

April 2, 2026

The Hon. Abigail Spanberger
Office of the Governor
Patrick Henry Building
1111 E. Broad Street, 3rd Floor
Richmond, VA 23219

Dear Governor Spanberger:

We, the undersigned organizations, are writing to you regarding SB 536, a bill related to medical malpractice information disclosures. Specifically, we ask that you propose amendments to SB 536 to address serious deficiencies in the bill's language.

Following efforts to dramatically increase Virginia's cap on damages in medical liability claims without a substantive analysis of the current market, we support legislators' efforts to have a better understanding of the medical liability environment through increased data collection. Most importantly, the data collection should be done by the SCC Bureau of Insurance, who already have medical malpractice data collection requirements and are the experts in this area. In addition, the legislation leaves vagaries in the data to be requested and allows legislators to try to interpret this highly complex insurance data. Correcting these deficiencies will provide for a more valuable tool by which to evaluate the medical liability market and give legislators the information needed to make more effective, long-term decisions about reasonable damage limitations in the future.

In this regard, we ask you to recommend the following amendments to the current bill language (specific legislative language is attached):

- Require that reporting be done to the State Corporation Commission rather than the House and Senate Courts Committees, under a section of the Code of Virginia already related to insurance reporting;¹
- Allow the Commission to have flexibility in the data collection process to more effectively carry out the intent of the legislation and better align with insurance industry terminology;
- Require the Commission to provide a report to the legislature on the data provided under the bill to ensure appropriate interpretation and context.

We recommend these specific amendments for several reasons. First, the State Corporation Commission already collects insurance data, including medical liability claims data, and has the experience and expertise to collect and process the additional data included in SB 536. Incorporating such a requirement in the Virginia Code where a

¹ Virginia Code § 38.2-2228.2

similar data reporting requirement already exists will eliminate unnecessary confusion and duplication. This is the most important issue that needs to be addressed. Second, because of differences between the bill language and some common terms used in the insurance industry, some terminology included in the data requested under the bill may lead to confusion about the information being requested. The Commission should have the flexibility to seek slightly different information if it better aligns with the goals of the legislation. Finally, requiring the Commission to issue a report on the data helps ensure that experts in the field will provide an accurate assessment of what the data does and does not mean. This will avoid having individuals with no insurance-specific training attempting to analyze very complex claims data, resulting in a more reliable analysis upon which to base future legislative actions regarding medical liability damage limits.

Medical professional liability claims are among the most complicated claims in the liability insurance field. It can take years for a medical professional liability claim to be filed, and years more for it to be resolved as complex medical issues are analyzed, scrutinized and reviewed. As such, *premium* data in a given year bears no correlation to *claims* data in the same year. Having the Commonwealth's own insurance experts collect, analyze, and report on this data will ensure that policy makers are relying on the best possible information for future decisions.

We thank you for your consideration of these important issues.

Sincerely,



Enclosure

SENATE BILL NO. 536
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Joint Conference Committee
on March 14, 2026)

(Patron Prior to Substitute—Senator Obenshain)

A BILL to amend the Code of Virginia by adding a section numbered ~~8-01-581.15:138.2-2228.3~~, relating to medical malpractice information disclosures; report.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered ~~8-01-581.15:138.2-2228.3~~ as follows:

§ ~~8-01-581.15:138.2-2228.3~~. *Medical malpractice information disclosures.*

A. Every insurer issuing medical malpractice liability insurance policies covering health care providers in the Commonwealth shall disclose, for the preceding calendar year, information regarding (i) premiums, including total premiums written in the Commonwealth, the number of insured providers, the average and median premium per insured provider, investment or interest income attributable to such line of coverage, if maintained separately in the ordinary course of business, and any dividends, premium refunds, premium credits, surplus distributions, or other return of premiums paid or credited to policyholders or members, including the average amount of such payments per insured provider, and such premium information shall be categorized by medical specialty and type of insured entity, including independent physician practices, hospital-employed physicians, academic medical centers, and such other categories as reasonably reflect underwriting classifications used by insurers; (ii) claims activity, specifically the number of claims reported, lawsuits filed, claims settled, claims dismissed, claims tried to verdict, defense verdicts returned, and the average plaintiff verdict amount; (iii) claim payments and litigation costs, specifically the total indemnity paid, total defense and litigation expenses incurred, the average defense cost per closed claim, and the medical malpractice loss ratio, defined for the purposes of this section as the ratio of total indemnity payments and defense and litigation payments, reserves, and actuarially determined but not reported claims to earned premium for such coverage; and (iv) insurer financial condition, including the total surplus held by insurers writing medical malpractice liability insurance in the Commonwealth, as each of these terms is defined by the Commission.

B. Every hospital or health system licensed in the Commonwealth pursuant to § 32.1-123 that maintains self-insurance, captive insurance, risk retention arrangements, or other retained financial risk for medical malpractice liability shall disclose information regarding (i) the number of physicians and health care providers covered under the malpractice liability program; (ii) claims activity, including claims made, lawsuits filed, claims settled, claims tried to

verdict, defense verdicts returned, and the average plaintiff verdict amount; (iii) malpractice expenditures, including total indemnity paid, total defense and litigation expenses, administrative costs of the malpractice liability program, reserves for pending claims, and premiums paid for excess insurance or reinsurance coverage; and (iv) the total malpractice liability expenditures for the reporting year expressed as a percentage of the hospital's total patient service revenue, as each of these terms is defined by the Commission.

C. Each entity required to disclose information pursuant to subsections A and B shall provide a list of verdicts during the reporting year in medical malpractice actions in the Commonwealth in which the jury verdict exceeded the limitation on recovery established pursuant to § 8.01-581.15. Such list shall include (i) the verdict amount, (ii) the amount recoverable after the application of the limitation on recovery established pursuant to § 8.01-581.15, and (iii) the year in which the cause of action began to accrue. No personally identifiable information of any individual involved in such an action shall be disclosed in such a list.

D. The disclosures and information required to be provided pursuant to the provisions of this section shall be submitted to the ~~Chairs of the House and Senate Committees for Courts of Justice and to the ranking Delegate and Senator of the minority party serving on such Committees and shall be made available to the public by the Clerks of the House of Delegates and the Senate on the General Assembly's website in a uniform format prescribed by such Clerks after consultation with the Chairs of the House and Senate Committees for Courts of Justice~~ Commission. The initial disclosure and information required to be provided pursuant to the provisions of this section shall be submitted on or before September 1, 2026, for the 2025 calendar year, and subsequent disclosures and information shall be submitted on or before March 31 of each year thereafter for the preceding calendar year.

E. The disclosures and information required to be provided pursuant to this section shall be provided in aggregate form that does not allow identification of any individual physician, hospital, insurer, patient, or specific claim and shall be reported in the form maintained in the ordinary course of business by such entity and certified as accurate and complete by an officer of the reporting entity.

F. The disclosures and information submitted to the ~~Chairs of the House and Senate Committees for Courts of Justice and to the ranking Delegate and Senator of the minority party serving on such Committees~~ Commission pursuant to this section shall be confidential and shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) except in aggregate form and shall not identify any individual physician, hospital, insurer, patient, or specific claim.

G. The Commission shall report to the Chairs of the House and Senate Committees for Courts of Justice and to the ranking Delegate and Senator of the

minority party serving on such Committees an analysis of the submitted data on an annual basis.

HG. The provisions of this section shall expire upon the effective date of any act of the General Assembly establishing a new limitation on recovery for medical malpractice actions pursuant to § 8.01-581.15.