providing
6 definitions; specifying applicability; and providing for an
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 26-3-124(b), 26-14-103(a)(vii)(C), by
12 creating a new subparagraph (D) and by renumbering (D) as
13 (E) and by creating new paragraphs (xiii) through (xv),
14 26-14-105(b)(i), 26-14-106(f) by creating a new paragraph
15 (v) and 26-14-108(a) are amended to read:

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1 **26-3-124. Annual statement; mandatory reporting of**
2 **claims against health care providers; confidentiality;**
3 **abstract of statistics.**

4
5 (b) The names of health care providers and any
6 records pertaining thereto are confidential. The
7 commissioner shall prepare an abstract of all pertinent
8 statistics for inclusion in his annual report to the
9 governor pursuant to W.S. 9-2-1014. Based upon the
10 information provided pursuant to this section for the
11 immediate preceding year and other previous years and upon
12 his regulation of health care malpractice insurance rates
13 pursuant to chapter 14 of this code, the commissioner shall
14 include in his annual report a recommendation as to whether
15 continued regulation of health care malpractice insurance
16 as a noncompetitive market is appropriate.

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18 **26-14-103. Definitions.**

19
20 (a) As used in this chapter:

21
22 (vii) "Noncompetitive market" means:
23

1 (C) Credit property insurance, including
 2 vendors' single interest physical damage insurance where
 3 the buyer pays a separate charge for insurance;~~or~~

4

5 (D) Health care malpractice insurance; or

6

7 ~~(D)~~ (E) Any market in which:

8

9 (I) There are less than five (5)
 10 insurers actually issuing a particular line of insurance as
 11 determined by the commissioner;

12

13 (II) Three (3) insurers transact more
 14 than ninety percent (90%) of the business;

15

16 (III) Two (2) insurers transact more
 17 than eighty percent (80%) of the business; or

18

19 (IV) There is reasonable evidence, as
 20 determined by the commissioner, of collusion among insurers
 21 in setting prices.

22

23 (xiii) "Health care malpractice insurance" means
 24 insurance for liability arising from any claim against a

1 health care provider for alleged medical treatment, alleged
2 lack of medical treatment, or other alleged departure from
3 accepted standards of health care which results in damage
4 to the patient;

5
6 (xiv) "Health care provider" means a physician,
7 dentist, health care facility or any person employed by a
8 physician, dentist or health care facility who, in
9 accordance with law or a license granted by a state agency,
10 provides health care;

11
12 (xv) "Health care facility" means a hospital,
13 clinic or nursing home where a health care provider
14 provides health care to patients.

15
16 **26-14-105. Rating standards; methods.**

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18 (b) Risks may be classified in any way except that no
19 risk may be classified in whole or in part on the basis of
20 race, color, creed or national origin. In determining
21 whether rates in a noncompetitive market are excessive,
22 inadequate or unfairly discriminatory, consideration may be
23 given to the following elements:

24

1 (i) Basic Rate Factors. - Except as otherwise
2 provided in this paragraph, consideration may be given to
3 past and prospective loss and expense experience within and
4 outside of this state, to catastrophe hazards and
5 contingencies, to events or trends within and outside of
6 this state, to dividends or savings to policyholders,
7 members or subscribers and to all other factors and
8 judgments deemed relevant by the insurer. For health care
9 malpractice insurance, loss and expense experience shall be
10 limited to past and prospective loss and expense experience
11 within this state unless the commissioner finds that there
12 does not exist sufficient experience to allow for an
13 actuarially sound determination. If the commissioner makes
14 such a finding, experience shall be limited to Wyoming and
15 as few selected other states with reasonably similar
16 characteristics as necessary for an actuarially sound
17 determination as determined by the commissioner;

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19 **26-14-106. Rate regulation.**

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21 (f) As a part of any investigation under subsection
22 (d) of this section the commissioner:

23

1 (v) Notwithstanding paragraph (iv) of this
2 subsection, shall base any regulation of rates for health
3 care malpractice insurance upon experience or loss data in
4 Wyoming alone, unless the commissioner finds that there
5 does not exist sufficient experience to allow for an
6 actuarially sound determination. If the commissioner makes
7 such a finding, experience and loss data shall be limited
8 to Wyoming and as few selected other states with reasonably
9 similar characteristics as necessary for an actuarially
10 sound determination as determined by the commissioner.

11
12 **26-14-108. Disapproval of rates; bases; procedures.**

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14 (a) The commissioner shall disapprove a rate for use
15 in a noncompetitive market if he finds pursuant to
16 subsection (b) of this section that the rate is excessive,
17 inadequate, ~~or~~ unfairly discriminatory or not based upon
18 appropriate experience or loss data.

19
20 **Section 2.** This act applies to health care
21 malpractice insurance policies delivered, issued for
22 delivery, continued or renewed in this state on or after
23 July 1, 2004.

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1 **Section 3.** This act is effective July 1, 2004.

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(END)