

REPORT OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
ON THE RURAL MEDICAL PROFESSIONAL
LIABILITY REINSURANCE
(Senate Bill 183, Chapter 574, Oregon Laws 2007)
TO
THE SEVENTY-FIFTH LEGISLATIVE ASSEMBLY



In Accordance with Senate Bill 183 (2007)
January 2009

INTRODUCTION

In 2003, the legislature enacted House Bill 3630 (Chapter 781, Oregon Laws 2003) to provide medical professional liability insurance rate relief to rural doctors, with a four-year sunset. The goal of the legislation was to assist in attracting and retaining doctors in rural Oregon and particularly doctors who provide obstetric services. This legislation was the result of escalating concern about the availability and affordability of medical professional liability insurance, particularly for rural doctors who provide obstetric services and other specialties who were especially hard-hit by recent premium increases. In 2001 medical professional liability insurance rates for the two largest Oregon insurers increased 25 percent and 16 percent respectively. In 2002 the rates increased 59 percent and 63.7 percent. In comparison, Oregon experienced rate reductions for Oregon's two largest insurers in both 2007 (-10.2 percent and -3.2 percent) and 2008 (-8.9 percent and -7.6 percent). While current rates are at least 200 percent greater than rates in 2000, the medical professional liability insurance market has stabilized in recent years.

The 2007 legislature enacted Senate Bill 183 (Chapter 574, Oregon Laws 2007) to extend and modify the program for an additional four years. Section 5 of Senate Bill 183 requires the Director of the Department of Consumer and Business Services (DCBS) to report to the 75th Legislative Assembly on the performance of the program established under the bill.

DESCRIPTION

House Bill 3630 directed the State Accident Insurance Fund Corporation (SAIF) to establish a reinsurance program for medical professional liability insurance policies issued to doctors of medicine and doctors of osteopathy who have rural practices. The funding for the program comes from a credit against workers' compensation assessments paid by SAIF, which are collected from Oregon employers for administration of Oregon's successful workers' compensation system. Under the law, the program costs were capped at \$40 million for the four years of the program, based on a one-time surplus in this workers' compensation account. However, that account is not a sustainable source of funding for this program. The law was scheduled to sunset at the end of calendar year 2007.

The program has been successful and, for calendar years 2004 through 2007, has assisted over 1,297 rural doctors in meeting their medical professional liability insurance costs. The cost for the original four-year program was \$21.3 million. Senate Bill 183 continues the program for an additional four calendar years (2008 through 2011), but within the original funding limits, which means a declining subsidy level for some providers throughout the four-year period.

In recognition of the role played by nurse practitioners in providing medical care in rural Oregon, Senate Bill 183 expands the program to include nurse practitioners who have rural practices and meet other program requirements. Senate Bill 183 also modifies the geographic areas covered by the program. Areas considered "rural" in 2004 continue to qualify (e.g., Grants Pass), while areas considered "urbanized" are excluded (e.g., Ashland), except for those doctors and nurse practitioners who provide obstetrical services in otherwise excluded areas.

The program continues to prioritize obstetric care under Senate Bill 183 and those who practice obstetrics continue to receive the highest subsidies – 80 percent for obstetricians and nurse practitioners certified for obstetric care and 60 percent for family practitioners or general practitioners whose practices includes obstetrics. Doctors and nurse practitioners in specified primary care fields receive subsidies up to 40 percent, while subsidies for doctors and nurse

practitioners in non-primary care fields decline over the four-year period from not more than 35 percent in calendar year 2008 to 15 percent in calendar years 2010 and 2011, based on available funds.

In order to be eligible under the program, a doctor or nurse practitioner must have an in-force policy of medical professional liability insurance with an authorized insurer with minimum limits of coverage of \$1 million per occurrence and \$1 million aggregate. Senate Bill 183 also provides that a doctor or nurse practitioner whose medical professional liability insurance is provided through a health care facility will be eligible for the program if they are not an employee of the facility and meet certain other requirements. In addition, a doctor or nurse practitioner must be willing to serve patients with Medicare coverage and patients receiving medical assistance provided under Medicaid.

Under the law, program costs are capped at an average of \$5 million for each policy year for which the coverage is provided. SAIF continues to be reimbursed for these costs through a credit against the workers' compensation premium assessment it pays to DCBS. Senate Bill 183 also directed SAIF to submit proposed modifications to its plan for operating the program not later than September 30, 2007. The modified plan was submitted to DCBS and the Office of Rural Health (ORH) and was approved on December 4, 2007. The plan became operational on January 1, 2008. Under the plan, SAIF has the right to conduct periodic audits to ensure that the authorized insurers are reducing the premium charged to the eligible doctor or nurse practitioner in a manner that fully recognizes savings made available by coverage offered under Senate Bill 183.

Doctors and nurse practitioners can receive benefits only if their medical liability insurance insurers select to participate in the program. Presently, eight insurers are participating in the plan. However, effective January 1, 2009, Northwest Physicians Insurance Company will be non-renewing its medical providers. These providers will be offered coverage through The Doctors Company, an Interinsurance Exchange, who is a participating insurer.

The law sunsets at the end of calendar year 2011.

RESULTS

From inception to year-end 2007, the program has reimbursed 1,297 doctors for portions of their medical professional liability insurance premiums. The number of doctors and nurse practitioners participating in the modified program as of September 30, 2008, was 885.

Total Number of Medical Providers Participating from Inception					
Through Years ending:	12/31/04	12/31/05	12/31/06	12/31/07	9/30/08
Obstetricians	49	54	71	77	48
Family Practice with Obstetrics	70	71	73	84	57
40% Specialties	935	980	1,024	1,136	485
All Other Doctors	N/A	N/A	N/A	N/A	295
Total	1,054	1,105	1,168	1,297	885

NOTE: Prior to January 1, 2008, the “40% Specialties” and “All Other Doctors” categories were combined in one “40%” category.

The number of participating doctors increased 39.9% from 927 at the program’s inception in January 2004 to 1,297 at year-end 2007.

The participating doctors and nurse practitioners are located in seven of the state’s ten frontier counties, twelve of the thirteen rural counties, and six of the eight mixed rural and urban counties. The count ranges from 122 participants in rural Douglas County to one in frontier Morrow County. [Appendix A](#) lists the distribution of participating doctors and nurse practitioners by county and percentage of subsidy.

A total of \$25,111,124 has been spent on the program through September 30, 2008. The total does not include \$200,000 paid for the Professional Panel for Analysis of Medical Professional Liability Insurance actuarial report completed in 2004, as required by section 11 of House Bill 3630. Expenditures by year are as follows:

Expenditures by Year						
	2004	2005	2006	2007	9/30/2008	Total
Obstetricians	\$1,114,027	\$1,322,013	\$1,440,071	\$1,269,246	\$1,320,361	\$6,465,718
Family Practice with Obstetrics	\$591,524	\$629,147	\$645,169	\$602,271	\$450,600	\$2,918,711
40% Specialties	\$2,995,327	\$3,445,771	\$3,575,492	\$3,446,355	\$1,328,326	\$14,791,271
All Other Doctors	N/A	N/A	N/A	N/A	\$935,424	\$935,424
Total	\$4,700,878	\$5,396,931	\$5,660,732	\$5,317,872	\$4,034,711	\$25,111,124

NOTE: 2008 data includes nurse practitioners (N=40). Prior to January 1, 2008, the “40% Specialties” and “All Other Doctors” categories were combined in one “40%” category.

The number of doctors participating in the program has decreased, but the modified program now expands eligibility to certain nurse practitioners. It is unclear how the modified program may have affected the participation level for doctors. Since the renewal date for a doctor's medical professional liability insurance policy may fall in any month, the number of providers shown through September 30, 2008 may increase when calendar year 2008 year-end numbers are received.

In November 2008, at the request of DCBS, ORH sent an electronic survey to 156 doctors eligible for the program in calendar year 2007 that had not submitted a renewal request form for 2008. However, ORH received only a limited response from 17 doctors. Six of the doctors indicated they were either no longer practicing in an eligible area or the percentage of their rural practice no longer qualifies under the program. Three doctors indicated they were not paying for their medical professional liability insurance. Three doctors said they were unaware there was a renewal process. The new Medicare/Medicaid requirement did not affect 15 of the 17 doctors' decisions not to continue to participate in the program. On January 9, 2009, ORH provided additional information indicating that 19 doctors who participated in 2007, but not 2008, have again signed up to participate in 2009. However, none of these doctors listed obstetrics or family practice with obstetrics as their specialty.

This report includes the results of the program through September 30, 2008. By March 31, 2009 calendar year 2008 year-end numbers will be available. The Department looks forward to discussing the performance of the modified program with the appropriate legislative committees when we receive the final numbers for calendar year 2008.

A copy of Senate Bill 183 (Appendix B) and the Modified Rural Medical Liability Financial Reinsurance Plan (SAIF) (Appendix C) are attached for your reference.

Appendix A
As of September 30, 2008
2008 Medical Specialties Subsidy
Percentage by County

% Subsidy	80%	60%	40%	35%	Total by County
Total	48	57	485	295	885
Frontier	6	13	33	21	73
Baker		3	7	2	12
Gilliam					0
Grant	1		2		3
Harney		2	3		5
Lake		4	1		5
Malheur	5		13	18	36
Morrow			1		1
Sherman					0
Wallowa		4	6	1	11
Wheeler					0
Rural	35	26	382	256	699
Clatsop			15	10	25
Columbia					0
Coos	7	2	55	38	102
Crook		2	9		11
Curry			13	1	14
Douglas	7	1	66	48	122
Hood River	1	5	13	10	29
Jefferson		4	2		6
Josephine	4	4	54	26	88
Klamath	2	3	38	26	69
Lincoln	1		15	5	21
Polk		1	10	1	12
Tillamook	2	2	11	8	23
Umatilla	5		35	21	61
Union		2	7	12	21
Wasco	3		5	20	28
Yamhill	3		34	30	67
Mixed	7	18	70	18	113
Benton					0
Clackamas		1	13		14
Deschutes		4	23	5	32
Jackson		3	8	2	13
Lane			8	3	11
Linn	1		2	2	5
Marion	6	10	16	6	38
Washington					0
Urban	0	0	0	0	0
Multnomah					0