H. R. 447

To establish an Office of Health Care Competition within the Department of Health and Human Services to administer the National Practitioner Data Base and to collect and make available to the public more information on medical malpractice insurance under that Data Base.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2003

Mr. DeFazio introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To establish an Office of Health Care Competition within the Department of Health and Human Services to administer the National Practitioner Data Base and to collect and make available to the public more information on medical malpractice insurance under that Data Base.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improved Medical Malpractice Information Reporting and Competition Act of 2003”.
SEC. 2. ESTABLISHMENT OF OFFICE OF HEALTH CARE COMPETITION WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an Office to be known as the Office of Health Care Competition Policy (in this section referred to as the “Office”). The Office shall be headed by a Director, who shall be appointed by the Secretary of such Department.

(b) DUTIES.—

(1) RESPONSIBILITY FOR NATIONAL PRACTITIONER DATA BASE.—The Office shall be responsible for activities of the Secretary under part B of title IV of the Health Care Quality Improvement Act of 1986 (title IV of Public Law 99–660), including the National Practitioner Data Base under such part.

(2) ANNUAL REPORT.—The Director of the Office shall submit a report each year to the Secretary of Health and Human Services on activities conducted under such part.

SEC. 3. CHANGES IN NATIONAL PRACTITIONER DATA BASE PROVISIONS.

(a) REQUIRING ADDITIONAL REPORTS ON MEDICAL MALPRACTICE INSURANCE AND CLAIMS.—Part B of title IV of the Health Care Quality Improvement Act of 1986
(title IV of Public Law 99–660) is amended by inserting after section 421 the following new section:

“SEC. 421A. REQUIRING REPORTS ON MEDICAL MAL-
PRACTICE INSURANCE AND CLAIMS.

“(a) IN GENERAL.—Each entity (including an insurance company) which underwrites a policy of insurance for medical malpractice actions or claims shall report, in accordance with section 424, information respecting such insurance and claims for payment under such policy. Such information shall be in addition to, and may be coordinated with, the information required to be reported under section 421.

“(b) INFORMATION TO BE REPORTED.—

“(1) IN GENERAL.—The information to be reported under subsection (a) by an entity with respect to a medical malpractice insurance policy includes the following:

“(A) Direct premiums written.

“(B) Direct premiums earned.

“(C) Net investment income, including net realized capital gains and losses, using appropriate estimates where necessary.

“(D) Incurred claims, developed as the sum of the following (the report shall include data for each of the following:
“(i) Dollar amount of claims closed with payment; plus.

“(ii) Reserves for reported claims at the end of the current year; minus.

“(iii) Reserves for reported claims at the end of the previous year; plus.

“(iv) Reserves for incurred but not reported claims at the end of the current year; minus.

“(v) Reserves for incurred but not reported claims at the end of the previous year; plus.

“(vi) Loss adjustment expenses for claims closed; plus.

“(vii) Reserves for loss adjustment expense at the end of the current year; minus.

“(viii) Reserves for loss adjustment expense at the end of the previous year.

(categories used to develop the sum of incurred claims).

“(E) Actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, advertising, general of-
office expenses, taxes, licenses and fees, and all other expenses.

“(F) Net underwriting gain or loss.

“(G) Net operation gain or loss, including net investment income.

“(H) The number and dollar amount of claims closed with payment by year incurred, the amount reserved for each claim, the year(s) in which the reserves were set, and the amounts set in each year.

“(I) The number of claims closed without payment, the dollar amount reserved for each claim, the years in which reserves were set, and the amounts set in each.

“(J) The number of claims pending at the end of each year, the amount of reserve[d] for each claim, the year(s) in which the reserves were set, and the amounts set in each year.

“(2) CLAIMS PAID.—Such report shall also include the following:

“(A) For claims paid by the insurer during the calendar year, in which a verdict had at any time been rendered.

“(i) The dollar amount paid by the insurance company; and
“(ii) The dollar amount of the original verdict.

“(B) For claims paid by the insurer during the calendar year, in which a verdict had at any time been rendered.

“(i) The dollar amount of the original verdict, broken out as follows:

“(I) The total amount of past economic damages assessed by the trier of fact.

“(II) The total amount of future economic damages assessed by the trier of fact.

“(III) The total amount of compensatory non-economic damages assessed by the trier of fact.

“(IV) The total amount of punitive damages assessed by the trier of fact.

“(ii) The dollar amount paid by all parties.

“(iii) The dollar amount paid by the insurer.

“(iv) The number of claims paid by the insurer.
“(C) For claims paid by the insurer during the calendar year, in which a verdict had never been rendered.

“(i) The total amount paid by the insurer broken out as follows:

“(I) The amount of the plaintiff’s past economic damages, as submitted by the plaintiff.

“(II) The amount of the plaintiff’s future economic damages, as estimated by the insurer.

“(III) The amount paid by the insurer for other damages.

“(ii) The number of claims paid by the insurer.

“(D) The number of claims in which the insurer paid—

“(i) more than $250,000 in non-economic damages; and

“(ii) more than $500,000 in non-economic damages.

“(E) For claims paid by the insurer during the calendar year, the number of claims in which—
“(i) punitive damages were assessed by the trier of fact;

“(ii) punitive damages were paid by any party; and

“(iii) punitive damages were paid by the insurer.

“(F) For claims paid by the insurer during the calendar year—

“(i) the dollar amount of punitive damages assessed by the trier of fact;

“(ii) the dollar amount of punitive damages paid by all parties; and

“(iii) the dollar amount of punitive damages paid by the insurer.

“(G) The number and dollar amount of claims paid by the insurer during the calendar year in which parties other than the insured—

“(i) had at any time been found liable by the trier of fact; or

“(ii) had been estimated by the insurance company to have some liability.

“(H) For those claims identified in paragraph (7), the amount by which the amount paid by the insurer exceeds the amount propor-
tional to the insured’s percentage of responsibility.

“(I) Such other information as the Secretary determines is required for appropriate interpretation of information reported under this section.

“(c) Sanctions for Failure to Report.—The provisions of section 421(c) shall apply to information required to be reported under this section in the same manner as they apply to the reporting of information on a payment required to be reported under section 421.

“(d) Coordination of Information Reporting.—The Secretary shall provide for the coordination of reporting of information under this section with the reporting of related information under section 421.”.

(b) Inclusion and Availability of Information.—Section 427(b) of such Act (42 U.S.C. 11137(b)) is amended by adding at the end the following new paragraph:

“(4) Availability of Public File Data.—Notwithstanding the previous provisions of this subsection, the Secretary shall make available, for free from the website maintained in connection with the data base established to carry out this part, information reported under sections 421 and 421A which
does not provide for individually identifiable information.”.

(c) **Effective Date.**—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act.