

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4174-05  
Bill No.: SCS for HCS for HB 1305  
Subject: Insurance - General; Insurance Dept.; Health Care Professionals  
Type: Original  
Date: April 12, 2004

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Insurance Dedicated	\$2,050	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$2,050</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Office of Administration - Division of Budget and Planning, Department of Economic Development - Division of Professional Registration and Office of State Treasurer** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Insurance (INS)** state the additional workload requirements for examining activities, operations, market conduct, and financial condition of company will be conducted with existing staff. Medical malpractice insurers will be required to refile policy forms to comply with the cancellation provisions. Policy forms must be submitted to the INS for review along with a \$50 filing fee. There are 41 insurers that write medical malpractice insurance. The INS estimates one-time revenues to the Insurance Dedicated Fund of \$2,050 (41 insurers X \$50).

Officials from the **Office of the Secretary of State (SOS)** state this proposal creates notice provisions, reporting requirements, public market rates and presumptions for the Department of Insurance and entities providing medical malpractice and professional negligence insurance. This proposal may result in the Department of Insurance promulgating rules to implement the proposal. Based on experience with other divisions, the rules, regulations and forms issued by the Department could require as many as 22 pages in the *Code of State Regulations*. For any given rule, roughly one-half again as many pages are published in the *Missouri Register* as are

ASSUMPTION (continued)

published in the Code because cost statements, fiscal notes and notices are not published in the Code. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. The actual costs could be more or less than the numbers given. The fiscal impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. The SOS estimates the cost of this legislation to be \$1,353 [(22 pp x \$27) + (33 pp x \$23)].

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

**The proposal will result in an increase in Total State Revenue.**

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>INSURANCE DEDICATED FUND</b>			
<u>Income - Department of Insurance</u>			
Policy form filing fees	<u>\$2,050</u>	<u>\$0</u>	<u>\$0</u>
<b>ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND</b>	<b><u>\$2,050</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal could have a direct effect on the medical malpractice insurance premiums paid by physicians and small businesses that provide medical malpractice insurance for their employees.

## DESCRIPTION

This proposal makes several changes to the laws regarding medical malpractice insurance. The proposal includes medical malpractice insurance policies within the definition of "commercial casualty insurance" for the purposes of providing notice when canceling or renewing such policies (Sections 379.882 - 379.888, RSMo). Under current law, medical malpractice insurance is not included. This proposal subjects certain malpractice associations (383s) to Sections 379.882 - 379.893 regarding commercial casualty insurance, Section 379.321.6 dealing with rate filing and notice requirements of commercial casualty insurance, and Sections 374.202 - 374.207 on the examination powers of the Director of the Department of Insurance.

This proposal prohibits insurance companies and other entities providing malpractice insurance to health care providers in Missouri from: (1) increasing premium charges more than \$1,000 without 60 days' prior notice to the insured; (2) refusing to renew policies without 60 days' prior notice, unless the refusal to renew is based upon nonpayment of insurance premiums or license termination or suspension; and (3) ceasing to issue insurance policies without 180 days' prior notice to the Department.

This proposal requires the Department of Insurance to establish 12 to 24 risk-reporting categories for medical malpractice insurance premiums and regulations for their reporting by May 30, 2005.

This proposal requires insurance companies providing malpractice insurance to provide the department of insurance, by June 1, 2005, and annually thereafter, reports on premium rates charged by category.

This proposal requires the Department of Insurance, by December 31, 2006, and annually thereafter, to establish and publish a market rate reflecting the median of the actual rates charged for each risk-reporting category for the preceding year.

This proposal provides that, after January 1, 2007, insurance premium rates charged by insurance companies and other entities providing malpractice insurance to health care providers in Missouri which are no greater than 20% higher or lower than the published market rate will be presumed reasonable, and rates greater than 20% higher or lower will be presumed unreasonable. The proposal establishes a procedure by which medical malpractice insurers can make premium rate changes otherwise presumed unreasonable under Section 383.405 (greater than 20%), including: prior notice to the Director (60 days prior to the effective date of the proposed rate change); a hearing (within 30 days after receipt of the insurer's notice); and an appeals process for the insurer if the Director determines the rate change to be unjustified.

DESCRIPTION (continued)

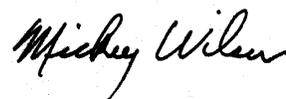
The proposal establishes penalties (not to exceed \$500 per violation or \$5,000 if determined to be a wilful violation) for violations of the act and authorizes license suspension upon the written order of the Director after notice to the insurer and a hearing.

The effective date of the substitute is contingent upon the passage and approval of House Bill 1304 (tort reform bill).

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration -  
    Division of Budget and Planning  
Department of Economic Development  
Department of Insurance  
Office of Secretary of State  
Office of State Treasurer



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