

HB 899 -- Malpractice Insurance

Sponsor: Kirkton

This bill changes the laws regarding malpractice insurance. In its main provisions, the bill:

(1) Requires an assessable association to come into compliance with these provisions within 180 days of the effective date and to file its articles of association and bylaws or the director may suspend the association's certificate of authority or issue a cease and desist order prohibiting the association from writing new business;

(2) Breaks malpractice association assessments into four types of assessments: initial assessments, regular assessments, operating assessments, and special assessments;

(3) Specifies that a malpractice association's articles of association and bylaws must specify how the various assessments apply to current and former members;

(4) Specifies that a special assessment made by an association after the fifth anniversary of the termination date of a former member's coverage under the association's policy must not apply to the former member;

(5) Requires a copy of the articles of association and bylaws to be attached to a policy issued by an assessable association;

(6) Requires malpractice associations to be subject to various auditing and financial reporting insurance laws;

(7) Allows the Department of Insurance, Financial Institutions and Professional Registration to limit the amount of premium an association can write or the amount of insurance or limit of liability an association can provide;

(8) Requires assessable associations to maintain a policyholders' surplus of at least \$600,000. An assessable association may renew its license with lower surplus requirements over a three-year period by maintaining a policyholders' surplus of \$200,000 after 2013, \$400,000 after 2014, and \$600,000 after 2015. Currently, malpractice associations are not required to maintain positive surpluses;

(9) Prohibits an association from causing the ratio of its net written premiums to its policyholders' surplus to exceed 3:1 without the approval of the department director. An assessable

association licensed as of January 1, 2013, may renew its license with a higher ratio over a three-year period by not causing the ratio of its net written premiums to its policyholders' surplus to exceed 4:1 after 2013, 3.5:1 after 2014, and 3:1 after 2015; and

(10) Requires the department director to hold a hearing to determine if an insurer's medical malpractice rates are excessive, inadequate, or unfairly discriminatory before making a finding and to base the decision on competent and substantial evidence on the whole record rather than competent and compelling evidence.