

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Galvano offered the following:

**Amendment (with title amendment)**

Remove line(s) 1381-1389, and insert:

Section 42. Effective July 1, 2006, subsections (4) and (5) of section 458.320, Florida Statutes, are amended to read:

458.320 Financial responsibility.--

(4)(a) Each insurer, self-insurer, risk retention group, or Joint Underwriting Association shall promptly notify the department of cancellation or nonrenewal of insurance required by this section. Unless the physician demonstrates that he or she is otherwise in compliance with the requirements of this section, the department shall suspend the license of the physician pursuant to ss. 120.569 and 120.57 and notify all health care facilities licensed under chapter 395 of such action. Any suspension under this subsection shall remain in effect until the physician demonstrates compliance with the

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28 requirements of this section, ~~except that a license suspended~~  
29 ~~under paragraph (5)(g) shall not be reinstated until the~~  
30 ~~physician demonstrates compliance with the requirements of that~~  
31 ~~provision.~~

32 (b) If financial responsibility requirements are met by  
33 maintaining an escrow account or letter of credit as provided in  
34 this section, upon the entry of an adverse final judgment  
35 arising from a medical malpractice arbitration award, from a  
36 claim of medical malpractice either in contract or tort, or from  
37 noncompliance with the terms of a settlement agreement arising  
38 from a claim of medical malpractice either in contract or tort,  
39 the licensee shall pay the entire amount of the judgment  
40 together with all accrued interest, or the amount maintained in  
41 the escrow account or provided in the letter of credit as  
42 required by this section, whichever is less, within 60 days  
43 after the date such judgment became final and subject to  
44 execution, unless otherwise mutually agreed to in writing by the  
45 parties. If timely payment is not made by the physician, the  
46 department shall suspend the license of the physician pursuant  
47 ~~to procedures set forth in subparagraphs (5)(g)3., 4., and 5.~~  
48 Nothing in this paragraph shall abrogate a judgment debtor's  
49 obligation to satisfy the entire amount of any judgment.

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

52 (a) Any person licensed under this chapter who practices  
53 medicine exclusively as an officer, employee, or agent of the  
54 Federal Government or of the state or its agencies or its  
55 subdivisions. For the purposes of this subsection, an agent of  
56 the state, its agencies, or its subdivisions is a person who is

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57 eligible for coverage under any self-insurance or insurance  
58 program authorized by the provisions of s. 768.28(15).

59 (b) Any person whose license has become inactive under  
60 this chapter and who is not practicing medicine in this state.  
61 Any person applying for reactivation of a license must show  
62 either that such licensee maintained tail insurance coverage  
63 which provided liability coverage for incidents that occurred on  
64 or after January 1, 1987, or the initial date of licensure in  
65 this state, whichever is later, and incidents that occurred  
66 before the date on which the license became inactive; or such  
67 licensee must submit an affidavit stating that such licensee has  
68 no unsatisfied medical malpractice judgments or settlements at  
69 the time of application for reactivation.

70 (c) Any person holding a limited license pursuant to s.  
71 458.317 and practicing under the scope of such limited license.

72 (d) Any person licensed or certified under this chapter  
73 who practices only in conjunction with his or her teaching  
74 duties at an accredited medical school or in its main teaching  
75 hospitals. Such person may engage in the practice of medicine to  
76 the extent that such practice is incidental to and a necessary  
77 part of duties in connection with the teaching position in the  
78 medical school.

79 (e) Any person holding an active license under this  
80 chapter who is not practicing medicine in this state. If such  
81 person initiates or resumes any practice of medicine in this  
82 state, he or she must notify the department of such activity.

83 ~~(f) Any person holding an active license under this~~  
84 ~~chapter who meets all of the following criteria:~~

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85 ~~1. The licensee has held an active license to practice in~~  
86 ~~this state or another state or some combination thereof for more~~  
87 ~~than 15 years.~~

88 ~~2. The licensee has either retired from the practice of~~  
89 ~~medicine or maintains a part-time practice of no more than 1,000~~  
90 ~~patient contact hours per year.~~

91 ~~3. The licensee has had no more than two claims for~~  
92 ~~medical malpractice resulting in an indemnity exceeding \$25,000~~  
93 ~~within the previous 5-year period.~~

94 ~~4. The licensee has not been convicted of, or pled guilty~~  
95 ~~or nolo contendere to, any criminal violation specified in this~~  
96 ~~chapter or the medical practice act of any other state.~~

97 ~~5. The licensee has not been subject within the last 10~~  
98 ~~years of practice to license revocation or suspension for any~~  
99 ~~period of time; probation for a period of 3 years or longer; or~~  
100 ~~a fine of \$500 or more for a violation of this chapter or the~~  
101 ~~medical practice act of another jurisdiction. The regulatory~~  
102 ~~agency's acceptance of a physician's relinquishment of a~~  
103 ~~license, stipulation, consent order, or other settlement,~~  
104 ~~offered in response to or in anticipation of the filing of~~  
105 ~~administrative charges against the physician's license, shall be~~  
106 ~~construed as action against the physician's license for the~~  
107 ~~purposes of this paragraph.~~

108 ~~6. The licensee has submitted a form supplying necessary~~  
109 ~~information as required by the department and an affidavit~~  
110 ~~affirming compliance with the provisions of this paragraph.~~

111 ~~7. The licensee shall submit biennially to the department~~  
112 ~~certification stating compliance with the provisions of this~~

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113 ~~paragraph. The licensee shall, upon request, demonstrate to the~~  
114 ~~department information verifying compliance with this paragraph.~~

115  
116 ~~A licensee who meets the requirements of this paragraph shall be~~  
117 ~~required either to post notice in the form of a sign prominently~~  
118 ~~displayed in the reception area and clearly noticeable by all~~  
119 ~~patients or provide a written statement to any person to whom~~  
120 ~~medical services are being provided. Such sign or statement~~  
121 ~~shall state that: Under Florida law, physicians are generally~~  
122 ~~required to carry medical malpractice insurance or otherwise~~  
123 ~~demonstrate financial responsibility to cover potential claims~~  
124 ~~for medical malpractice. However, certain part-time physicians~~  
125 ~~who meet state requirements are exempt from the financial~~  
126 ~~responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS~~  
127 ~~DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice~~  
128 ~~is provided pursuant to Florida law.~~

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

131 ~~1. Upon the entry of an adverse final judgment arising~~  
132 ~~from a medical malpractice arbitration award, from a claim of~~  
133 ~~medical malpractice either in contract or tort, or from~~  
134 ~~noncompliance with the terms of a settlement agreement arising~~  
135 ~~from a claim of medical malpractice either in contract or tort,~~  
136 ~~the licensee shall pay the judgment creditor the lesser of the~~  
137 ~~entire amount of the judgment with all accrued interest or~~  
138 ~~either \$100,000, if the physician is licensed pursuant to this~~  
139 ~~chapter but does not maintain hospital staff privileges, or~~  
140 ~~\$250,000, if the physician is licensed pursuant to this chapter~~  
141 ~~and maintains hospital staff privileges, within 60 days after~~

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142 ~~the date such judgment became final and subject to execution,~~  
143 ~~unless otherwise mutually agreed to in writing by the parties.~~  
144 ~~Such adverse final judgment shall include any cross-claim,~~  
145 ~~counterclaim, or claim for indemnity or contribution arising~~  
146 ~~from the claim of medical malpractice. Upon notification of the~~  
147 ~~existence of an unsatisfied judgment or payment pursuant to this~~  
148 ~~subparagraph, the department shall notify the licensee by~~  
149 ~~certified mail that he or she shall be subject to disciplinary~~  
150 ~~action unless, within 30 days from the date of mailing, he or~~  
151 ~~she either:~~

152 ~~a. Shows proof that the unsatisfied judgment has been paid~~  
153 ~~in the amount specified in this subparagraph; or~~

154 ~~b. Furnishes the department with a copy of a timely filed~~  
155 ~~notice of appeal and either:~~

156 ~~(I) A copy of a supersedeas bond properly posted in the~~  
157 ~~amount required by law; or~~

158 ~~(II) An order from a court of competent jurisdiction~~  
159 ~~staying execution on the final judgment pending disposition of~~  
160 ~~the appeal.~~

161 ~~2. The Department of Health shall issue an emergency order~~  
162 ~~suspending the license of any licensee who, after 30 days~~  
163 ~~following receipt of a notice from the Department of Health, has~~  
164 ~~failed to: satisfy a medical malpractice claim against him or~~  
165 ~~her; furnish the Department of Health a copy of a timely filed~~  
166 ~~notice of appeal; furnish the Department of Health a copy of a~~  
167 ~~supersedeas bond properly posted in the amount required by law;~~  
168 ~~or furnish the Department of Health an order from a court of~~  
169 ~~competent jurisdiction staying execution on the final judgment~~  
170 ~~pending disposition of the appeal.~~

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171 ~~3. Upon the next meeting of the probable cause panel of~~  
172 ~~the board following 30 days after the date of mailing the notice~~  
173 ~~of disciplinary action to the licensee, the panel shall make a~~  
174 ~~determination of whether probable cause exists to take~~  
175 ~~disciplinary action against the licensee pursuant to~~  
176 ~~subparagraph 1.~~

177 ~~4. If the board determines that the factual requirements~~  
178 ~~of subparagraph 1. are met, it shall take disciplinary action as~~  
179 ~~it deems appropriate against the licensee. Such disciplinary~~  
180 ~~action shall include, at a minimum, probation of the license~~  
181 ~~with the restriction that the licensee must make payments to the~~  
182 ~~judgment creditor on a schedule determined by the board to be~~  
183 ~~reasonable and within the financial capability of the physician.~~  
184 ~~Notwithstanding any other disciplinary penalty imposed, the~~  
185 ~~disciplinary penalty may include suspension of the license for a~~  
186 ~~period not to exceed 5 years. In the event that an agreement to~~  
187 ~~satisfy a judgment has been met, the board shall remove any~~  
188 ~~restriction on the license.~~

189 ~~5. The licensee has completed a form supplying necessary~~  
190 ~~information as required by the department.~~

191  
192 ~~A licensee who meets the requirements of this paragraph shall be~~  
193 ~~required either to post notice in the form of a sign prominently~~  
194 ~~displayed in the reception area and clearly noticeable by all~~  
195 ~~patients or to provide a written statement to any person to whom~~  
196 ~~medical services are being provided. Such sign or statement~~  
197 ~~shall state: "Under Florida law, physicians are generally~~  
198 ~~required to carry medical malpractice insurance or otherwise~~  
199 ~~demonstrate financial responsibility to cover potential claims~~

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200 ~~for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY~~  
201 ~~MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida~~  
202 ~~law subject to certain conditions. Florida law imposes penalties~~  
203 ~~against noninsured physicians who fail to satisfy adverse~~  
204 ~~judgments arising from claims of medical malpractice. This~~  
205 ~~notice is provided pursuant to Florida law."~~

206 Section 43. Paragraph (b) of subsection (1) and paragraph  
207 (b) of subsection (2) of section 458.320, Florida Statutes,  
208 read, and subsections (9) and (10) are added to said section to  
209 read:

210 458.320 Financial responsibility.--

211 (1) As a condition of licensing and prior to the issuance  
212 or renewal of an active license or reactivation of an inactive  
213 license for the practice of medicine, an applicant shall by one  
214 of the following methods demonstrate to the satisfaction of the  
215 board and the department financial responsibility to pay claims  
216 and costs ancillary thereto arising out of the rendering of, or  
217 the failure to render, medical care or services:

218 (b) Obtaining and maintaining professional liability  
219 coverage in an amount not less than \$100,000 per claim, with a  
220 minimum annual aggregate of not less than \$300,000, from an  
221 authorized insurer as defined under s. 624.09, from a surplus  
222 lines insurer as defined under s. 626.914(2), from a risk  
223 retention group as defined under s. 627.942, from the Joint  
224 Underwriting Association established under s. 627.351(4), or  
225 through a plan of self-insurance as provided in s. 627.357.

226 (2) As a continuing condition of hospital staff  
227 privileges, physicians with staff privileges shall also be



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228 required to establish financial responsibility by one of the  
229 following methods:

230 (b) Obtaining and maintaining professional liability  
231 coverage in an amount not less than \$250,000 per claim, with a  
232 minimum annual aggregate of not less than \$750,000 from an  
233 authorized insurer as defined under s. 624.09, from a surplus  
234 lines insurer as defined under s. 626.914(2), from a risk  
235 retention group as defined under s. 627.942, from the Joint  
236 Underwriting Association established under s. 627.351(4),  
237 through a plan of self-insurance as provided in s. 627.357, or  
238 through a plan of self-insurance which meets the conditions  
239 specified for satisfying financial responsibility in s. 766.110.

240

241 This subsection shall be inclusive of the coverage in subsection  
242 (1).

243 (9) After July 1, 2006, if an applicant elects to purchase  
244 professional liability coverage under paragraph (1)(b) or  
245 paragraph (2)(b) and an insurance product is available from a  
246 private insurance provider at or below the rate charged for an  
247 identical product on or before December 31, 2001, the applicant  
248 must purchase that product. If no product is commercially  
249 available or no product is available as described in this  
250 subsection, and if an applicant elects to purchase professional  
251 liability coverage under paragraph (1)(b) or paragraph (2)(b),  
252 the applicant must purchase insurance from the Health Care  
253 Professional Liability Insurance Facility as provided in s.  
254 627.3575.

255 (10) Failure to comply with the provisions of this section  
256 by January 1, 2007, shall result in the automatic suspension of

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257 an active license or the automatic denial of an application for  
258 a new license or renewal of an existing license until the  
259 applicant complies with the requirements of subsections (1),  
260 (2), and (3) or subsection (9).

261 Section 44. Effective July 1, 2006, subsections (4) and  
262 (5) of section 459.0085, Florida Statutes, are amended to read:

263 459.0085 Financial responsibility.--

264 (4)(a) Each insurer, self-insurer, risk retention group,  
265 or joint underwriting association shall promptly notify the  
266 department of cancellation or nonrenewal of insurance required  
267 by this section. Unless the osteopathic physician demonstrates  
268 that he or she is otherwise in compliance with the requirements  
269 of this section, the department shall suspend the license of the  
270 osteopathic physician pursuant to ss. 120.569 and 120.57 and  
271 notify all health care facilities licensed under chapter 395,  
272 part IV of chapter 394, or part I of chapter 641 of such action.  
273 Any suspension under this subsection shall remain in effect  
274 until the osteopathic physician demonstrates compliance with the  
275 requirements of this section ~~except that a license suspended~~  
276 ~~under paragraph (5)(g) shall not be reinstated until the~~  
277 ~~osteopathic physician demonstrates compliance with the~~  
278 ~~requirements of that provision.~~

279 (b) If financial responsibility requirements are met by  
280 maintaining an escrow account or letter of credit as provided in  
281 this section, upon the entry of an adverse final judgment  
282 arising from a medical malpractice arbitration award, from a  
283 claim of medical malpractice either in contract or tort, or from  
284 noncompliance with the terms of a settlement agreement arising  
285 from a claim of medical malpractice either in contract or tort,

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286 the licensee shall pay the entire amount of the judgment  
287 together with all accrued interest or the amount maintained in  
288 the escrow account or provided in the letter of credit as  
289 required by this section, whichever is less, within 60 days  
290 after the date such judgment became final and subject to  
291 execution, unless otherwise mutually agreed to in writing by the  
292 parties. If timely payment is not made by the osteopathic  
293 physician, the department shall suspend the license of the  
294 osteopathic physician ~~pursuant to procedures set forth in~~  
295 ~~subparagraphs (5)(g)3., 4., and 5.~~ Nothing in this paragraph  
296 shall abrogate a judgment debtor's obligation to satisfy the  
297 entire amount of any judgment.

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

300 (a) Any person licensed under this chapter who practices  
301 medicine exclusively as an officer, employee, or agent of the  
302 Federal Government or of the state or its agencies or its  
303 subdivisions. For the purposes of this subsection, an agent of  
304 the state, its agencies, or its subdivisions is a person who is  
305 eligible for coverage under any self-insurance or insurance  
306 program authorized by the provisions of s. 768.28(15).

307 (b) Any person whose license has become inactive under  
308 this chapter and who is not practicing medicine in this state.  
309 Any person applying for reactivation of a license must show  
310 either that such licensee maintained tail insurance coverage  
311 which provided liability coverage for incidents that occurred on  
312 or after January 1, 1987, or the initial date of licensure in  
313 this state, whichever is later, and incidents that occurred  
314 before the date on which the license became inactive; or such

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315 licensee must submit an affidavit stating that such licensee has  
316 no unsatisfied medical malpractice judgments or settlements at  
317 the time of application for reactivation.

318 (c) Any person holding a limited license pursuant to s.  
319 459.0075 and practicing under the scope of such limited license.

320 (d) Any person licensed or certified under this chapter  
321 who practices only in conjunction with his or her teaching  
322 duties at a college of osteopathic medicine. Such person may  
323 engage in the practice of osteopathic medicine to the extent  
324 that such practice is incidental to and a necessary part of  
325 duties in connection with the teaching position in the college  
326 of osteopathic medicine.

327 (e) Any person holding an active license under this  
328 chapter who is not practicing osteopathic medicine in this  
329 state. If such person initiates or resumes any practice of  
330 osteopathic medicine in this state, he or she must notify the  
331 department of such activity.

332 ~~(f) Any person holding an active license under this~~  
333 ~~chapter who meets all of the following criteria:~~

334 ~~1. The licensee has held an active license to practice in~~  
335 ~~this state or another state or some combination thereof for more~~  
336 ~~than 15 years.~~

337 ~~2. The licensee has either retired from the practice of~~  
338 ~~osteopathic medicine or maintains a part-time practice of~~  
339 ~~osteopathic medicine of no more than 1,000 patient contact hours~~  
340 ~~per year.~~

341 ~~3. The licensee has had no more than two claims for~~  
342 ~~medical malpractice resulting in an indemnity exceeding \$25,000~~  
343 ~~within the previous 5-year period.~~

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344 ~~4. The licensee has not been convicted of, or pled guilty~~  
345 ~~or nolo contendere to, any criminal violation specified in this~~  
346 ~~chapter or the practice act of any other state.~~

347 ~~5. The licensee has not been subject within the last 10~~  
348 ~~years of practice to license revocation or suspension for any~~  
349 ~~period of time, probation for a period of 3 years or longer, or~~  
350 ~~a fine of \$500 or more for a violation of this chapter or the~~  
351 ~~medical practice act of another jurisdiction. The regulatory~~  
352 ~~agency's acceptance of an osteopathic physician's relinquishment~~  
353 ~~of a license, stipulation, consent order, or other settlement,~~  
354 ~~offered in response to or in anticipation of the filing of~~  
355 ~~administrative charges against the osteopathic physician's~~  
356 ~~license, shall be construed as action against the physician's~~  
357 ~~license for the purposes of this paragraph.~~

358 ~~6. The licensee has submitted a form supplying necessary~~  
359 ~~information as required by the department and an affidavit~~  
360 ~~affirming compliance with the provisions of this paragraph.~~

361 ~~7. The licensee shall submit biennially to the department~~  
362 ~~a certification stating compliance with the provisions of this~~  
363 ~~paragraph. The licensee shall, upon request, demonstrate to the~~  
364 ~~department information verifying compliance with this paragraph.~~

365  
366 ~~A licensee who meets the requirements of this paragraph shall be~~  
367 ~~required either to post notice in the form of a sign prominently~~  
368 ~~displayed in the reception area and clearly noticeable by all~~  
369 ~~patients or to provide a written statement to any person to whom~~  
370 ~~medical services are being provided. Such sign or statement~~  
371 ~~shall state that: Under Florida law, osteopathic physicians are~~  
372 ~~generally required to carry medical malpractice insurance or~~

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373 ~~otherwise demonstrate financial responsibility to cover~~  
374 ~~potential claims for medical malpractice. However, certain part-~~  
375 ~~time osteopathic physicians who meet state requirements are~~  
376 ~~exempt from the financial responsibility law. YOUR OSTEOPATHIC~~  
377 ~~PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY~~  
378 ~~MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant~~  
379 ~~to Florida law.~~

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

382 ~~1. Upon the entry of an adverse final judgment arising~~  
383 ~~from a medical malpractice arbitration award, from a claim of~~  
384 ~~medical malpractice either in contract or tort, or from~~  
385 ~~noncompliance with the terms of a settlement agreement arising~~  
386 ~~from a claim of medical malpractice either in contract or tort,~~  
387 ~~the licensee shall pay the judgment creditor the lesser of the~~  
388 ~~entire amount of the judgment with all accrued interest or~~  
389 ~~either \$100,000, if the osteopathic physician is licensed~~  
390 ~~pursuant to this chapter but does not maintain hospital staff~~  
391 ~~privileges, or \$250,000, if the osteopathic physician is~~  
392 ~~licensed pursuant to this chapter and maintains hospital staff~~  
393 ~~privileges, within 60 days after the date such judgment became~~  
394 ~~final and subject to execution, unless otherwise mutually agreed~~  
395 ~~to in writing by the parties. Such adverse final judgment shall~~  
396 ~~include any cross claim, counterclaim, or claim for indemnity or~~  
397 ~~contribution arising from the claim of medical malpractice. Upon~~  
398 ~~notification of the existence of an unsatisfied judgment or~~  
399 ~~payment pursuant to this subparagraph, the department shall~~  
400 ~~notify the licensee by certified mail that he or she shall be~~

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401 ~~subject to disciplinary action unless, within 30 days from the~~  
402 ~~date of mailing, the licensee either:~~

403 ~~a. Shows proof that the unsatisfied judgment has been paid~~  
404 ~~in the amount specified in this subparagraph; or~~

405 ~~b. Furnishes the department with a copy of a timely filed~~  
406 ~~notice of appeal and either:~~

407 ~~(I) A copy of a supersedeas bond properly posted in the~~  
408 ~~amount required by law; or~~

409 ~~(II) An order from a court of competent jurisdiction~~  
410 ~~staying execution on the final judgment, pending disposition of~~  
411 ~~the appeal.~~

412 ~~2. The Department of Health shall issue an emergency order~~  
413 ~~suspending the license of any licensee who, after 30 days~~  
414 ~~following receipt of a notice from the Department of Health, has~~  
415 ~~failed to: satisfy a medical malpractice claim against him or~~  
416 ~~her; furnish the Department of Health a copy of a timely filed~~  
417 ~~notice of appeal; furnish the Department of Health a copy of a~~  
418 ~~supersedeas bond properly posted in the amount required by law;~~  
419 ~~or furnish the Department of Health an order from a court of~~  
420 ~~competent jurisdiction staying execution on the final judgment~~  
421 ~~pending disposition of the appeal.~~

422 ~~3. Upon the next meeting of the probable cause panel of~~  
423 ~~the board following 30 days after the date of mailing the notice~~  
424 ~~of disciplinary action to the licensee, the panel shall make a~~  
425 ~~determination of whether probable cause exists to take~~  
426 ~~disciplinary action against the licensee pursuant to~~  
427 ~~subparagraph 1.~~

428 ~~4. If the board determines that the factual requirements~~  
429 ~~of subparagraph 1. are met, it shall take disciplinary action as~~

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430 ~~it deems appropriate against the licensee. Such disciplinary~~  
431 ~~action shall include, at a minimum, probation of the license~~  
432 ~~with the restriction that the licensee must make payments to the~~  
433 ~~judgment creditor on a schedule determined by the board to be~~  
434 ~~reasonable and within the financial capability of the~~  
435 ~~osteopathic physician. Notwithstanding any other disciplinary~~  
436 ~~penalty imposed, the disciplinary penalty may include suspension~~  
437 ~~of the license for a period not to exceed 5 years. In the event~~  
438 ~~that an agreement to satisfy a judgment has been met, the board~~  
439 ~~shall remove any restriction on the license.~~

440 ~~5. The licensee has completed a form supplying necessary~~  
441 ~~information as required by the department.~~

442  
443 ~~A licensee who meets the requirements of this paragraph shall be~~  
444 ~~required either to post notice in the form of a sign prominently~~  
445 ~~displayed in the reception area and clearly noticeable by all~~  
446 ~~patients or to provide a written statement to any person to whom~~  
447 ~~medical services are being provided. Such sign or statement~~  
448 ~~shall state: "Under Florida law, osteopathic physicians are~~  
449 ~~generally required to carry medical malpractice insurance or~~  
450 ~~otherwise demonstrate financial responsibility to cover~~  
451 ~~potential claims for medical malpractice. YOUR OSTEOPATHIC~~  
452 ~~PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE~~  
453 ~~INSURANCE. This is permitted under Florida law subject to~~  
454 ~~certain conditions. Florida law imposes strict penalties against~~  
455 ~~noninsured osteopathic physicians who fail to satisfy adverse~~  
456 ~~judgments arising from claims of medical malpractice. This~~  
457 ~~notice is provided pursuant to Florida law."~~

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458 Section 45. Paragraph (b) of subsection (1) and paragraph  
459 (b) of subsection (2) of section 459.0085, Florida Statutes,  
460 read, and subsections (10) and (11) are added to said section to  
461 read:

462 459.0085 Financial responsibility.--

463 (1) As a condition of licensing and prior to the issuance  
464 or renewal of an active license or reactivation of an inactive  
465 license for the practice of osteopathic medicine, an applicant  
466 shall by one of the following methods demonstrate to the  
467 satisfaction of the board and the department financial  
468 responsibility to pay claims and costs ancillary thereto arising  
469 out of the rendering of, or the failure to render, medical care  
470 or services:

471 (b) Obtaining and maintaining professional liability  
472 coverage in an amount not less than \$100,000 per claim, with a  
473 minimum annual aggregate of not less than \$300,000, from an  
474 authorized insurer as defined under s. 624.09, from a surplus  
475 lines insurer as defined under s. 626.914(2), from a risk  
476 retention group as defined under s. 627.942, from the Joint  
477 Underwriting Association established under s. 627.351(4), or  
478 through a plan of self-insurance as provided in s. 627.357.

479 (2) As a continuing condition of hospital staff  
480 privileges, osteopathic physicians with staff privileges shall  
481 also be required to establish financial responsibility by one of  
482 the following methods:

483 (b) Obtaining and maintaining professional liability  
484 coverage in an amount not less than \$250,000 per claim, with a  
485 minimum annual aggregate of not less than \$750,000 from an  
486 authorized insurer as defined under s. 624.09, from a surplus

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487 lines insurer as defined under s. 626.914(2), from a risk  
488 retention group as defined under s. 627.942, from the Joint  
489 Underwriting Association established under s. 627.351(4),  
490 through a plan of self-insurance as provided in s. 627.357, or  
491 through a plan of self-insurance which meets the conditions  
492 specified for satisfying financial responsibility in s. 766.110.

493

494 This subsection shall be inclusive of the coverage in subsection  
495 (1).

496 (10) After July 1, 2006, if an applicant elects to  
497 purchase professional liability coverage under paragraph (1)(b)  
498 or paragraph (2)(b) and an insurance product is available from a  
499 private insurance provider at or below the rate charged for an  
500 identical product on or before December 31, 2001, the applicant  
501 must purchase that product. If no product is commercially  
502 available or no product is available as described in this  
503 subsection, and if an applicant elects to purchase professional  
504 liability coverage under paragraph (1)(b) or paragraph (2)(b),  
505 the applicant must purchase insurance from the Health Care  
506 Professional Liability Insurance Facility as provided in s.  
507 627.3575.

508 (11) Failure to comply with the provisions of this section  
509 by January 1, 2007, shall result in the automatic suspension of  
510 an active license or the automatic denial of an application for  
511 a new license or renewal of an existing license until the  
512 applicant complies with the requirements of subsections (1),  
513 (2), and (3) or subsection (10).

514 Section 46. If any provision of this act or the  
515 application thereof to any person or circumstance is held

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516 invalid, the invalidity does not affect other provisions or  
517 applications of the act which can be given effect without the  
518 invalid provision or application, and to this end the provisions  
519 of this act are declared severable.

520 Section 47. This act shall apply to all actions filed  
521 after the act becomes a law.

522 Section 48. Except at otherwise provided herein, this act  
523 shall take effect upon becoming a law.

524  
525 ===== T I T L E A M E N D M E N T =====

526 Remove line(s) 103-104, and insert:  
527 400.4295, F.S.; correcting cross references; amending ss.  
528 458.320 and 459.0085, F.S.; deleting provisions exempting  
529 certain physicians and osteopathic physicians from  
530 carrying medical malpractice insurance; providing  
531 requirements for purchasing professional liability  
532 insurance; providing severability; providing  
533 applicability; providing effective dates.