



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2188

Introduced 2/14/2005, by Rep. Michael J. Madigan - Barbara Flynn Currie - Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.18

from Ch. 73, par. 767.18

Amends the Illinois Insurance Code. Makes a stylistic change in provisions concerning medical liability insurance.

LRB094 02942 WGH 32943 b

1 AN ACT concerning medical malpractice.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 155.18 as follows:

6 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

7 Sec. 155.18. (a) This Section applies ~~shall apply~~ to  
8 insurance on risks based upon negligence by a physician,  
9 hospital or other health care provider, referred to herein as  
10 medical liability insurance. This Section shall not apply to  
11 contracts of reinsurance, nor to any farm, county, district or  
12 township mutual insurance company transacting business under  
13 an Act entitled "An Act relating to local mutual district,  
14 county and township insurance companies", approved March 13,  
15 1936, as now or hereafter amended, nor to any such company  
16 operating under a special charter.

17 (b) The following standards shall apply to the making and  
18 use of rates pertaining to all classes of medical liability  
19 insurance:

20 (1) Rates shall not be excessive or inadequate, as herein  
21 defined, nor shall they be unfairly discriminatory. No rate  
22 shall be held to be excessive unless such rate is unreasonably  
23 high for the insurance provided, and a reasonable degree of  
24 competition does not exist in the area with respect to the  
25 classification to which such rate is applicable.

26 No rate shall be held inadequate unless it is unreasonably  
27 low for the insurance provided and continued use of it would  
28 endanger solvency of the company.

29 (2) Consideration shall be given, to the extent applicable,  
30 to past and prospective loss experience within and outside this  
31 State, to a reasonable margin for underwriting profit and  
32 contingencies, to past and prospective expenses both

1 countrywide and those especially applicable to this State, and  
2 to all other factors, including judgment factors, deemed  
3 relevant within and outside this State.

4 Consideration may also be given in the making and use of  
5 rates to dividends, savings or unabsorbed premium deposits  
6 allowed or returned by companies to their policyholders,  
7 members or subscribers.

8 (3) The systems of expense provisions included in the rates  
9 for use by any company or group of companies may differ from  
10 those of other companies or groups of companies to reflect the  
11 operating methods of any such company or group with respect to  
12 any kind of insurance, or with respect to any subdivision or  
13 combination thereof.

14 (4) Risks may be grouped by classifications for the  
15 establishment of rates and minimum premiums. Classification  
16 rates may be modified to produce rates for individual risks in  
17 accordance with rating plans which establish standards for  
18 measuring variations in hazards or expense provisions, or both.  
19 Such standards may measure any difference among risks that have  
20 a probable effect upon losses or expenses. Such classifications  
21 or modifications of classifications of risks may be established  
22 based upon size, expense, management, individual experience,  
23 location or dispersion of hazard, or any other reasonable  
24 considerations and shall apply to all risks under the same or  
25 substantially the same circumstances or conditions. The rate  
26 for an established classification should be related generally  
27 to the anticipated loss and expense factors of the class.

28 (c) Every company writing medical liability insurance  
29 shall file with the Director of Insurance the rates and rating  
30 schedules it uses for medical liability insurance.

31 (1) This filing shall occur at least annually and as often  
32 as the rates are changed or amended.

33 (2) For the purposes of this Section any change in premium  
34 to the company's insureds as a result of a change in the  
35 company's base rates or a change in its increased limits  
36 factors shall constitute a change in rates and shall require a

1 filing with the Director.

2 (3) It shall be certified in such filing by an officer of  
3 the company and a qualified actuary that the company's rates  
4 are based on sound actuarial principles and are not  
5 inconsistent with the company's experience.

6 (d) If after a hearing the Director finds:

7 (1) that any rate, rating plan or rating system violates  
8 the provisions of this Section applicable to it, he may issue  
9 an order to the company which has been the subject of the  
10 hearing specifying in what respects such violation exists and  
11 stating when, within a reasonable period of time, the further  
12 use of such rate or rating system by such company in contracts  
13 of insurance made thereafter shall be prohibited;

14 (2) that the violation of any of the provisions of this  
15 Section applicable to it by any company which has been the  
16 subject of hearing was wilful, he may suspend or revoke, in  
17 whole or in part, the certificate of authority of such company  
18 with respect to the class of insurance which has been the  
19 subject of the hearing.

20 (Source: P.A. 79-1434.)