

Bill No. SB 1660

Barcode 763682

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Peaden) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (8) of section 627.062, Florida
Statutes, is amended to read:

627.062 Rate standards.--

(8)(a)1. No later than 60 days after the effective
date of medical malpractice legislation enacted during the
2003 Special Session D of the Florida Legislature, the office
shall calculate a presumed factor that reflects the impact
that the changes contained in such legislation will have on
rates for medical malpractice insurance and shall issue a
notice informing all insurers writing medical malpractice
coverage of such presumed factor. The office may amend the
presumed factor annually. In determining the presumed factor,
the office shall use generally accepted actuarial techniques
and standards provided in this section in determining the

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1 expected impact on losses, expenses, and investment income of
 2 the insurer. The presumed factor shall also reflect the effect
 3 of the repeal of joint and several liability which was enacted
 4 during the 2006 regular session of the Legislature. To the
 5 ~~extent that the operation of a provision of medical~~
 6 ~~malpractice legislation enacted during the 2003 Special~~
 7 ~~Session D of the Florida Legislature is stayed pending a~~
 8 ~~constitutional challenge, the impact of that provision shall~~
 9 ~~not be included in the calculation of a presumed factor under~~
 10 ~~this subparagraph.~~

11 2. No later than 60 days after the office issues its
 12 notice of the presumed rate change factor under subparagraph
 13 1. or any amended presumed factor, each insurer writing medical
 14 malpractice coverage in this state shall submit to the office
 15 a rate filing for medical malpractice insurance, which will
 16 take effect no later than 6 months after the date the insurer
 17 files the rates ~~January 1, 2004, and apply retroactively to~~
 18 ~~policies issued or renewed on or after the effective date of~~
 19 ~~medical malpractice legislation enacted during the 2003~~
 20 ~~Special Session D of the Florida Legislature.~~ Except as
 21 authorized under paragraph (b), the filing shall reflect an
 22 overall rate reduction at least as great as the presumed
 23 factor determined under subparagraph 1. With respect to
 24 policies issued on or after the effective date of such
 25 legislation and before ~~prior to~~ the effective date of the rate
 26 filing required by this subsection, the office shall order the
 27 insurer to make a refund of the amount that was charged in
 28 excess of the rate that is approved.

29 (b) Any insurer or rating organization that contends
 30 that the rate provided for in paragraph (a) is excessive,
 31 inadequate, or unfairly discriminatory shall separately state

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1 in its filing the rate it contends is appropriate and shall
 2 state with specificity the factors or data that it contends
 3 should be considered in order to produce such appropriate
 4 rate. The insurer or rating organization is ~~shall be~~ permitted
 5 to use all of the generally accepted actuarial techniques
 6 provided in this section in making any filing under ~~pursuant~~
 7 ~~to~~ this subsection. The office shall review each such
 8 exception and approve or disapprove it prior to use. ~~It shall~~
 9 ~~be~~ The insurer has the ~~insurer's~~ burden to actuarially justify
 10 any deviation ~~deviations~~ from the rates required to be filed
 11 under paragraph (a). The insurer making a filing under this
 12 paragraph shall include in the filing the expected impact of
 13 medical malpractice legislation enacted during the 2003
 14 Special Session D of the Florida Legislature and during the
 15 2006 regular session, as provided in paragraph (a), on losses,
 16 expenses, and rates.

17 ~~(c) If any provision of medical malpractice~~
 18 ~~legislation enacted during the 2003 Special Session D of the~~
 19 ~~Florida Legislature is held invalid by a court of competent~~
 20 ~~jurisdiction, the office shall permit an adjustment of all~~
 21 ~~medical malpractice rates filed under this section to reflect~~
 22 ~~the impact of such holding on such rates so as to ensure that~~
 23 ~~the rates are not excessive, inadequate, or unfairly~~
 24 ~~discriminatory.~~

25 ~~(d) Rates approved on or before July 1, 2003, for~~
 26 ~~medical malpractice insurance shall remain in effect until the~~
 27 ~~effective date of a new rate filing approved under this~~
 28 ~~subsection.~~

29 ~~(c)(e)~~ The calculation and notice by the office of the
 30 presumed factor pursuant to paragraph (a) is not an order or
 31 rule that is subject to chapter 120. If the office enters into

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1 a contract with an independent consultant to assist the office
 2 in calculating the presumed factor, such contract shall not be
 3 subject to the competitive solicitation requirements of s.
 4 287.057. The office shall establish a medical malpractice
 5 advisory panel to make recommendations for the proper
 6 application of medical malpractice insurance laws in this
 7 state with respect to the calculation of the presumed factor.

8 Section 2. The sum of \$250,000 in recurring funds is
 9 appropriated from the Insurance Regulatory Trust Fund in the
 10 Department of Financial Services to the Office of Insurance
 11 Regulation for the 2007-2008 fiscal year for the purpose of
 12 implementing this act.

13 Section 3. This act shall take effect July 1, 2007.
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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete everything before the enacting clause
 19

20 and insert:

21 A bill to be entitled
 22 An act relating to rate schedules for medical
 23 malpractice insurance; amending s. 627.062,
 24 F.S.; authorizing the Office of Insurance
 25 Regulation to amend the presumed factor
 26 annually; requiring that the presumed rate
 27 reflect the repeal of joint and several
 28 liability; providing that insurance companies'
 29 medical malpractice rate filings take effect no
 30 later than 6 months after the company files the
 31 rates; requiring the office to establish a

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1 medical malpractice advisory panel; providing
2 responsibilities for the panel; providing an
3 appropriation; providing an effective date.

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