

House Bill 1806

By: Representatives Porter of the 119th, Skipper of the 116th, Lord of the 103rd, Childers of the 13th, Post 1, Parrish of the 102nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide that insurance agents, subagents, and brokers shall be prohibited from entering into
3 agreements with purchasers or holders of malpractice insurance that restrict such purchasers
4 or holders from using another agent, subagent, or broker to purchase or renew a malpractice
5 insurance policy; to provide remedies and penalties for such agreements; to provide that
6 insurers that issue or issue for delivery in this state policies of medical malpractice insurance
7 must provide notice to the insured at least 60 days before the policy termination date of the
8 insurer's intent to cancel or not to renew such policy or to increase the premium for such
9 policy by more than 10 percent over the premium charged for the current policy period; to
10 provide for the manner of giving such notice; to provide for remedies for failure to give such
11 notice; to provide for certain immunities; to provide for related matters; to repeal conflicting
12 laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
16 adding a new Code Section 33-23-40.1 to read as follows:

17 "33-23-40.1.

18 (a) Agents, subagents, and brokers are prohibited from entering into agreements with
19 purchasers or holders, or prospective purchasers or holders, of malpractice insurance, as
20 defined in paragraph (8) of Code Section 33-7-3, that restrict the purchaser or holder, or
21 prospective purchasers or holders, of malpractice insurance from using another agent,
22 subagent, or broker when purchasing or renewing a malpractice insurance policy. Any
23 such agreement entered into in violation of this Code section shall be null and void. Any
24 agent, subagent, or broker attempting to enter into such an agreement shall be subject to
25 license suspension or revocation as determined by the Commissioner.

1 (b) Subsection (a) of this Code section shall not apply to an authorization from a
2 purchaser or holder, or prospective purchaser or holder, to an insurer designating an agent
3 to represent him or her for the purpose of procuring malpractice insurance from the insurer;
4 provided, however, that such authorization may be rescinded at any time by the purchaser
5 or holder, or prospective purchaser or holder."

6 SECTION 2.

7 Said title is further amended by adding a new Code Section 33-24-47.2 to read as follows:
8 "33-24-47.2.

9 (a) Each insurer licensed to transact business in this state which issues or issues for
10 delivery in this state policies or contracts of medical malpractice insurance shall comply
11 with the provisions of this Code section. Cancellation of a policy for failure of the named
12 insured to discharge when due any obligations in connection with the payment of premiums
13 or cancellation for any reason of a policy that has been in effect for less than 60 days shall
14 be governed by the provisions of Code Section 33-24-44.

15 (b) For medical malpractice insurance policies, a notice of termination, including a notice
16 of cancellation or nonrenewal, by the insurer, a notice of an increase in premiums which
17 exceeds 10 percent of the current policy's premium, or a notice of change in any policy
18 provision which limits or restricts coverage shall be delivered to the insured in person or
19 by depositing the notice in the United States mail, to be dispatched by at least first-class
20 mail to the last address of record of the insured, at least 60 days prior to the termination
21 date of such policy. In those instances where an increase in premium exceeds 10 percent
22 of the current policy's premium, the notice to the insured shall indicate the dollar amount
23 of the increase. The insurer may obtain a receipt provided by the United States Postal
24 Service as evidence of mailing such notice or such other evidence of mailing as prescribed
25 or accepted by the United States Postal Service.

26 (c) The failure of an insurer to comply with the requirements of subsection (b) of this Code
27 section shall entitle the policyholder to purchase, under the same premiums and policy
28 terms and conditions, an additional 60 day period of insurance coverage beyond the
29 termination date of such policy; provided, however, that the policyholder shall tender the
30 premium amount, computed on a pro rata basis, to the insurer on or before the termination
31 date. No provision of this Code section shall be construed as requiring the insurance
32 coverage under a policy to be extended for more than 60 days from the termination date
33 stated in such policy. An insurer shall not be subject to any other penalty for the failure to
34 comply with the requirements of subsection (b) of this Code section unless the
35 Commissioner finds, after a hearing, that such noncompliance by the insurer has occurred
36 with such frequency as to indicate a general business practice by the insurer of

1 noncompliance with subsection (b) of this Code section. There shall be no liability on the
2 part of and no cause of action of any nature shall arise against the Commissioner or the
3 Commissioner's employees or against any insurer, its authorized representatives, its agents,
4 its employees, or any firm, person, or corporation furnishing to the insurer information as
5 to reasons for cancellation or nonrenewal for any statement made by any of them and in
6 written notice of cancellation or nonrenewal or in any other communication, oral or written,
7 specifying the reasons for cancellation or nonrenewal or providing information pertaining
8 thereto or for statements made or evidence submitted at any formal or informal hearing
9 conducted in connection therewith."

10 **SECTION 3.**

11 All laws and parts of laws in conflict with this Act are repealed.