

Bill No. CS for SB 2128

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Myers moved the following amendment:

Senate Amendment (with title amendment)

On page 14, between lines 28 and 29,

insert:

Section 9. Paragraph (g) of subsection (5) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.--

(5) The requirements of subsections (1), (2), and (3) shall not apply to:

(g) Any person holding an active license under this chapter who agrees to meet all of the following criteria:

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice either in contract or tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice either in contract or tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or either \$100,000, if the physician is licensed pursuant to

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1 this chapter but does not maintain hospital staff privileges,
2 or \$250,000, if the physician is licensed pursuant to this
3 chapter and maintains hospital staff privileges, within 60
4 days after the date such judgment became final and subject to
5 execution, unless otherwise mutually agreed to in writing by
6 the parties. Such adverse final judgment shall include any
7 cross-claim, counterclaim, or claim for indemnity or
8 contribution arising from the claim of medical malpractice.
9 Upon notification of the existence of an unsatisfied judgment
10 or payment pursuant to this subparagraph, the department shall
11 notify the licensee by certified mail that he or she shall be
12 subject to disciplinary action unless, within 30 days from the
13 date of mailing, he or she either:

14 a. Shows proof that the unsatisfied judgment has been
15 paid in the amount specified in this subparagraph; or

16 b. Furnishes the department with a copy of a timely
17 filed notice of appeal and either:

18 (I) A copy of a supersedeas bond properly posted in
19 the amount required by law; or

20 (II) An order from a court of competent jurisdiction
21 staying execution on the final judgment pending disposition of
22 the appeal.

23 2. The Department of Health shall issue an emergency
24 order suspending the license of any licensee who, after 30
25 days following receipt of a notice from the Department of
26 Health, has failed to: satisfy a medical malpractice claim
27 against him or her; furnish the Department of Health a copy of
28 a timely filed notice of appeal; furnish the Department of
29 Health a copy of a supersedeas bond properly posted in the
30 amount required by law; or furnish the Department of Health an
31 order from a court of competent jurisdiction staying execution

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1 on the final judgment pending disposition of the appeal.

2 3. Upon the next meeting of the probable cause panel
3 of the board following 30 days after the date of mailing the
4 notice of disciplinary action to the licensee, the panel shall
5 make a determination of whether probable cause exists to take
6 disciplinary action against the licensee pursuant to
7 subparagraph 1.

8 4. If the board determines that the factual
9 requirements of subparagraph 1. are met, it shall take
10 disciplinary action as it deems appropriate against the
11 licensee. Such disciplinary action shall include, at a
12 minimum, probation of the license with the restriction that
13 the licensee must make payments to the judgment creditor on a
14 schedule determined by the board to be reasonable and within
15 the financial capability of the physician. Notwithstanding any
16 other disciplinary penalty imposed, the disciplinary penalty
17 may include suspension of the license for a period not to
18 exceed 5 years. In the event that an agreement to satisfy a
19 judgment has been met, the board shall remove any restriction
20 on the license.

21 5. The licensee has completed a form supplying
22 necessary information as required by the department.

23
24 A licensee who meets the requirements of this paragraph shall
25 be required either to post notice in the form of a sign
26 prominently displayed in the reception area and clearly
27 noticeable by all patients or to ~~and~~ provide a written
28 statement to any person to whom medical services are being
29 provided. ~~A copy of the written statement shall be given to~~
30 ~~each patient to sign, acknowledging receipt thereof, and the~~
31 ~~signed copy shall be maintained in the patient's file. If the~~

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1 ~~patient refuses to sign or is unable to sign the written~~
2 ~~statement, the licensee shall so note it on the form. Such~~
3 ~~sign or ~~and~~ statement shall state: "Under Florida law,~~
4 physicians are generally required to carry medical malpractice
5 insurance or otherwise demonstrate financial responsibility to
6 cover potential claims for medical malpractice. YOUR DOCTOR
7 HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This
8 is permitted under Florida law subject to certain conditions.
9 Florida law imposes penalties against noninsured physicians
10 who fail to satisfy adverse judgments arising from claims of
11 medical malpractice. This notice is provided pursuant to
12 Florida law."

13 Section 10. Paragraph (g) of section (5) of section
14 459.0085, Florida Statutes, is amended to read:

15 459.0085 Financial responsibility.--

16 (5) The requirements of subsections (1), (2), and (3)
17 shall not apply to:

18 (g) Any person holding an active license under this
19 chapter who agrees to meet all of the following criteria:

- 20 1. Upon the entry of an adverse final judgment arising
21 from a medical malpractice arbitration award, from a claim of
22 medical malpractice either in contract or tort, or from
23 noncompliance with the terms of a settlement agreement arising
24 from a claim of medical malpractice either in contract or
25 tort, the licensee shall pay the judgment creditor the lesser
26 of the entire amount of the judgment with all accrued interest
27 or either \$100,000, if the osteopathic physician is licensed
28 pursuant to this chapter but does not maintain hospital staff
29 privileges, or \$250,000, if the osteopathic physician is
30 licensed pursuant to this chapter and maintains hospital staff
31 privileges, within 60 days after the date such judgment became

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1 final and subject to execution, unless otherwise mutually
2 agreed to in writing by the parties. Such adverse final
3 judgment shall include any cross-claim, counterclaim, or claim
4 for indemnity or contribution arising from the claim of
5 medical malpractice. Upon notification of the existence of an
6 unsatisfied judgment or payment pursuant to this subparagraph,
7 the department shall notify the licensee by certified mail
8 that he or she shall be subject to disciplinary action unless,
9 within 30 days from the date of mailing, the licensee either:

10 a. Shows proof that the unsatisfied judgment has been
11 paid in the amount specified in this subparagraph; or

12 b. Furnishes the department with a copy of a timely
13 filed notice of appeal and either:

14 (I) A copy of a supersedeas bond properly posted in
15 the amount required by law; or

16 (II) An order from a court of competent jurisdiction
17 staying execution on the final judgment, pending disposition
18 of the appeal.

19 2. The Department of Health shall issue an emergency
20 order suspending the license of any licensee who, after 30
21 days following receipt of a notice from the Department of
22 Health, has failed to: satisfy a medical malpractice claim
23 against him or her; furnish the Department of Health a copy of
24 a timely filed notice of appeal; furnish the Department of
25 Health a copy of a supersedeas bond properly posted in the
26 amount required by law; or furnish the Department of Health an
27 order from a court of competent jurisdiction staying execution
28 on the final judgment pending disposition of the appeal.

29 3. Upon the next meeting of the probable cause panel
30 of the board following 30 days after the date of mailing the
31 notice of disciplinary action to the licensee, the panel shall

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1 make a determination of whether probable cause exists to take
2 disciplinary action against the licensee pursuant to
3 subparagraph 1.

4 4. If the board determines that the factual
5 requirements of subparagraph 1. are met, it shall take
6 disciplinary action as it deems appropriate against the
7 licensee. Such disciplinary action shall include, at a
8 minimum, probation of the license with the restriction that
9 the licensee must make payments to the judgment creditor on a
10 schedule determined by the board to be reasonable and within
11 the financial capability of the osteopathic physician.
12 Notwithstanding any other disciplinary penalty imposed, the
13 disciplinary penalty may include suspension of the license for
14 a period not to exceed 5 years. In the event that an
15 agreement to satisfy a judgment has been met, the board shall
16 remove any restriction on the license.

17 5. The licensee has completed a form supplying
18 necessary information as required by the department.

19

20 A licensee who meets the requirements of this paragraph shall
21 be required either to post notice in the form of a sign
22 prominently displayed in the reception area and clearly
23 noticeable by all patients or to ~~and~~ provide a written
24 statement to any person to whom medical services are being
25 provided. ~~A copy of the written statement shall be given to~~
26 ~~each patient to sign, acknowledging receipt thereof, and the~~
27 ~~signed copy shall be maintained in the patient's file. If the~~
28 ~~patient refuses to sign or is unable to sign the written~~
29 ~~statement, the licensee shall so note it on the form. Such~~
30 sign or ~~and~~ statement shall state: "Under Florida law,
31 osteopathic physicians are generally required to carry medical

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1 malpractice insurance or otherwise demonstrate financial
2 responsibility to cover potential claims for medical
3 malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO
4 CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under
5 Florida law subject to certain conditions. Florida law
6 imposes strict penalties against noninsured osteopathic
7 physicians who fail to satisfy adverse judgments arising from
8 claims of medical malpractice. This notice is provided
9 pursuant to Florida law."

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11 (Redesignate subsequent sections.)

12

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14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 On page 1, line 24, after the semicolon

17

18 insert:

19 amending ss. 458.320 and 459.0085, F.S.;

20 revising notice requirements of financial

21 responsibility for physicians and osteopathic

22 physicians;

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