

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Ambler offered the following:

Amendment (with title amendment)

Remove line(s) 836-935, and insert:

liability insurers. The facility shall offer policies to cover health care professionals who have retired from practice or maintain a part-time practice as set forth herein. For health care professionals who meet the following requirements, the premiums for such policies shall be no more than 50 percent of the cost of premiums for similar specialties for health care professionals who do not meet the following requirements:

(a) The health care professional has held an active license to practice in this state or another state or some combination thereof for more than 15 years.

(b) The health care professional has either retired from the practice of medicine or maintains a part-time practice of no more than 1,000 patient contact hours per year.

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28 (c) The health care professional has had no more than two
29 claims for medical malpractice resulting in an indemnity
30 exceeding \$50,000 each within the previous 5-year period.

31 (d) The health care professional has not been convicted
32 of, or pled guilty or nolo contendere to, any criminal violation
33 specified in this chapter or the medical practice act of any
34 other state.

35 (e) The health care professional has not been subject
36 within the last 10 years of practice to license revocation or
37 suspension for any period of time; probation for a period of 3
38 years or longer; or a fine of \$500 or more for a violation of
39 chapter 766 or the medical practice act of another jurisdiction.

40 The regulatory agency's acceptance of a physician's
41 relinquishment of a license, stipulation, consent order, or
42 other settlement, offered in response to or in anticipation of
43 the filing of administrative charges against the physician's
44 license, shall be construed as action against the physician's
45 license for the purposes of this paragraph.

46 (f) The health care professional has submitted a form
47 supplying necessary information as required by the department
48 and an affidavit affirming compliance with the provisions of
49 this subsection.

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51 The health care professional shall submit biennially to the
52 facility certification stating compliance with the provisions of
53 this subsection. The licensee shall, upon request, demonstrate
54 to the department information verifying compliance with this
55 subsection.

56 (4) ELIGIBILITY; TERMINATION.--

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57 (a) Any health care professional is eligible for coverage
58 provided by the facility if the professional at all times
59 maintains either:

60 1. An escrow account consisting of cash or assets eligible
61 for deposit under s. 625.52 in an amount equal to the deductible
62 amount of the policy; or

63 2. An unexpired, irrevocable letter of credit, established
64 pursuant to chapter 675, in an amount not less than the
65 deductible amount of the policy. The letter of credit shall be
66 payable to the health care professional as beneficiary upon
67 presentment of a final judgment indicating liability and
68 awarding damages to be paid by the physician or upon presentment
69 of a settlement agreement signed by all parties to such
70 agreement when such final judgment or settlement is a result of
71 a claim arising out of the rendering of, or the failure to
72 render, medical care and services. Such letter of credit shall
73 be nonassignable and nontransferable. Such letter of credit
74 shall be issued by any bank or savings association organized and
75 existing under the laws of this state or any bank or savings
76 association organized under the laws of the United States that
77 has its principal place of business in this state or has a
78 branch office which is authorized under the laws of this state
79 or of the United States to receive deposits in this state.

80 (b) The eligibility of a health care professional for
81 coverage terminates upon:

82 1. The failure of the professional to comply with
83 paragraph (a);

84 2. The failure of the professional to timely pay premiums;
85 or

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86 3. The commission of any act of fraud in connection with
87 the policy, as determined by the board of governors.

88 (c) The board of governors, in its discretion, may
89 reinstate the eligibility of a health care professional whose
90 eligibility has terminated pursuant to paragraph (b) upon
91 determining that the professional has come back into compliance
92 with paragraph (a) or has paid the overdue premiums. Eligibility
93 may be reinstated in the case of fraud only if the board
94 determines that its initial determination of fraud was in error.

95 (5) PREMIUMS.--

96 (a) The facility shall charge the actuarially indicated
97 premium for the coverage provided and shall retain the services
98 of consulting actuaries to prepare its rate filings. The
99 facility shall not provide dividends to policyholders, and, to
100 the extent that premiums are more than the amount required to
101 cover claims and expenses, such excess shall be retained by the
102 facility for payment of future claims. In the event of
103 dissolution of the facility, any amounts not required as a
104 reserve for outstanding claims shall be transferred to the
105 policyholders of record as of the last day of operation.

106 (b) To ensure that the facility has the funds to pay
107 claims:

108 1. From each judgment awarded and settlement agreed to
109 from which a claim will be paid in whole or in part by the
110 facility, the facility shall retain 1 percent of its portion of
111 the award or settlement for deposit into a separate account for
112 guaranteeing payment of claims.

113 2. From the funds of the Florida Birth-Related
114 Neurological Injury Compensation Association, the facility shall

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115 receive the interest on the association's investments for
116 deposit into a separate account for guaranteeing payment of
117 claims.

118 (6) REGULATION; APPLICABILITY OF OTHER STATUTES.--

119 (a) The facility shall operate pursuant to a plan of
120 operation approved by order of the Office of Insurance
121 Regulation of the Financial Services Commission. The board of
122 governors may at any time adopt amendments to the plan of
123 operation and submit the amendments to the Office of Insurance
124 Regulation for approval.

125 (b) The facility is subject to regulation by the Office of
126 Insurance Regulation of the Financial Services Commission in the
127 same manner as other insurers.

128 (c) The facility is not subject to part II of chapter 631,
129 relating to the Florida Insurance Guaranty Association.

130 (7) STARTUP PROVISIONS.--

131 (a) It is the intent of the Legislature that the facility
132 begin providing coverage no later than January 1, 2004.

133 (b) The Governor and the Chief Financial Officer shall
134 make their appointments to the board of governors of the
135 facility no later than July 1, 2003. Until the board is
136 appointed, the Secretary of Health may perform ministerial acts
137 on behalf of the facility as chair of the board of governors.

138 (c) Until the facility is able to hire permanent staff and
139 enter into contracts for professional services, the office of
140 the Secretary of Health shall provide support services to the
141 facility.

142 (d) In order to provide startup funds for the facility,
143 the board of governors may incur debt or enter into agreements

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144 for lines of credit, provided that the sole source of funds for
 145 repayment of any debt is future premium revenues of the
 146 facility. The amount of such debt or lines of credit may not
 147 exceed \$10 million. In addition to the debt or lines of credit
 148 provided for herein, the facility shall be authorized to borrow
 149 up to \$10 million from the Florida Birth-Related Neurological
 150 Injury Compensation Association and repay the association in
 151 equal annual installments over a period of 10 years.

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

155 Remove line(s) 56, and insert:

156 premiums; providing for regulation;