



**S.B. 113**

125th General Assembly  
(As Introduced)

**Sens. Fingerhut, Hagan, Dann, Fedor, Miller, Herington**

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**BILL SUMMARY**

- Creates the Medical Malpractice Insurance Review Commission and assesses insurance companies to cover the operating costs of the Commission.

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**CONTENT AND OPERATION**

**Establishment of the Medical Malpractice Insurance Review Commission**

(secs. 3929.89 and 3929.90(A))

**Purpose; reports**

The bill creates the Medical Malpractice Insurance Review Commission. The Commission is charged with meeting to review and discuss issues regarding the availability and affordability of medical malpractice insurance in Ohio, including how profitable writing medical malpractice insurance is for insurers, the actuarial basis of medical malpractice insurance rates, and any other factor that may impact the cost of medical malpractice insurance. The bill also requires the Commission to investigate the impact that the cost of medical malpractice insurance is having on Ohioans' access to health care, particularly with respect to women and minorities and in underserved communities.

"Medical malpractice insurance," as used in the bill, means "insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death, disease, or injury of any person as the result of [a physician's, podiatrist's, or hospital's] negligence or malpractice in rendering professional service . . . ."

The Commission is required to publish an annual report of its findings. The Commission may publish additional reports as it deems necessary. The Commission's reports cannot include legislative recommendations or advocate for

or against any legislative proposal, but may provide facts that would assist the General Assembly in analyzing proposed legislation.

The bill exempts the Commission from automatic expiration under existing section 101.83 of the Revised Code and excepts the Commission from the other related provisions of that section. Agencies and commissions are normally subject to automatic expiration under section 101.83 of the Revised Code after no more than four years, unless renewed in accordance with that section.

**Commission members; terms of office**

The Medical Malpractice Insurance Review Commission consists of five members appointed by the Governor with the advice and consent of the Senate. The bill requires the Governor to make the initial appointments to the Commission within 30 days after the bill's effective date. The five members must include: (1) a licensed physician practicing in Ohio, (2) an officer of an insurance company that is authorized to write, and that is engaged in writing, medical malpractice insurance in Ohio, (3) an attorney admitted to the practice of law in Ohio, and (4) two individuals with relevant business or academic expertise. The Commission is required to elect a chairperson from among its members at the first meeting of the Commission each year.

The bill sets the terms of office for Commission members. Of the initial appointments made by the Governor, one appointee's term will end December 31, 2004, two appointees' terms will end December 31, 2005, and two appointees' terms will end December 31, 2006. Thereafter, all members will serve in office for three years, their service ending on December 31st of the third year.

The bill further regulates appointees' terms of office. Commission members are required to continue to serve in office after the expiration of their term until their successor takes office, up to a maximum of 60 additional days. If a member leaves during their term of office, the individual appointed to replace the member is to serve for the remainder of that member's term. Members may be reappointed; however, a member who has held office for two consecutive full terms may not be reappointed to the Commission earlier than one year after the end of the member's second full term.

**Operation of the Medical Malpractice Insurance Review Commission**

(sec. 3929.90(B), (C), and (D))

The bill provides for the compensation of the members of the Medical Malpractice Insurance Review Commission at a rate set by the Department of Administrative Services pursuant to section 124.15 of the Revised Code.

Members receive compensation for each day employed in the discharge of their duties and reimbursement for the necessary and actual expenses they incur in the performance of their official duties. The bill authorizes the Commission to employ as many persons as are necessary to carry out the duties assigned to the Commission. The Commission may prescribe the powers and duties of its employees.

The bill requires the Commission to prepare annually an estimate of the amount of funds that will be needed for the operation of the Commission for the following year. The estimate must be presented to the Superintendent of Insurance.

**Assessment levied on insurers**

(secs. 3929.91 and 3929.92)

The bill requires the Superintendent of Insurance to assess each insurance company and health insuring corporation authorized to do business in Ohio in order to cover the operating expenses incurred, or which the Medical Malpractice Insurance Review Commission estimates will be incurred, by the operation of the Commission during the period for which the assessment is made. The Superintendent is required to apportion assessments "equally" among the insurance companies and health insuring corporations. The Superintendent must prescribe the amount of the assessments pursuant to rules adopted under the Administrative Procedure Act, Chapter 119. of the Revised Code. Insurance companies and health insuring corporations must submit their assessment to the Superintendent within 30 days after receiving notice of their assessment.

The bill creates the Medical Malpractice Insurance Review Fund in the State Treasury. All assessments collected under this bill must be paid into the Fund by the Superintendent. The operating expenses of the Medical Malpractice Insurance Review Commission are paid from this Fund.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	07-31-03	p. 941

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