

SENATE BILL NO. 1310

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

4702S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 383.155, RSMo, and to enact in lieu thereof one new section relating to the medical malpractice joint underwriting association.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 383.155, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 383.155,
3 to read as follows:

383.155. 1. A joint underwriting association may be
2 created, **or directed to resume operations**, upon
3 determination by the director after a public hearing that
4 medical malpractice liability insurance is not reasonably
5 available for health care providers in the voluntary
6 market. The association shall contain as members all
7 companies authorized to write and engaged in writing, on a
8 direct basis, any insurance or benefit, the premium for
9 which is included under the definition of "net direct
10 premiums". Membership in the association shall be a
11 condition of continued authority to do business in this
12 state.

13 2. A plan of operation shall be adopted to be
14 effective concurrently with the effective date of the
15 association.

16 3. The association shall, pursuant to the provisions
17 of sections 383.150 to 383.195 and the plan of operation,

18 with respect to medical malpractice insurance, have the
19 authority on behalf of its members:

20 (1) To issue, or to cause to be issued, policies of
21 insurance to applicants, including incidental coverages and
22 subject to limits as specified in the plan of operation but
23 not to exceed one million dollars for each claimant under
24 one policy and three million dollars for all claimants under
25 one policy in any one policy year;

26 (2) To underwrite such insurance and to adjust and pay
27 losses with respect thereto, or to appoint a service company
28 to perform those functions;

29 (3) To assume reinsurance from its members; and

30 (4) To cede reinsurance.

31 4. Within forty-five days following the creation of
32 the association, the directors of the association shall
33 submit to the director for his or her review, a proposed
34 plan of operation, consistent with the provisions of
35 sections 383.150 to 383.195.

36 5. The plan of operation shall provide for economic,
37 fair and nondiscriminatory administration and for the prompt
38 and efficient distribution of medical malpractice insurance,
39 and shall contain other provisions including, but not
40 limited to, preliminary assessment of all members for
41 initial expenses to commence operations, establishment of
42 necessary facilities, management of the association,
43 assessment of members to defray losses and expenses,
44 reasonable and objective underwriting standards, acceptance
45 and cession of reinsurance, appointment of a servicing
46 company and procedures for determining amounts of insurance
47 to be provided by the association. The preliminary
48 assessment shall be an advance to be recouped under the
49 provisions of subsection 5 of section 383.160.

50 6. The composition of the board and the terms of
51 directors of the board shall be established by the plan of
52 operation.

53 7. The plan of operation shall be subject to approval
54 by the director after consultation with the members of the
55 association, representatives of the public and other
56 affected individuals and organizations. If the director
57 disapproves all or any part of the proposed plan of
58 operation, the directors shall within fifteen days submit
59 for review a revised plan of operation. If the directors
60 fail to do so, the director shall promulgate a plan of
61 operation or part thereof, as the case may be. The plan of
62 operation approved or promulgated by the director shall
63 become effective and operational upon his or her order.

64 8. Amendments to the plan of operation may be made by
65 the directors of the association, subject to the approval of
66 the director or shall be made at his direction.

67 9. There shall be no liability imposed on the part of
68 and no cause of action of any nature shall arise against any
69 member insurer or any member of the board of directors for
70 any omission or action taken by them in the performance of
71 their powers and duties under sections 383.150 to 383.195.

72 **10. (1) The directors of the board may suspend the**
73 **operations of the association if the directors determine**
74 **that medical malpractice insurance is reasonably available**
75 **to health care providers in the voluntary market if there**
76 **are two or fewer individual physicians insured annually for**
77 **at least two consecutive years.**

78 **(2) Suspension of operations of the association is to**
79 **be in accordance with its plan of operation, or any**
80 **amendment thereto. The plan of operation shall establish**
81 **the process for suspension of operations and shall include**

82 provisions for the administration of association funds until
83 the director determines either to resume operations under
84 subsection 1 of this section, or to terminate operations in
85 compliance with section 383.195.

86 (3) During any period of suspension, the association
87 shall not collect dues or fees from its members unless and
88 until the director authorizes an assessment or authorizes
89 the resumption of operations as provided herein.

90 (4) As used in this section, "reasonably available"
91 shall mean that medical malpractice insurance products are
92 offered to health care providers through voluntary markets
93 by insurance carriers in the ordinary course of business.

✓