

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

CHAMBER ACTION

Senate

House

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11 Senator Campbell moved the following amendment:

Senate Amendment

14 On page 68, line 6, through
15 page 74, line 28, delete those lines

17 and insert:

18 (5) The requirements of subsections (1), (2), and (3)

19 ~~do shall~~ not apply to:

20 (a) Any person licensed under this chapter who
21 practices medicine exclusively as an officer, employee, or
22 agent of the Federal Government or of the state or its
23 agencies or its subdivisions. For the purposes of this
24 subsection, an agent of the state, its agencies, or its
25 subdivisions is a person who is eligible for coverage under
26 any self-insurance or insurance program authorized by the
27 provisions of s. 768.28(15).

28 (b) Any person whose license has become inactive under
29 this chapter and who is not practicing medicine in this state.
30 Any person applying for reactivation of a license must show
31 either that such licensee maintained tail insurance coverage

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

1 ~~that which~~ provided liability coverage for incidents that
2 occurred on or after January 1, 1987, or the initial date of
3 licensure in this state, whichever is later, and incidents
4 that occurred before the date on which the license became
5 inactive; or such licensee must submit an affidavit stating
6 that such licensee has no unsatisfied medical malpractice
7 judgments or settlements at the time of application for
8 reactivation.

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

12 (d) Any person licensed or certified under this
13 chapter who practices only in conjunction with his or her
14 teaching duties at a college of osteopathic medicine. Such
15 person may engage in the practice of osteopathic medicine to
16 the extent that such practice is incidental to and a necessary
17 part of duties in connection with the teaching position in the
18 college of osteopathic medicine.

19 (e) Any person holding an active license under this
20 chapter who is not practicing osteopathic medicine in this
21 state. If such person initiates or resumes any practice of
22 osteopathic medicine in this state, he or she must notify the
23 department of such activity and fulfill the financial
24 responsibility requirements of this section before resuming
25 the practice of osteopathic medicine in this state.

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

28 1. The licensee has held an active license to practice
29 in this state or another state or some combination thereof for
30 more than 15 years.

31 2. The licensee has either retired from the practice

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

1 of osteopathic medicine or maintains a part-time practice of
2 osteopathic medicine of no more than 1,000 patient contact
3 hours per year.

4 3. The licensee has had no more than two claims for
5 medical malpractice resulting in an indemnity exceeding
6 \$25,000 within the previous 5-year period.

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

10 5. The licensee has not been subject within the last
11 10 years of practice to license revocation or suspension for
12 any period of time, probation for a period of 3 years or
13 longer, or a fine of \$500 or more for a violation of this
14 chapter or the medical practice act of another jurisdiction.
15 The regulatory agency's acceptance of an osteopathic
16 physician's relinquishment of a license, stipulation, consent
17 order, or other settlement, offered in response to or in
18 anticipation of the filing of administrative charges against
19 the osteopathic physician's license, constitutes ~~shall be~~
20 ~~construed as~~ action against the physician's license for the
21 purposes of this paragraph.

22 6. The licensee has submitted a form supplying
23 necessary information as required by the department and an
24 affidavit affirming compliance with ~~the provisions of~~ this
25 paragraph.

26 7. The licensee must ~~shall~~ submit biennially to the
27 department a certification stating compliance with ~~the~~
28 ~~provisions of~~ this paragraph. The licensee must ~~shall~~, upon
29 request, demonstrate to the department information verifying
30 compliance with this paragraph.

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Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

1 A licensee who meets the requirements of this paragraph must
 2 either ~~shall be required either to~~ post notice in the form of
 3 a sign prominently displayed in the reception area and clearly
 4 noticeable by all patients or ~~to~~ provide a written statement
 5 to any person to whom medical services are being provided. The
 6 ~~Such~~ sign or statement must read as follows ~~shall state that:~~
 7 "Under Florida law, osteopathic physicians are generally
 8 required to carry medical malpractice insurance or otherwise
 9 demonstrate financial responsibility to cover potential claims
 10 for medical malpractice. However, certain part-time
 11 osteopathic physicians who meet state requirements are exempt
 12 from the financial responsibility law. YOUR OSTEOPATHIC
 13 PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO
 14 CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided
 15 pursuant to Florida law."

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

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

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

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

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

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

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

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

18 ~~(b)2.~~ The Department of Health shall issue an
19 emergency order suspending the license of any licensee who,
20 after 30 days following receipt of a notice from the
21 Department of Health, has failed to: satisfy a medical
22 malpractice claim against him or her in accordance with
23 paragraph (a); furnish the Department of Health a copy of a
24 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 ~~(c)3.~~ Upon the next meeting of the probable cause
30 panel of the board following 30 days after the date of mailing
31 the notice of disciplinary action to the licensee, the panel

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

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

4 ~~(d)4.~~ If the board determines that the factual
 5 requirements of ~~paragraph (a) subparagraph 1.~~ are met, it
 6 shall take disciplinary action as it deems appropriate against
 7 the 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. ~~If 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 ~~(e)5.~~ The licensee has completed a form supplying
 18 necessary information as required by the department.

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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 provide a written statement~~
 24 ~~to any person to whom medical services are being provided.~~
 25 ~~Such sign or statement shall state: "Under Florida law,~~
 26 ~~osteopathic physicians are generally required to carry medical~~
 27 ~~malpractice insurance or otherwise demonstrate financial~~
 28 ~~responsibility to cover potential claims for medical~~
 29 ~~malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO~~
 30 ~~CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under~~
 31 ~~Florida law subject to certain conditions. Florida law~~

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

1 ~~imposes strict penalties against noninsured osteopathic~~
2 ~~physicians who fail to satisfy adverse judgments arising from~~
3 ~~claims of medical malpractice. This notice is provided~~
4 ~~pursuant to Florida law."~~

5 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent
6 representation by the licensee with respect to any provision
7 of this section shall result in permanent disqualification
8 from any exemption to mandated financial responsibility as
9 provided in this section and shall constitute grounds for
10 disciplinary action under s. 459.015.

11 ~~(8)(7)~~ Any licensee who relies on any exemption from
12 the financial responsibility requirement shall notify the
13 department in writing of any change of circumstance regarding
14 his or her qualifications for such exemption and shall
15 demonstrate that he or she is in compliance with the
16 requirements of this section.

17 ~~(9)(8)~~ If a physician is either a resident physician,
18 assistant resident physician, or intern in an approved
19 postgraduate training program, as defined by the board's
20 rules, and is supervised by a physician who is participating
21 in the Florida Birth-Related Neurological Injury Compensation
22 Plan, such resident physician, assistant resident physician,
23 or intern is deemed to be a participating physician without
24 the payment of the assessment set forth in s. 766.314(4).

25 ~~(10)~~ Notwithstanding any other provision of this
26 section, the department shall suspend the license of any
27 osteopathic physician against whom has been entered a final
28 judgment, arbitration award, or other order or who has entered
29 into a settlement agreement to pay damages arising out of a
30 claim for medical malpractice, if all appellate remedies have
31 been exhausted and payment up to the amounts required by this

Bill No. CS for SB 2-D

Amendment No. ____ Barcode 933836

1 section has not been made within 30 days after the entering of
2 such judgment, award, or order or agreement, until proof of
3 payment is received by the department or a payment schedule
4 has been agreed upon by the osteopathic physician and the
5 claimant and presented to the department. This subsection does
6 not apply to an osteopathic physician who has met the
7 financial responsibility requirements in paragraphs (1)(b) and
8 (2)(b).

9 ~~(11)(9)~~ The board shall adopt rules to implement the
10 provisions of this section.

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