

Amend Amendment No. 25 by Rose to **CSHB 4** (beginning on page 565, amendment packet), on page 8 of the amendment, between lines 10 and 11, by inserting the following:

Art. 5.166. FILING OF RATE INFORMATION WITH DEPARTMENT;
REPORT TO LEGISLATURE

Sec. 1. PURPOSE. The purpose of this article is to require insurers writing professional liability insurance for physicians and health care providers in this state to annually file with the commissioner of insurance rates and supporting data, including current rates and estimated rates to be charged in the year following the filing date for the purpose of the preparation of a summary report for submission to each legislature and the determination by the commissioner of equitable rate reductions under Article 5.163 of this code. Information submitted under this article must be sufficient for the commissioner to determine the extent of equitable rate reductions under Article 5.163 of this code. The commissioner's report shall contain a review of the rates, presented in a manner that protects the identity of individual insurers:

(1) to inform the legislature as to whether the rates are just, adequate, and reasonable and not excessive or unfairly discriminatory; and

(2) to assist in the determination of the most effective and efficient regulatory system for professional liability insurance for physicians and health care providers in Texas.

Sec. 2. DEFINITIONS. In this article:

(1) "Insurer" means an insurer described by Article 5.162 of this code.

(2) "Supplementary rating information" means any manual, rating schedule, plan of rules, rating rules, classification systems, territory codes and descriptions, rating plans, and other similar information used by the insurer to determine the applicable premium for an insured. The term includes factors and relativities, such as increased limits factors, classification relativities, deductible relativities, premium discount, and other similar factors and rating plans such as

experience, schedule, and retrospective rating.

(3) "Security" or "securities" has the meaning assigned by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes).

Sec. 3. RATE INFORMATION. (a) Insurers must file rates for professional liability insurance for physicians and health care providers and supporting information with the commissioner in accordance with the requirements determined by the commissioner under this article.

(b) Filings made by each insurer must be sufficient to respond to the commissioner's request for information under this article and must provide both current rates and estimated rates for the year following the required filing date of this article based on information reasonably known to the insurer at the time of filing.

(c) The insurer shall file, in a format specified by the commissioner, including an electronic format:

(1) all rates for professional liability insurance for physicians and health care providers, supplementary rating information, underwriting guidelines, reasonable and pertinent supporting information for risks written in the state, and all applicable rating manuals;

(2) actuarial support, including all statistics, data, or other information to support the rates, supplementary rating information, and underwriting guidelines used by the insurer;

(3) the policy fees, service fees, and other fees that are charged under Article 21.35B of this code;

(4) information on the insurer's losses from investments in securities, whether publicly or privately traded, including investments in the securities of companies required by any oversight agency to restate earnings within the 24 months preceding the filing date, possessed and used by the insurer to determine premiums or underwriting for professional liability insurance for physicians and health care providers, as this information relates to the rates described by Section 1 of this article;

(5) information on the insurer's costs of reinsurance

possessed and used by the insurer to determine premiums or underwriting for professional liability insurance for physicians and health care providers, as this information relates to the rates described by Section 1 of this article;

(6) a complete explanation, and an electronic copy, of all computer models used by the insurer not protected by a contract with a third party; and

(7) a complete explanation of any changes to underwriting guidelines, rates, and supplementary rating information since the last filing under this article.

(d) The commissioner shall determine the date on which the filing is due.

(e) The commissioner may require additional information as provided by Section 4 of this article.

(f) The commissioner shall issue an order specifying the information that insurers must file to comply with this article and the date on which the filing is due.

(g) The commissioner is not required to hold a hearing before issuing the order required under Subsection (f) of this section.

(h) The commissioner shall notify an affected insurer of the order requiring the rate filing information under this section on the day the order is issued.

Sec. 4. ADDITIONAL INFORMATION. After the initial rate submission under Section 3 of this article, the commissioner may require an insurer to provide additional, reasonable information for purposes of the clarification or completeness of the initial rate submission.

Sec. 5. USE OF FILED RATE INFORMATION. (a) Information filed by an insurer with the department under this article that is confidential under a law that applied to the insurer before the effective date of this article remains confidential and is not subject to disclosure under Chapter 552, Government Code, except that the information may be disclosed as provided by Section 552.008, Government Code, relating to information for legislative purposes. Information disclosed pursuant to Section 552.008, Government Code, shall be provided in a commonly used electronic

format, including in spreadsheet or comma-delimited format, if so requested. The information may not be released to the public except in summary form in the report required under Section 6 of this article.

(b) Subsection (a) of this section does not preclude the use of information filed under this article as evidence in prosecuting a violation of this code. Confidential information described by Subsection (a) of this section that is used in prosecuting a violation is subject to a protective order until all appeals of the case have been exhausted. If an insurer is found, after the exhaustion of all appeals, to have violated this code, a copy of the confidential information used as evidence of the violation is no longer presumed to be confidential.

Sec. 6. REPORT. (a) The commissioner shall, on a date determined by the commissioner, submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature on the information collected from the filings required under this article. The report may be created based on a sample of the information provided under Section 3 of this article.

(b) The report required under this section shall provide a summary review of the rates currently charged and estimated to be charged over the year following the date of the report, presented in a manner that protects the identity of individual insurers:

(1) to inform the legislature as to whether the rates are just, adequate, and reasonable and not excessive or unfairly discriminatory; and

(2) to assist the legislature in the determination of the most effective and efficient regulatory system for professional liability insurance for physicians and health care providers in this state.

Sec. 7. NOTIFICATION; NONCOMPLIANCE. The commissioner shall notify the governor, the lieutenant governor, the speaker of the house of representatives, and the members of the legislature of the names of the insurers whom the commissioner requested to make the rate filings under this article and the names of the insurers who did not respond in whole or in part to the commissioner's

request. This notification shall be made by separate letter on the fourth day following the date on which the commissioner determines the filing is due under Section 3(f) of this article.

Sec. 8. APPLICATION OF CERTAIN LAW. Chapter 40 of this code does not apply to an action of the commissioner under Section 3(f) of this article.

Sec. 9. FAILURE TO COMPLY. An insurer that fails to comply with any request for information issued by the commissioner under this article is subject, after notice and opportunity for hearing, to sanctions as provided by Chapters 82 and 84 of this code.