



April 10, 2007

Sent via Electronic Mail

Statistical Information Task Force
C/O Joe Bieniek
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National Association of Insurance Commissioners
2301 McGee Street, Suite 800
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RE: Medical Malpractice Closed Claim Reporting Model Law

Dear Mr. Bieniek

The Property Casualty Insurers Association of America (PCI) is a property and casualty insurance trade association representing more than 1,000 insurance companies. PCI members write \$173.6 billion in annual premium, nearly 40 percent of the nation's property/casualty insurance written, including medical malpractice insurance. The mission of PCI is to foster a competitive insurance marketplace for the benefit of insurers and consumers and to provide a responsible and effective voice on public policy questions affecting insurance products and services.

Closed claim reporting surveys/laws add significant costs to the system for insurers and regulators. The proposed Medical Malpractice Closed Claim Reporting Model Law requires all insurers to provide significant details on every individual medical malpractice claim. This will be an extremely burdensome task for insurers and the value of collecting this type of data is questionable.

In regards to the specific data elements contained in Section 5, there is redundancy. For example, an insurer will be required to provide the primary location within a facility where the medical malpractice incident occurred and also, the geographic location, by city and county, where the medical malpractice incident occurred. PCI cannot identify any plausible reason to identify both the primary location of the incident and the respective city and county. Location is normally associated with an address. To comply with the proposed reporting requirements may require insurers to make significant structural changes to their internal systems. The potential research benefits associated with each individual data element should be analyzed before requiring the data element to be a mandatory reporting requirement. Also, PCI is concerned that the results of a closed claim survey could easily be misinterpreted or misused.

PCI must reiterate that addressing the demand for data from surplus lines insurers is contrary to the concept of surplus lines as an alternative market when coverage is not available in the admitted market. It was interesting to note the comment made by one of the members of the task force that in one state, in recent years, the market share of surplus lines writing medical malpractice went from around 5% to 17%. That is specifically because surplus lines writers were available to absorb the demand for coverage. Surplus lines insurers were willing to allocate capital to medical malpractice coverage. They did so based on their ability to be significantly less regulated than their admitted brethren. Adding a data filing requirement to surplus lines insurers could alter the decision to write medical malpractice. Surplus lines insurers will consider whether they should allocate resources to design, test, and implement computer systems for medical malpractice data reporting, when, by the very nature of the surplus lines market, they do not know whether or not one, fifty, or a thousand pieces of business will be exported to them from a given state. Or should the company risk not effectuating such internal systems, it would have to run the risk of manually having to collect medical malpractice data from files in the event there is a strong market for medical malpractice on a surplus lines basis.

PCI urges the task force to consider surplus lines in the same way it considers self-insured practitioners and those who utilize captives or risk retention groups. Place the onus for data reporting upon the practitioner. After all, by definition, the practitioner is going to the surplus lines market because coverage is unavailable in the admitted market. There are a number of states that have added medical malpractice to their export lists, a concrete statement by those states that the coverage is not readily available in the admitted market.

Regarding surplus lines and medical malpractice data reporting, PCI urges the task force to “do no harm.”

We appreciate the opportunity to provide you with our comments and recommendations. Please feel free to contact us, if you have any questions.

Sincerely,

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