

No. 1978-320

AN ACT

SB 679

Amending the act of October 15, 1975 (P.L.390, No.111), entitled "An act relating to medical and health related malpractice insurance, prescribing the powers and duties of the Insurance Department; providing for a joint underwriting plan; the Arbitration Panels for Health Care, compulsory screening of claims; collateral sources requirement; limitation on contingent fee compensation; establishing a Catastrophe Loss Fund; and prescribing penalties," authorizing certain professional corporations, professional associations and partnerships to obtain insurance coverage from certain sources and further providing for the joint committee.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Introductory paragraph of subsection (a) of section 701, act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act," amended July 15, 1976 (P.L.1028, No.207), is amended to read:

Section 701. Professional Liability Insurance and Fund.—(a) Every health care provider as defined in this act, practicing medicine or podiatry or otherwise providing health care services in the Commonwealth shall insure his professional liability **only with an insurer licensed or approved by the Commonwealth of Pennsylvania**, or provide proof of self-insurance in accordance with this section.

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Section 2. The act is amended by adding a section to read:

Section 811. Professional Corporations, Professional Associations and Partnerships.—(a) The Joint Underwriting Association shall offer basic coverage insurance to such professional corporations, professional associations and partnerships entirely owned by health care providers who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated professional corporations, professional associations and partnerships.

(b) In the event that a professional corporation, professional association or partnership entirely owned by health care providers elects to be covered by basic coverage insurance and upon payment of the annual surcharge as required by section 701(e), the professional corporation, professional association or partnership shall be entitled to such excess coverage from the Medical Professional Liability Catastrophe Loss Fund as is provided in this act.

(c) Any professional corporation, professional association, or partnership which acquires basic coverage insurance from the Joint Underwriting Association pursuant to subsection (a) or from an insurer licensed or approved by the Commonwealth of Pennsylvania shall be

required to participate in and contribute to the Medical Professional Liability Catastrophe Loss Fund as provided in this act.

(d) Any professional corporation, professional association or partnership which participates in or contributes to the Medical Professional Liability Catastrophe Loss Fund shall be subject to all other provisions of this act.

Section 3. Section 1006 of the act is amended to read:

Section 1006. Joint Committee.—There is hereby created a committee to consist of the commissioner as chairman, the Secretary of Health and two members of the Senate, one member of each party, to be appointed by the President pro tempore and two members of the House of Representatives, one member of each party, to be appointed by the Speaker of the House of Representatives. The committee shall study the distribution of professional liability insurance costs as among the various classes of physicians and health care providers and shall report its findings and recommendations to the General Assembly within one year of the effective date of this act. The committee shall also study all phases and the financial impact of the operations of the Medical Professional Liability Catastrophe Loss Fund and shall report its findings and recommendations to the General Assembly on or before July 1, 1977. This committee shall also study actual or potential problems of conflicts of interest which exist or may exist among members of the arbitration panel with each other and with other persons appearing before the arbitration panel or having their interests represented before the arbitration panel. The committee shall promulgate a proposed Code of Ethics with suggested legal sanctions to deal with any violators of the Code of Ethics on or before July 1, 1976. ***This committee shall study the act, its application and operation to determine if any changes in the present act are necessary or advisable. This study shall include consideration of the advisability and potential effect of the application of the act to mental health/mental retardation facilities. The committee shall report on this study on or before July 1, 1979 and each year thereafter.***

Section 4. This act shall take effect immediately.

APPROVED—The 26th day of November, A. D. 1978.

MILTON J. SHAPP