



General Assembly

January Session, 2007

Committee Bill No. 249

LCO No. 5114

05114SB00249INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

**AN ACT CONCERNING MEDICAL MALPRACTICE DATA REGARDING
CHIROPRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-395 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) As used in this section:

4 (1) "Claim" means a request for indemnification filed by a physician,
5 surgeon, chiropractor, hospital, advanced practice registered nurse or
6 physician assistant pursuant to a professional liability policy for a loss
7 for which a reserve amount has been established by an insurer;

8 (2) "Closed claim" means a claim that has been settled, or otherwise
9 disposed of, where the insurer has made all indemnity and expense
10 payments on the claim; and

11 (3) "Insurer" means an insurer that insures a physician, surgeon,
12 chiropractor, hospital, advanced practice registered nurse or physician
13 assistant against professional liability. "Insurer" includes, but is not
14 limited to, a captive insurer or a self-insured person.

15 (b) On and after January 1, 2006, each insurer shall provide to the
16 Insurance Commissioner a closed claim report, on such form as the
17 commissioner prescribes, in accordance with this section. The insurer
18 shall submit the report not later than ten days after the last day of the
19 calendar quarter in which a claim is closed. The report shall only
20 include information about claims settled under the laws of this state.

21 (c) The closed claim report shall include:

22 (1) Details about the insured and insurer, including: (A) The name
23 of the insurer; (B) the professional liability insurance policy limits and
24 whether the policy was an occurrence policy or was issued on a claims-
25 made basis; (C) the name, address, health care provider professional
26 license number and specialty coverage of the insured; and (D) the
27 insured's policy number and a unique claim number.

28 (2) Details about the injury or loss, including: (A) The date of the
29 injury or loss that was the basis of the claim; (B) the date the injury or
30 loss was reported to the insurer; (C) the name of the institution or
31 location at which the injury or loss occurred; (D) the type of injury or
32 loss, including a severity of injury rating that corresponds with the
33 severity of injury scale that the Insurance Commissioner shall establish
34 based on the severity of injury scale developed by the National
35 Association of Insurance Commissioners; and (E) the name, age and
36 gender of any injured person covered by the claim. Any individually
37 identifiable health information, as defined in 45 CFR 160.103, as from
38 time to time amended, submitted pursuant to this subdivision shall be
39 confidential. The reporting of the information is required by law. If
40 necessary to comply with federal privacy laws, including the Health
41 Insurance Portability and Accountability Act of 1996, (P.L. 104-191)
42 (HIPAA), as from time to time amended, the insured shall arrange
43 with the insurer to release the required information.

44 (3) Details about the claims process, including: (A) Whether a
45 lawsuit was filed and, if so, in which court; (B) the outcome of such
46 lawsuit; (C) the number of other defendants, if any; (D) the stage in the

47 process when the claim was closed; (E) the dates of the trial, if any; (F)
48 the date of the judgment or settlement, if any; (G) whether an appeal
49 was filed and, if so, the date filed; (H) the resolution of any appeal and
50 the date such appeal was decided; (I) the date the claim was closed; (J)
51 the initial indemnity and expense reserve for the claim; and (K) the
52 final indemnity and expense reserve for the claim.

53 (4) Details about the amount paid on the claim, including: (A) The
54 total amount of the initial judgment rendered by a jury or awarded by
55 the court; (B) the total amount of the settlement if there was no
56 judgment rendered or awarded; (C) the total amount of the settlement
57 if the claim was settled after judgment was rendered or awarded; (D)
58 the amount of economic damages, as defined in section 52-572h, or the
59 insurer's estimate of the amount in the event of a settlement; (E) the
60 amount of noneconomic damages, as defined in section 52-572h, or the
61 insurer's estimate of the amount in the event of a settlement; (F) the
62 amount of any interest awarded due to the failure to accept an offer of
63 judgment or compromise; (G) the amount of any remittitur or additur;
64 (H) the amount of final judgment after remittitur or additur; (I) the
65 amount paid by the insurer; (J) the amount paid by the defendant due
66 to a deductible or a judgment or settlement in excess of policy limits;
67 (K) the amount paid by other insurers; (L) the amount paid by other
68 defendants; (M) whether a structured settlement was used; (N) the
69 expense assigned to and recorded with the claim, including, but not
70 limited to, defense and investigation costs, but not including the actual
71 claim payment; and (O) any other information the commissioner
72 determines to be necessary to regulate the professional liability
73 insurance industry with respect to physicians, surgeons, chiropractors,
74 hospitals, advanced practice registered nurses or physician assistants,
75 ensure the industry's solvency and ensure that such liability insurance
76 is available and affordable.

77 (d) (1) The commissioner shall establish an electronic database
78 composed of closed claim reports filed pursuant to this section.

79 (2) The commissioner shall compile the data included in individual
80 closed claim reports into an aggregated summary format and shall
81 prepare a written annual report of the summary data. The report shall
82 provide an analysis of closed claim information including a minimum
83 of five years of comparative data, when available, trends in frequency
84 and severity of claims, itemization of damages, timeliness of the claims
85 process, and any other descriptive or analytical information that would
86 assist in interpreting the trends in closed claims.

87 (3) The annual report shall include a summary of rate filings for
88 professional liability insurance for physicians, surgeons, chiropractors,
89 hospitals, advanced practice registered nurses and physician
90 assistants, which have been approved by the department for the prior
91 calendar year, including an analysis of the trend of direct losses,
92 incurred losses, earned premiums and investment income as compared
93 to prior years. The report shall include base premiums charged by
94 insurers for each specialty and the number of providers insured by
95 specialty for each insurer.

96 (4) Not later than March 15, 2007, and annually thereafter, the
97 commissioner shall submit the annual report to the joint standing
98 committee of the General Assembly having cognizance of matters
99 relating to insurance in accordance with section 11-4a. The
100 commissioner shall also (A) make the report available to the public, (B)
101 post the report on its Internet site, and (C) provide public access to the
102 contents of the electronic database after the commissioner establishes
103 that the names and other individually identifiable information about
104 the claimant and practitioner have been removed.

105 (e) The Insurance Commissioner shall provide the Commissioner of
106 Public Health with electronic access to all information received
107 pursuant to this section. The Commissioner of Public Health shall
108 maintain the confidentiality of such information in the same manner
109 and to the same extent as required for the Insurance Commissioner.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2007	38a-395
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Statement of Purpose:

To require the collection of medical malpractice data with respect to chiropractors.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. FASANO, 34th Dist.

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