

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2594:

Stanley

AS INTRODUCED

An Act relating to insurance; amending Section 22, Chapter 390, O.S.L. 2003 (36 O.S. Supp. 2003, Section 6821), which relates to setting premium rates for medical professional liability insurance; suspending application of law until a certain date; rescinding certain premium rate increase; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 22, Chapter 390, O.S.L. 2003 (36 O.S. Supp. 2003, Section 6821), is amended to read as follows:

Section 6821.

MEDICAL PROFESSIONAL LIABILITY RATE SETTING

A. No rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this section. Notwithstanding any other provision of law, in considering whether a rate is excessive, inadequate or unfairly discriminatory, no consideration shall be given to the degree of competition and the Insurance Commissioner shall consider whether the rate mathematically reflects the insurance company's investment income.

B. Notwithstanding any other provision of law, every medical professional liability insurer which desires to change any rate shall file a rate application with the Commissioner. A complete rate application shall include the factors enumerated in Section 902.2 of ~~Title 36 of the Oklahoma Statutes~~ this title and such other information as the Commissioner may require. The applicant shall

have the burden of proving that the requested rate change is justified and meets the requirements of this section.

C. The Commissioner shall notify the policyholders of any application by an insurer for a rate change. The application shall be deemed approved forty-five (45) days after notice unless:

1. A policyholder or the policyholder's representative requests a hearing within forty-five (45) days of the notice and the Commissioner, within fifteen (15) days thereafter, grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision; or

2. The Commissioner on his or her own motion determines to hold a hearing.

In any event, a rate change application shall be deemed approved ninety (90) days after the rate application is received by the Commissioner unless that application has been disapproved by a final order of the Commissioner subsequent to a hearing or extraordinary circumstances exist. For purposes of this paragraph "received" means the date delivered to the Insurance Department.

D. For purposes of subsection C of this section, "extraordinary circumstances" include the following:

1. Rate change application hearings commenced during the ninety-day period provided by subsection C of this section. If a hearing is commenced during the ninety-day period, the rate change application shall be deemed approved upon expiration of the ninety-day period or thirty (30) days after the close of the record of the hearing, whichever is later, unless disapproved prior to that date.

2. The hearing has been continued. The ninety-day period provided by subsection C of this section shall be tolled during any period of which a hearing is continued. A continuance shall be decided on a case by case basis. If the hearing is commenced or continued during the ninety-day period, the rate change application shall be deemed approved upon the expiration of the ninety-day

period or thirty (30) days after the close of the record of the hearing, whichever is later, unless disapproved prior to that date.

E. No medical professional liability insurer shall cancel or refuse to renew coverage of a policyholder on the basis of a policyholder's exercise of any right pursuant to this section.

F. Nothing in this section shall apply to policies insuring any nursing home licensed pursuant to Section 1-1903 of Title 63 of the Oklahoma Statutes.

G. The provisions of this section shall be suspended until November 1, 2005. Any rate increase approved prior to the effective date of this subsection shall be rescinded; provided, if a medical professional liability insurer has issued or renewed a policy with a premium rate that was approved prior to the effective date of this subsection, that premium rate shall remain in effect.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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