

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Insurance and Interstate Cooperation, to which was referred House Bill No. 1286, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 1 through 15.
- 2 Page 2, delete lines 1 through 41.
- 3 Page 3, between lines 4 and 5, begin a new paragraph and insert:
- 4 "SECTION 2. IC 27-12-3-5 IS AMENDED TO READ AS
- 5 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) **Except as**
- 6 **provided in subsection (b)**, the receipt of proof of financial
- 7 responsibility and the surcharge constitutes compliance with section 2
- 8 of this chapter:
- 9 (1) as of the date on which they are received; or
- 10 (2) as of the effective date of the policy;
- 11 if this proof is filed with and the surcharge paid to the department of
- 12 insurance not later than ninety (90) days after the effective date of the
- 13 insurance policy. ~~If proof of financial responsibility and the payment~~
- 14 ~~of the surcharge is not made within ninety (90) days after the policy~~
- 15 ~~effective date, compliance occurs on the date when proof is filed and~~
- 16 ~~the surcharge is paid.~~
- 17 (b) **If an insurer files proof of financial responsibility and**
- 18 **makes payment of the surcharge to the department of insurance at**
- 19 **least ninety-one (91) days but not more than one hundred eighty**
- 20 **(180) days after the policy effective date, the health care provider**

1 is in compliance with section 2 of this chapter, if the insurer
 2 demonstrates to the satisfaction of the commissioner that the
 3 insurer:

- 4 (1) received the premium and surcharge in a timely manner;
 5 and
 6 (2) failed to transmit the surcharge in a timely manner.

7 (c) If the commissioner accepts a filing as timely under
 8 subsection (b), the filing must be accompanied by a penalty amount
 9 as follows:

10 (1) Ten percent (10%) of the surcharge, if the proof of
 11 financial responsibility and surcharge are received by the
 12 commissioner at least ninety-one (91) days and not more
 13 than one hundred twenty (120) days after the original
 14 effective date of the policy.

15 (2) Twenty percent (20%) of the surcharge, if the proof of
 16 financial responsibility and surcharge are received by the
 17 commissioner at least one hundred twenty-one (121) days
 18 and not more than one hundred fifty (150) days after the
 19 original effective date of the policy.

20 (3) Fifty percent (50%) of the surcharge, if the proof of
 21 financial responsibility and surcharge are received by the
 22 commissioner at least one hundred fifty-one (151) days and
 23 not more than one hundred eighty (180) days after the
 24 original effective date of the policy."

25 Page 3, line 30, after "is" insert "**one million**".

26 Page 3, line 30, after "hundred" insert "**fifty**".

27 Page 3, line 30, strike "\$700,000)." and insert "**(\$1,750,000)**".

28 Page 3, line 34, strike "three" and insert "**seven**".

29 Page 3, line 34, after "hundred" insert "**fifty**".

30 Page 3, line 34, strike "\$300,000)." and insert "**(\$750,000)**".

31 Page 3, line 36, strike "five" and insert "**one million two**".

32 Page 3, line 36, after "hundred" insert "**fifty**".

33 Page 3, line 36, strike "\$500,000)." and insert "**(\$1,250,000)**".

34 Page 4, line 21, after "risk" insert "**posed by a hospital, taking**
 35 **into consideration risk management programs used by the**
 36 **hospital**".

37 Page 4, line 23, delete "and".

38 Page 4, line 25, delete "." and insert "**; and**".

1 Page 4, between lines 25 and 26, begin a new line block indented
2 and insert:

3 **"(4) made available to a hospital's malpractice insurance**
4 **carrier for purposes of calculating the hospital's surcharge**
5 **under subsection (g)."**

6 Page 4, line 26, after "(b)" insert "**Beginning July 1, 1999,**".

7 Page 4, line 26, delete "The" and insert "the".

8 Page 4, line 26, strike "set by a rule" and insert "**one hundred**
9 **percent (100%) of the cost to each health care provider for**
10 **maintenance of financial responsibility."**

11 Page 4, line 27, before "adopted" insert "**Beginning July 1, 2001,**
12 **the annual surcharge shall be set by a rule"**.

13 Page 4, line 31, strike "two hundred percent (200%)" and insert
14 **"the actuarial risk posed to the patient's compensation fund under**
15 **IC 27-12 by qualified providers other than"**.

16 Page 4, line 32, strike "of the cost to each health care provider,".

17 Page 4, line 32, delete "except for".

18 Page 4, line 33, after "16-21" insert ".".

19 Page 4, strike line 34.

20 Page 5, line 5, delete "or discipline".

21 Page 5, line 14, delete "medical".

22 Page 5, line 14, delete "or" and insert "**class**".

23 Page 5, line 15, delete "discipline".

24 Page 5, line 17, delete "medical".

25 Page 5, line 17, delete "or" and insert "**class**".

26 Page 5, line 18, delete "discipline".

27 Page 5, line 23, delete "medical".

28 Page 5, line 24, delete "or discipline" and insert "**class**".

29 Page 5, between lines 35 and 36, begin a new paragraph and
30 insert:

31 **"(h) An actuarial program used or developed under subsection**
32 **(a) shall be treated as a public record under IC 5-14-3."**

33 Page 5, line 41, after "claims." insert "**The commissioner shall**
34 **retain the services of counsel described in subsection (b) to**
35 **represent the department when a trial court determination will be**
36 **necessary to resolve a claim against the patient's compensation**
37 **fund."**

38 Page 6, line 14, before "Notwithstanding" insert "**(a)**".

1 Page 6, between lines 25 and 26, begin a new paragraph and
2 insert:

3 **"(b) Upon satisfaction of section 4 of this chapter, the**
4 **identifying information described in subsection (a)(1) shall be**
5 **added to the complaint by the court."**

6 Page 6, between lines 34 and 35, begin a new paragraph and
7 insert:

8 "SECTION 8. IC 27-12-9-3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A health care
10 provider's insurer shall notify the commissioner of any malpractice case
11 upon which the insurer has placed a reserve of at least ~~fifty one~~
12 **hundred twenty-five** thousand dollars (~~\$50,000~~): **(\$125,000)**. The
13 insurer shall give notice to the commissioner under this subsection
14 immediately after placing the reserve. The notice and all
15 communications and correspondence relating to the notice are
16 confidential and may not be made available to any person or any public
17 or private agency.

18 (b) All malpractice claims settled or adjudicated to final judgment
19 against a health care provider shall be reported to the commissioner by
20 the plaintiff's attorney and by the health care provider or the health care
21 provider's insurer or risk manager within sixty (60) days following final
22 disposition of the claim. The report to the commissioner must state the
23 following:

- 24 (1) The nature of the claim.
25 (2) The damages asserted and the alleged injury.
26 (3) The attorney's fees and expenses incurred in connection with
27 the claim or defense.
28 (4) The amount of the settlement or judgment."

29 Page 6, line 36, delete "Subject to" and insert "**The medical**
30 **review panel (as described in IC 27-12-10) shall make a separate**
31 **determination at the time that it renders its opinion under**
32 **IC 27-12-10-22 as to whether the name of the defendant health care**
33 **provider should be forwarded to the appropriate board of**
34 **professional registration for review of the health care provider's**
35 **fitness to practice the health care provider's profession. The name**
36 **of the defendant health care provider shall be forwarded if the**
37 **medical review panel unanimously determines that it should be**
38 **forwarded. The medical review panel determination is not**

- 1 **admissible as evidence in a civil action."**
 - 2 Page 6, line 37, delete "subsection (d)".
 - 3 Page 6, line 37, strike "the commissioner shall forward the name
 - 4 of every".
 - 5 Page 6, strike lines 38 through 41.
 - 6 Page 6, line 42, strike "profession."
 - 7 Page 7, delete lines 15 through 25.
 - 8 Page 9, line 34, delete "medical".
 - 9 Page 9, line 34, delete "or discipline" and insert "**class**".
 - 10 Renumber all SECTIONS consecutively.
- (Reference is to HB 1286 as reprinted January 30, 1998.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 2.

Worman

Chairperson