

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Ambler offered the following:

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3 **Substitute Amendment for Amendment (577287) (with title**
4 **amendment)**

5 Remove lines 148-332 and insert:

6 Section 4. Paragraph (b) of subsection (1) of section
7 627.4147, Florida Statutes, is amended to read:

8 627.4147 Medical malpractice insurance contracts.--

9 (1) In addition to any other requirements imposed by law,
10 each self-insurance policy as authorized under s. 627.357 or s.
11 624.462 or insurance policy providing coverage for claims
12 arising out of the rendering of, or the failure to render,
13 medical care or services, including those of the Florida Medical
14 Malpractice Joint Underwriting Association, shall include:

15 (b)1. ~~Except as provided in subparagraph 2., a clause~~
16 ~~authorizing the insurer or self-insurer to determine, to make,~~

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17 | ~~and to conclude, without the permission of the insured, any~~
18 | ~~offer of admission of liability and for arbitration pursuant to~~
19 | ~~s. 766.106, settlement offer, or offer of judgment, if the offer~~
20 | ~~is within the policy limits. It is against public policy for any~~
21 | ~~insurance or self-insurance policy to contain a clause giving~~
22 | ~~the insured the exclusive right to veto any offer for admission~~
23 | ~~of liability and for arbitration made pursuant to s. 766.106,~~
24 | ~~settlement offer, or offer of judgment, when such offer is~~
25 | ~~within the policy limits. However, any offer of admission of~~
26 | ~~liability, settlement offer, or offer of judgment made by an~~
27 | ~~insurer or self-insurer shall be made in good faith and in the~~
28 | ~~best interests of the insured.~~

29 | ~~2.a. With respect to dentists licensed under chapter 466,~~
30 | A clause clearly stating whether or not the insured has the
31 | exclusive right to veto any offer of admission of liability and
32 | for arbitration pursuant to s. 766.106, settlement offer, or
33 | offer of judgment if the offer is within policy limits. An
34 | insurer or self-insurer shall not make or conclude, without the
35 | permission of the insured, any offer of admission of liability
36 | and for arbitration pursuant to s. 766.106, settlement offer, or
37 | offer of judgment, if such offer is outside the policy limits.
38 | However, any offer for admission of liability and for
39 | arbitration made under s. 766.106, settlement offer, or offer of
40 | judgment made by an insurer or self-insurer shall be made in
41 | good faith and in the best interest of the insured.

42 | ~~2.b.~~ If the policy contains a clause stating the insured
43 | does not have the exclusive right to veto any offer or admission
44 | of liability and for arbitration made pursuant to s. 766.106,

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45 settlement offer or offer of judgment, the insurer or self-
 46 insurer shall provide to the insured or the insured's legal
 47 representative by certified mail, return receipt requested, a
 48 copy of the final offer of admission of liability and for
 49 arbitration made pursuant to s. 766.106, settlement offer or
 50 offer of judgment and at the same time such offer is provided to
 51 the claimant. A copy of any final agreement reached between the
 52 insurer and claimant shall also be provided to the insurer or
 53 his or her legal representative by certified mail, return
 54 receipt requested not more than 10 days after affecting such
 55 agreement.

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

57 Remove lines 13-32 and insert:

58 surgical centers; amending s. 627.4147, F.S.; deleting the
 59 requirement that medical malpractice policies authorize the
 60 insurer to admit liability or settle without the consent of the
 61 insured; expanding application of a policy requirement relating
 62 to a clause stating whether an insured has the exclusive right
 63 to veto any offer of admission of liability, arbitration, or
 64 settlement; amending s. 766.202, F.S.; revising the