

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 990 Session of 2003

INTRODUCED BY ARMSTRONG, WAGNER, MOWERY, ERICKSON, O'PAKE,
LEMOND, BOSCOLA, RAFFERTY, MADIGAN AND LOGAN,
 DECEMBER 24, 2003

REFERRED TO BANKING AND INSURANCE, DECEMBER 24, 2003
 AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
 2 "An act reforming the law on medical professional liability;
 3 providing for patient safety and reporting; establishing the
 4 Patient Safety Authority and the Patient Safety Trust Fund;
 5 abrogating regulations; providing for medical professional
 6 liability informed consent, damages, expert qualifications,
 7 limitations of actions and medical records; establishing the
 8 Interbranch Commission on Venue; providing for medical
 9 professional liability insurance; establishing the Medical
 10 Care Availability and Reduction of Error Fund; providing for
 11 medical professional liability claims; establishing the Joint
 12 Underwriting Association; regulating medical professional
 13 liability insurance; providing for medical licensure
 14 regulation; providing for administration; imposing penalties;
 15 and making repeals," further providing for the Medical Care
 16 Availability and Reduction of Error Fund.

17 The General Assembly of the Commonwealth of Pennsylvania
 18 hereby enacts as follows:

19 Section 1. Section 712(g) of the act of March 20, 2002
 20 (P.L.154, No.13), known as the Medical Care Availability and
 21 Reduction of Error (Mcare) Act, is amended to read:
 22 Section 712. Medical Care Availability and Reduction of Error
 23 Fund.

24 * * *

1 (g) Additional adjustments of the prevailing primary
 2 premium. --Using the class system of the joint underwriting
 3 association, the department shall adjust the prevailing primary
 4 premium to reduce the number of classes to no more than three
 5 for the purposes of calculating the assessment. The department
 6 shall adjust the applicable prevailing primary premium of each
 7 participating health care provider in accordance with the
 8 following:

9 (1) The applicable prevailing primary premium of a
 10 participating health care provider which is not a hospital
 11 may be adjusted through an increase in the individual
 12 participating health care provider's prevailing primary
 13 premium not to exceed 20%. Any adjustment shall be based upon
 14 the frequency of claims paid by the fund on behalf of the

15 individual participating health care provider during the past
16 five most recent claims periods and shall be in accordance
17 with the following:

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

21 (ii) If four or more claims have been paid during
22 the past five most recent claims periods by the fund, a
23 20% increase shall be charged.

24 (2) The applicable prevailing primary premium of a
25 participating health care provider which is not a hospital
26 and which has not had an adjustment under paragraph (1) may
27 be adjusted through an increase in the individual
28 participating health care provider's prevailing primary
29 premium not to exceed 20%. Any adjustment shall be based upon
30 the severity of at least two claims paid by the fund on

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1 behalf of the individual participating health care provider
2 during the past five most recent claims periods.

3 (3) The applicable prevailing primary premium of a
4 participating health care provider not engaged in direct
5 clinical practice on a full-time basis may be adjusted
6 through a decrease in the individual participating health
7 care provider's prevailing primary premium not to exceed 10%.
8 Any adjustment shall be based upon the lower risk associated
9 with the less-than-full-time direct clinical practice.

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

18 * * *

19 Section 3. This act shall take effect in 60 days.

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