

Amend **CSSB 14** by adding the following appropriately numbered ARTICLE and renumbering existing ARTICLES of the bill appropriately:

ARTICLE \_\_\_\_\_. RATES FOR PROFESSIONAL LIABILITY INSURANCE FOR  
PHYSICIANS AND HEALTH CARE PROVIDERS

SECTION \_\_\_\_\_.01. Chapter 5, Insurance Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T. RATES FOR PROFESSIONAL LIABILITY INSURANCE FOR  
PHYSICIANS AND HEALTH CARE PROVIDERS

Art. 5.161. CONTINGENT ROLLBACK. (a) If a cap on noneconomic damages in health care liability claims becomes constitutional by voter approval of an amendment to the Texas Constitution or is determined to be constitutional by the supreme court, any insurer that delivers, issues for delivery, or renews a policy of professional liability insurance for physicians or health care providers in this state on or after the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional may not charge more for the policy than 85 percent of the amount the insurer charged that insured for the same coverage immediately before the effective date of the constitutional amendment or the date that the cap was determined to be constitutional, or, if the insurer did not insure that insured immediately before that date, 85 percent of the amount the insurer would have charged that insured, provided that the rate was not artificially inflated prior to the determination of constitutionality. An insurer may petition the commissioner for an exception to the rate reduction. A proceeding under this article is a contested case under Chapter 2001, Government Code. The commissioner shall not grant the exception unless the insurer proves by a preponderance of the evidence that the rate reduction is confiscatory. If the insurer meets this evidentiary burden, the commissioner may grant the exception only to the extent that the reduction is confiscatory. The contingent rate rollback required by this article does not apply to a policy or coverage delivered, issued for delivery, or renewed for a public hospital in this state.

(b) If a cap on noneconomic damages in health care liability claims becomes constitutional by voter approval of an amendment to

the Texas Constitution or is determined to be constitutional by the supreme court, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the second anniversary of the 30th day after the effective date of the constitutional amendment containing a cap on noneconomic damages in health care liability claims or the date the cap was determined to be constitutional and before the third anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 80 percent of the amount the insurer charged or would have charged the insured for the same coverage, provided that the rate was not artificially inflated prior to the determination of constitutionality.

(c) If a cap on noneconomic damages in health care liability claims becomes constitutional by voter approval of an amendment to the Texas Constitution or is determined to be constitutional by the supreme court, then an insurer may not charge an insured for professional liability insurance for physicians and health care providers issued or renewed on or after the third anniversary of the 30th day after the effective date of the constitutional amendment containing a cap on noneconomic damages in health care liability claims or the date the cap was determined to be constitutional and before the fourth anniversary of the 30th day after the effective date of the constitutional amendment or the date the cap was determined to be constitutional an amount that exceeds 75 percent of the amount the insurer charged or would have charged the insured for the same coverage, provided that the rate was not artificially inflated prior to the determination of constitutionality.