

August 30, 2005

Illinois Passes Malpractice Reform Legislation

On August 25, 2005, Illinois Governor Rod Blagojevich signed new medical malpractice legislation (SB 475) limiting recovery of non-economic damages to \$500,000 from physicians and \$1,000,000 for hospital judgments. In an effort to reduce frivolous lawsuits, the bill also requires that an independent doctor must certify that the action has merit before a case can be brought against a physician or hospital.

SB 475, in an effort to increase public scrutiny of medical malpractice rate increases, also allows the state, for the first time, to deny medical malpractice rate increases. Thus, if a company files a request for a medical malpractice rate increase of more than 6%, mandatory public hearings on the proposed increase must be held. For a requested increase that is less than 6%, the Department of Financial and Professional Regulation ("IDFPR") must hold public hearings to determine whether or not the rate increase is justified.

The IDFPR will also collect and make available actuarial data relied upon by every medical malpractice insurer for pricing. Illinois hopes that by increasing publicly available information, the malpractice insurance business will be more attractive to other insurance companies and that such increased competition will stabilize insurance rates. SB 475 also increases the statute of limitations for bringing a medical malpractice case from five to ten years. This adjustment will allow IDFPR to target "pattern of practice" cases and discipline doctors who have multiple negligence cases in which no single case rises to the level of gross negligence.

The law also creates a new website containing physician profiles that give background information about individual physicians for the previous five years, including criminal convictions, malpractice awards, and disciplinary actions taken by Illinois or reported by other states.

Finally, the new law adds two additional public members, who are not physicians, to the Medical Disciplinary Board, which reviews citizen complaints and disciplinary actions against licensed physicians. SB 475 also makes it easier for investigators to gain access to evidence when a case is opened because of actions by either a court, insurance company, medical facility or another state's medical board. Additional investigators will also be hired to increase disciplinary oversight over physicians, and such investigators will have increased authority to demand case files when a mandatory report of a legal judgment, hospital disciplinary action, criminal or civil conviction or insurance settlement is received by IDFPR.