

SENATE BILL NO. 514

BY SENATOR MURRAY

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AN ACT

To amend and reenact R.S. 40:1299.44(A)(2), (5), and (6) and (D)(1)(c) and (2)(b)(iii), relative to the Patient's Compensation Fund and the Patient's Compensation Fund Oversight Board; to provide with respect to exemption of the board and fund from rate regulation by the commissioner of insurance; to provide relative to the annual surcharge, including the manner of its determination; to provide relative to retention of monies in the fund; to provide with respect to composition of the board and to otherwise provide with respect to its authority; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.44(A)(2), (5), and (6) and (D)(1)(c) and (2)(b)(iii) are hereby amended and reenacted to read as follows:

§1299.44. Patient's Compensation Fund

A.

\* \* \*

(2)(a) ~~In order to~~ **To** provide monies for the fund, an annual surcharge shall be levied on all health care providers in Louisiana qualified under the provisions of this Part.

**(b) The board shall cause to be prepared an annual actuarial study of the fund by a qualified competent actuary.**

~~(b) (c)~~ **(c) The board and the fund shall be exempt from rate regulation by the commissioner of insurance.** The surcharge ~~rates~~ shall be determined by the ~~commissioner of insurance~~ **board in a public meeting held pursuant to the provisions of R.S. 42:4.1 through 12** based upon actuarial principles and ~~in accordance with an application for rates or rate changes, or both, filed by the Patient's Compensation Fund Oversight Board, established and authorized pursuant~~

1 to Subsection D of this Section: reports, experience, and prudent judgment of the  
 2 board. The board shall give written or electronic notice of the meeting at least  
 3 fifteen days in advance and provide an opportunity for public comment at the  
 4 meeting before determining rates.

5 ~~(c)~~ (d) The application for rate changes filed by the board shall be submitted  
 6 to the commissioner of insurance at least annually on the basis of an annual actuarial  
 7 study of the patient's compensation fund: surcharge rates shall not be excessive,  
 8 inadequate, or unfairly discriminatory. In determining whether surcharge rates  
 9 are excessive, inadequate, or unfairly discriminatory, consideration may be  
 10 given to the following items:

11 (i) Basic rate factors. Due consideration shall be given to past and  
 12 prospective loss and expense experience, catastrophe hazards and contingencies,  
 13 events, or trends. Fines and penalties against a health care provider, whether  
 14 levied by a court or regulatory body, shall not be used by the board or  
 15 considered in any manner in the loss or expense experience.

16 (ii) Classification. Risks may be grouped by classification for the  
 17 establishment of rates. Classification rates may be modified for individual risks  
 18 in accordance with an experience-rating plan or schedule which apportions a  
 19 greater percentage of required surcharge increases to those health care  
 20 providers who generate greater than expected losses.

21 (iii) Expenses. The expense provisions shall reflect the operating  
 22 methods of the board and the fund, the past expense experience, and anticipated  
 23 future expenses.

24 (iv) Contingencies. The rates may contain a provision for contingencies.

25 (v) Other relevant factors. Any other factors available at the time of  
 26 determining the rates.

27 ~~(d)~~ (e) The surcharge shall be collected on the same basis as premiums by  
 28 each insurer, the risk manager, and surplus line agent.

29 ~~(e)~~ (f) The board shall collect the surcharge from health care providers  
 30 qualified as self-insureds.



1 under the provisions of R.S. 40:1299.43 in accordance with Paragraph (7) of this  
2 Subsection and in accordance with Subsection B of this Section:

3 (g) ~~(f)~~ Any purchases ~~from the fund~~ of furniture, fixtures, equipment, or  
4 other property shall be specifically designated, by ~~such~~ **the** method of identification  
5 as is reasonable and practical for each item, as the property of the fund.

6 (6)(a) At all times the fund shall be maintained ~~so as to provide a surplus~~  
7 **assets** of **at least** thirty percent of the ~~annual surcharge premiums, reserves~~  
8 ~~established for individual claims, reserves established for incurred but not reported~~  
9 ~~claims, and expenses.~~ **fund's outstanding liabilities, calculated using the most**  
10 **recent actuarial study and report for the fund.**

11 (b) No reduction in the surcharge shall be made unless such ~~surplus~~ **assets**  
12 **are** is available in the fund.

13 \* \* \*

14 D.(1)

15 \* \* \*

16 (c) The ninth member of the board shall be appointed from nominees  
17 provided by the principal professional ~~organization of insurance executives,~~  
18 **insurance agents organizations** and this member ~~must~~ **shall** be ~~an executive of a~~  
19 **familiar with** property and casualty insurance ~~company that is~~ **and** licensed in this  
20 state ~~which does not sell medical professional liability insurance.~~ **as a producer.**

21 \* \* \*

22 (2)

23 \* \* \*

24 (b) In addition to ~~such~~ other powers and authority ~~elsewhere~~ expressly or  
25 impliedly conferred on the board by this Part, the board shall have the authority, to  
26 the extent not inconsistent with the provisions of this Part, to:

27 \* \* \*

28 (iii) Collect, accumulate, and maintain claims experience data from enrolled  
29 health care providers and insurance companies providing professional liability  
30 insurance coverage to health care providers in this state, in ~~such form as may be~~ **the**

1 form necessary or appropriate to permit the ~~fund~~ **board** to ~~develop~~ **determine**  
2 appropriate surcharge rates for the fund.

3 \* \* \*

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_