HB 394 -- Medical Malpractice Insurance

Sponsor: Byrd

This bill changes the laws regarding medical malpractice
insurance. The bill:

(1) Includes policies providing professional malpractice
insurance to health care providers within the definition of
"commercial casualty insurance" for purposes of Sections
379.882 - 379.888, RSMo. Currently, professional malpractice
insurance is not included;

(2) Subjects malpractice insurers to Sections 379.882 - 379.893
regarding commercial casualty insurance, Section 379.321.6
dealing with rate filing and notice requirements of commercial
casualty insurance, and Sections 374.202 - 374.207 on the
examination powers of the Director of the Department of
Insurance;

(3) Establishes a procedure by which medical malpractice
insurers can make premium rate changes otherwise presumed
unreasonable under Section 383.405, including: prior notice to
the director; a hearing, including evidence presentation by the
insurer and opponents, which may be a public hearing at the
director's discretion; an appeals process for the insurer if the
director determines the rate change to be unjustified; and an
insurer charging rates greater than 20% lower than the market
rate will not be subject to the hearing requirement if the
insurer files a certificate of actuarial soundness with the
director;

(4) Creates penalties for violations and authorizes license
suspension upon the written order of the director after notice to
the insurer and a hearing;

(5) Prohibits insurance companies and other entities providing
malpractice insurance to health care providers in Missouri from:

(a) Increasing premium charges by more than $1,000 without 60
days' prior notice to the insured;

(b) Refusing to renew policies without 60 days' prior notice,
unless the refusal to renew is based upon nonpayment of insurance
premiums or license termination or suspension; and

(c) Ceasing to issue insurance policies without 180 days' prior
notice to the department;

(6) Requires the department to establish 12 to 20 risk-reporting

categories for medical malpractice insurance premiums and regulations for their reporting by May 30, 2006;

(7) Requires insurance companies and other entities providing malpractice insurance in Missouri to report to the department, by June 1, 2006, and annually thereafter, the premium rates charged by category;

(8) Requires the department, by December 31, 2007, and annually thereafter, to establish and publish a market rate reflecting the median of the actual rates charged for each risk-reporting category for the preceding year;

(9) Provides that, after January 1, 2008, insurance premium rates charged by insurance companies and other entities providing malpractice insurance in Missouri which are no greater than 20% higher or lower than the published market rate will be presumed reasonable, and rates greater than 20% higher or lower will be presumed unreasonable;

(10) Requires, beginning January 1, 2006, any stock company organized as provided by Section 287.902 for the purpose of issuing medical malpractice insurance in Missouri to meet the requirements of Chapter 379 regarding the organization of insurance companies and the laws governing the organization of private corporations. The department director may waive capital and surplus requirements for five years after incorporation, and the company will not be subject to the membership requirements of the Missouri Property and Casualty Insurance Guarantee Association until after three years. No company, corporation, or association authorized to issue medical malpractice insurance prior to August 28, 2005, may incorporate under the provisions of this section;

(11) Requires the department to promulgate rules defining the term "claim" as it relates to medical malpractice; and

(12) Requires the department to study and report to the General Assembly by January 15, 2007, on the feasibility and economic impact of offering medical malpractice policies written to apply to injuries which result from acts or omissions occurring during the policy period.