

AMENDMENTS TO HOUSE BILL NO. 1907

Sponsor: REPRESENTATIVE PASHINSKI

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1 Amend Bill, page 1, line 15, by inserting after "providing"
2 for declaration of policy,

3 Amend Bill, page 1, line 15, by inserting after "damages"
4 , for Medical Care Availability and Reduction of Error Fund, for
5 medical professional liability insurance by the joint
6 underwriting association, for approval of medical professional
7 liability insurers and for administrative definitions; and
8 providing for functions of the Department of Health

9 Amend Bill, page 1, lines 18 through 20, by striking out all
10 of said lines and inserting

11 Section 1. Sections 102, 505(d), 712(g), 733, 741 and 902 of
12 the act of March 20, 2002 (P.L.154, No.13), known as the Medical
13 Care Availability and Reduction of Error (Mcare) Act, are
14 amended to read:

15 Section 102. Declaration of policy.

16 The General Assembly finds and declares as follows:

17 (1) It is the purpose of this act to ensure that medical
18 care is available in this Commonwealth through a
19 comprehensive and high-quality health care system.

20 (2) Access to a full spectrum of hospital services and
21 to highly trained physicians in all specialties must be
22 available across this Commonwealth.

23 (3) To maintain this system, medical professional
24 liability insurance has to be obtainable at an affordable and
25 reasonable cost in every geographic region of this
26 Commonwealth.

27 (4) A person who has sustained injury or death as a
28 result of medical negligence by a health care provider must
29 be afforded a prompt determination and fair compensation.

30 (5) Every effort must be made to reduce and eliminate
31 medical errors by identifying problems and implementing
32 solutions that promote patient safety.

33 (6) Recognition and furtherance of all of these elements
34 is essential to the public health, safety and welfare of all
35 the citizens of Pennsylvania.

1 (7) The costs of medical malpractice insurance premiums
2 are directly impacted by medical errors.

3 (8) Research shows that a vast majority of medical
4 errors are systemic rather than human errors.

5 (9) Total quality management systems implemented in
6 industry and by the United States Department of Veterans
7 Affairs hospital system have successfully reduced medical
8 errors.

9 (10) It is the purpose of this act to improve patient
10 safety, improve health care quality and lower health care
11 costs by offering medical malpractice premium discounts to
12 health care providers that institute total quality management
13 health care systems.

14 Amend Bill, page 2, by inserting between lines 26 and 27

15 Section 712. Medical Care Availability and Reduction of Error
16 Fund.

17 * * *

18 (g) Additional adjustments of the prevailing primary
19 premium.--The department shall adjust the applicable prevailing
20 primary premium of each participating health care provider in
21 accordance with the following:

22 (1) The applicable prevailing primary premium of a
23 participating health care provider which is not a hospital
24 may be adjusted through an increase in the individual
25 participating health care provider's prevailing primary
26 premium not to exceed 20%. Any adjustment shall be based upon
27 the frequency of claims paid by the fund on behalf of the
28 individual participating health care provider during the past
29 five most recent claims periods and shall be in accordance
30 with the following:

31 (i) If three claims have been paid during the past
32 five most recent claims periods by the fund, a 10%
33 increase shall be charged.

34 (ii) If four or more claims have been paid during
35 the past five most recent claims periods by the fund, a
36 20% increase shall be charged.

37 (2) The applicable prevailing primary premium of a
38 participating health care provider which is not a hospital
39 and which has not had an adjustment under paragraph (1) may
40 be adjusted through an increase in the individual
41 participating health care provider's prevailing primary
42 premium not to exceed 20%. Any adjustment shall be based upon
43 the severity of at least two claims paid by the fund on
44 behalf of the individual participating health care provider
45 during the past five most recent claims periods.

46 (3) The applicable prevailing primary premium of a
47 participating health care provider not engaged in direct
48 clinical practice on a full-time basis may be adjusted
49 through a decrease in the individual participating health

1 care provider's prevailing primary premium not to exceed 10%.
2 Any adjustment shall be based upon the lower risk associated
3 with the less-than-full-time direct clinical practice.

4 (4) The applicable prevailing primary premium of a
5 hospital may be adjusted through an increase or decrease in
6 the individual hospital's prevailing primary premium not to
7 exceed 20%. Any adjustment shall be based upon the frequency
8 and severity of claims paid by the fund on behalf of other
9 hospitals of similar class, size, risk and kind within the
10 same defined region during the past five most recent claims
11 periods.

12 (5) A participating health care provider that
13 implements, to the satisfaction of the Department of Health,
14 a total quality management health care system approved by the
15 Department of Health shall be entitled to a 20% discount in
16 the applicable prevailing primary premium for each fiscal
17 year in which the system is implemented.

18 * * *

19 Section 733. Deficit.

20 (a) Filing.--In the event the joint underwriting association
21 experiences a deficit in any calendar year, the board of
22 directors shall file with the commissioner the deficit.

23 (b) Approval.--Within 30 days of receipt of the filing, the
24 commissioner shall approve or deny the filing. If approved, the
25 joint underwriting association is authorized to borrow funds
26 sufficient to satisfy the deficit.

27 (c) Rate filing.--Within 30 days of receiving approval of
28 its filing in accordance with subsection (b), the joint
29 underwriting association shall file a rate filing with the
30 department. The commissioner shall approve the filing if [the]:

31 (1) The premiums generate sufficient income for the
32 joint underwriting association to avoid a deficit during the
33 following 12 months and to repay principal and interest on
34 the money borrowed in accordance with subsection (b).

35 (2) There is a 20% discount in each premium for a health
36 care provider that implements, to the satisfaction of the
37 Department of Health, a total quality management health care
38 system approved by the Department of Health.

39 Section 741. Approval.

40 In order for an insurer to issue a policy of medical
41 professional liability insurance to a health care provider or to
42 a professional corporation, professional association or
43 partnership which is entirely owned by health care providers,
44 the insurer must [be] comply with all of the following:

45 (1) Be authorized to write medical professional
46 liability insurance in accordance with the act of May 17,
47 1921 (P.L.682, No.284), known as The Insurance Company Law of
48 1921.

49 (2) Offer a 20% discount in the premium for a health
50 care provider that implements, to the satisfaction of the
51 Department of Health, a total quality management health care

1 system approved by the Department of Health.

2 Section 902. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Department." The Department of Health of the Commonwealth.

7 "Licensure board." Either or both of the following,
8 depending on the licensure of the affected individual:

9 (1) The State Board of Medicine.

10 (2) The State Board of Osteopathic Medicine.

11 "Physician." An individual licensed under the laws of this
12 Commonwealth to engage in the practice of:

13 (1) medicine and surgery in all its branches within the
14 scope of the act of December 20, 1985 (P.L.457, No.112),
15 known as the Medical Practice Act of 1985; or

16 (2) osteopathic medicine and surgery within the scope of
17 the act of October 5, 1978 (P.L.1109, No.261), known as the
18 Osteopathic Medical Practice Act.

19 Section 2. The act is amended by adding a section to read:

20 Section 911. Department of Health.

21 (a) Total quality management health care system approval.--

22 (1) A total quality management health care system may
23 apply to the department for approval. The application must be
24 on a form prescribed by the Department of Health and must be
25 accompanied by a fee set by regulation.

26 (2) Within 30 days of receipt of an application under
27 paragraph (1), the department shall do one of the following:

28 (i) If the department determines that the system
29 will successfully reduce medical errors by a health care
30 provider, approve the application.

31 (ii) If the department determines that the system
32 will not successfully reduce medical errors by a health
33 care provider, deny the application. This subparagraph is
34 subject to 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial
35 review of Commonwealth agency action).

36 (3) Failure to act within the time specified in
37 paragraph (2) shall be deemed approval of the application.

38 (b) Total quality management health care system
39 implementation.--The department shall provide health care
40 providers with certification of implementation of total quality
41 management health care systems as required by sections 712(g)
42 (5), 733(c)(2) and 741(2).

43 (c) Regulations.--The department may promulgate regulations
44 to implement this section.

45 Amend Bill, page 2, line 27, by striking out "2" and
46 inserting