

Bill No. CS for SB 1180

Barcode 173452

CHAMBER ACTION

Senate

House

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Senator Jones moved the following amendment:

Senate Amendment (with title amendment)

On page 4, between lines 26 and 27,

insert:

Section 5. Section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.--

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

(a) Establishing and maintaining an escrow account consisting of cash or assets eligible for deposit in accordance with s. 625.52 in the per claim amounts specified in paragraph (b). The required escrow amount set forth in this

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1 paragraph may not be used for litigation costs or attorney's
2 fees for the defense of any medical malpractice claim.

3 (b) Obtaining and maintaining professional liability
4 coverage in an amount not less than ~~\$250,000~~\$100,000 per
5 claim, with a minimum annual aggregate of not less than
6 ~~\$750,000~~\$300,000, from an authorized insurer as defined under
7 s. 624.09, from a surplus lines insurer as defined under s.
8 626.914(2), from a risk retention group as defined under s.
9 627.942, from the Joint Underwriting Association established
10 under s. 627.351(4), or through a plan of self-insurance as
11 provided in s. 627.357. The required coverage amount set forth
12 in this paragraph may not be used for litigation costs or
13 attorney's fees for the defense of any medical malpractice
14 claim.

15 (c) Obtaining and maintaining an unexpired,
16 irrevocable letter of credit, established pursuant to chapter
17 675, in an amount not less than ~~\$250,000~~\$100,000 per claim,
18 with a minimum aggregate availability of credit of not less
19 than ~~\$750,000~~\$300,000. The letter of credit must be payable
20 to the physician as beneficiary upon presentment of a final
21 judgment indicating liability and awarding damages to be paid
22 by the physician or upon presentment of a settlement agreement
23 signed by all parties to such agreement when such final
24 judgment or settlement is a result of a claim arising out of
25 the rendering of, or the failure to render, medical care and
26 services. The letter of credit may not be used for litigation
27 costs or attorney's fees for the defense of any medical
28 malpractice claim. The letter of credit must be nonassignable
29 and nontransferable. Such letter of credit must be issued by
30 any bank or savings association organized and existing under
31 the laws of this state or any bank or savings association

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1 organized under the laws of the United States which has its
2 principal place of business in this state or has a branch
3 office that is authorized under the laws of this state or of
4 the United States to receive deposits in this state.

5 (2) Physicians who perform surgery in an ambulatory
6 surgical center licensed under chapter 395 and, as a
7 continuing condition of hospital staff privileges, physicians
8 who have staff privileges must also establish financial
9 responsibility by one of the following methods:

10 (a) Establishing and maintaining an escrow account
11 consisting of cash or assets eligible for deposit in
12 accordance with s. 625.52 in the per claim amounts specified
13 in paragraph (b). The required escrow amount set forth in this
14 paragraph may not be used for litigation costs or attorney's
15 fees for the defense of any medical malpractice claim.

16 (b) Obtaining and maintaining professional liability
17 coverage in an amount not less than ~~\$500,000~~\$250,000 per
18 claim, with a minimum annual aggregate of not less than ~~\$1~~
19 ~~million~~\$750,000 from an authorized insurer as defined under
20 s. 624.09, from a surplus lines insurer as defined under s.
21 626.914(2), from a risk retention group as defined under s.
22 627.942, from the Joint Underwriting Association established
23 under s. 627.351(4), through a plan of self-insurance as
24 provided in s. 627.357, or through a plan of self-insurance
25 which meets the conditions specified for satisfying financial
26 responsibility in s. 766.110. The required coverage amount set
27 forth in this paragraph may not be used for litigation costs
28 or attorney's fees for the defense of any medical malpractice
29 claim.

30 (c) Obtaining and maintaining an unexpired irrevocable
31 letter of credit, established pursuant to chapter 675, in an

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1 amount not less than ~~\$500,000~~~~\$250,000~~ per claim, with a
2 minimum aggregate availability of credit of not less than \$1
3 million~~\$750,000~~. The letter of credit must be payable to the
4 physician as beneficiary upon presentment of a final judgment
5 indicating liability and awarding damages to be paid by the
6 physician or upon presentment of a settlement agreement signed
7 by all parties to such agreement when such final judgment or
8 settlement is a result of a claim arising out of the rendering
9 of, or the failure to render, medical care and services. The
10 letter of credit may not be used for litigation costs or
11 attorney's fees for the defense of any medical malpractice
12 claim. The letter of credit must be nonassignable and
13 nontransferable. The letter of credit must be issued by any
14 bank or savings association organized and existing under the
15 laws of this state or any bank or savings association
16 organized under the laws of the United States which has its
17 principal place of business in this state or has a branch
18 office that is authorized under the laws of this state or of
19 the United States to receive deposits in this state.

20
21 This subsection shall be inclusive of the coverage in
22 subsection (1).

23 (3)(a) Meeting the financial responsibility
24 requirements of this section or the criteria for any exemption
25 from such requirements must be established at the time of
26 issuance or renewal of a license.

27 (b) Any person may, at any time, submit to the
28 department a request for an advisory opinion regarding such
29 person's qualifications for exemption.

30 (4)(a) Each insurer, self-insurer, risk retention
31 group, or Joint Underwriting Association must promptly notify

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1 the department of cancellation or nonrenewal of insurance
 2 required by this section. Unless the physician demonstrates
 3 that he or she is otherwise in compliance with the
 4 requirements of this section, the department shall suspend the
 5 license of the physician pursuant to ss. 120.569 and 120.57
 6 and notify all health care facilities licensed under chapter
 7 395 of such action. Any suspension under this subsection
 8 remains in effect until the physician demonstrates compliance
 9 with the requirements of this section. If any judgments or
 10 settlements are pending at the time of suspension, those
 11 judgments or settlements must be paid in accordance with this
 12 section unless otherwise mutually agreed to in writing by the
 13 parties. This paragraph does not abrogate a judgment debtor's
 14 obligation to satisfy the entire amount of any judgment.

15 (b) If financial responsibility requirements are met
 16 by maintaining an escrow account or letter of credit as
 17 provided in this section, upon the entry of an adverse final
 18 judgment arising from a medical malpractice arbitration award,
 19 from a claim of medical malpractice either in contract or
 20 tort, or from noncompliance with the terms of a settlement
 21 agreement arising from a claim of medical malpractice either
 22 in contract or tort, the licensee shall pay the entire amount
 23 of the judgment together with all accrued interest, or the
 24 amount maintained in the escrow account or provided in the
 25 letter of credit as required by this section, whichever is
 26 less, within 60 days after the date such judgment became final
 27 and subject to execution, unless otherwise mutually agreed to
 28 in writing by the parties. If timely payment is not made by
 29 the physician, the department shall suspend the license of the
 30 physician pursuant to procedures set forth in subparagraphs

31 (5)(g)3., 4., and 5. Nothing in this paragraph shall abrogate

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1 a judgment debtor's obligation to satisfy the entire amount of
2 any judgment.

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

5 (a) Any person licensed under this chapter who
6 practices medicine exclusively as an officer, employee, or
7 agent of the Federal Government or of the state or its
8 agencies or its subdivisions. For the purposes of this
9 subsection, an agent of the state, its agencies, or its
10 subdivisions is a person who is eligible for coverage under
11 any self-insurance or insurance program authorized by the
12 provisions of s. 768.28(16).

13 (b) Any person whose license has become inactive under
14 this chapter and who is not practicing medicine in this state.
15 Any person applying for reactivation of a license must show
16 either that such licensee maintained tail insurance coverage
17 which provided liability coverage for incidents that occurred
18 on or after January 1, 1987, or the initial date of licensure
19 in this state, whichever is later, and incidents that occurred
20 before the date on which the license became inactive; or such
21 licensee must submit an affidavit stating that such licensee
22 has no unsatisfied medical malpractice judgments or
23 settlements at the time of application for reactivation.

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

27 (d) Any person licensed or certified under this
28 chapter who practices only in conjunction with his or her
29 teaching duties at an accredited medical school or in its main
30 teaching hospitals. Such person may engage in the practice of
31 medicine to the extent that such practice is incidental to and

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1 a necessary part of duties in connection with the teaching
2 position in the medical school.

3 (e) Any person holding an active license under this
4 chapter who is not practicing medicine in this state. If such
5 person initiates or resumes any practice of medicine in this
6 state, he or she must notify the department of such activity
7 and fulfill the financial responsibility requirements of this
8 section before resuming the practice of medicine in this
9 state.

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

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

15 2. The licensee has either retired from the practice
16 of medicine or maintains a part-time practice of no more than
17 1,000 patient contact hours per year.

18 3. The licensee has had no more than two claims for
19 medical malpractice resulting in an indemnity exceeding
20 \$25,000 within the previous 5-year period.

21 4. The licensee has not been convicted of, or pled
22 guilty or nolo contendere to, any criminal violation specified
23 in this chapter or the medical practice act of any other
24 state.

25 5. The licensee has not been subject within the last
26 10 years of practice to license revocation or suspension for
27 any period of time; probation for a period of 3 years or
28 longer; or a fine of \$500 or more for a violation of this
29 chapter or the medical practice act of another jurisdiction.

30 The regulatory agency's acceptance of a physician's
31 relinquishment of a license, stipulation, consent order, or

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1 other settlement, offered in response to or in anticipation of
2 the filing of administrative charges against the physician's
3 license, constitutes action against the physician's license
4 for the purposes of this paragraph.

5 6. The licensee has submitted a form supplying
6 necessary information as required by the department and an
7 affidavit affirming compliance with this paragraph.

8 7. The licensee must submit biennially to the
9 department certification stating compliance with the
10 provisions of this paragraph. The licensee must, upon request,
11 demonstrate to the department information verifying compliance
12 with this paragraph.

13

14 A licensee who meets the requirements of this paragraph must
15 post notice in the form of a sign prominently displayed in the
16 reception area and clearly noticeable by all patients or
17 provide a written statement to any person to whom medical
18 services are being provided. The sign or statement must read
19 as follows: "Under Florida law, physicians are generally
20 required to carry medical malpractice insurance or otherwise
21 demonstrate financial responsibility to cover potential claims
22 for medical malpractice. However, certain part-time physicians
23 who meet state requirements are exempt from the financial
24 responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND
25 HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This
26 notice is provided pursuant to Florida law."

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

29 ~~(6)1-~~ Upon the entry of an adverse final judgment
30 arising from a medical malpractice arbitration award, from a
31 claim of medical malpractice either in contract or tort, or

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1 from noncompliance with the terms of a settlement agreement
 2 arising from a claim of medical malpractice either in contract
 3 or tort, a licensee required to maintain financial
 4 responsibility under this section ~~the licensee~~ shall pay the
 5 judgment creditor the lesser of the entire amount of the
 6 judgment with all accrued interest or either \$250,000
 7 ~~\$100,000~~, if the physician is licensed pursuant to this
 8 chapter but does not maintain hospital staff privileges, or
 9 \$500,000 ~~\$250,000~~, if the physician is licensed pursuant to
 10 this chapter and maintains hospital staff privileges, within
 11 60 days after the date such judgment became final and subject
 12 to execution, unless otherwise mutually agreed to in writing
 13 by the parties. Such adverse final judgment shall include any
 14 cross-claim, counterclaim, or claim for indemnity or
 15 contribution arising from the claim of medical malpractice.

16 (a) Upon notification of the existence of an
 17 unsatisfied judgment or payment pursuant to this subsection
 18 ~~subparagraph~~, the department shall notify the licensee by
 19 certified mail that he or she shall be subject to disciplinary
 20 action unless, within 30 days from the date of mailing, he or
 21 she either:

22 1.a. Shows proof that the unsatisfied judgment has
 23 been paid in the amount specified in this subsection
 24 ~~subparagraph~~; or

25 2.b. Furnishes the department with a copy of a timely
 26 filed notice of appeal and either:

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

29 b.(II) An order from a court of competent jurisdiction
 30 staying execution on the final judgment pending disposition of
 31 the appeal.

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1 **(b)2-** The Department of Health shall issue an
2 emergency order suspending the license of any licensee who,
3 after 30 days following receipt of a notice from the
4 Department of Health, has failed to: satisfy a medical
5 malpractice claim against him or her; furnish the Department
6 of Health a copy of a timely filed notice of appeal; furnish
7 the Department of Health a copy of a supersedeas bond properly
8 posted in the amount required by law; or furnish the
9 Department of Health an order from a court of competent
10 jurisdiction staying execution on the final judgment pending
11 disposition of the appeal.

12 **(c)3-** Upon the next meeting of the probable cause
13 panel of the board following 30 days after the date of mailing
14 the notice of disciplinary action to the licensee, the panel
15 shall make a determination of whether probable cause exists to
16 take disciplinary action against the licensee pursuant to
17 paragraph (a) subparagraph 1.

18 **(d)4-** If the board determines that the factual
19 requirements of this subsection subparagraph 1. are met, it
20 shall take disciplinary action as it deems appropriate against
21 the licensee. Such disciplinary action shall include, at a
22 minimum, probation of the license with the restriction that
23 the licensee must make payments to the judgment creditor on a
24 schedule determined by the board to be reasonable and within
25 the financial capability of the physician. Notwithstanding any
26 other disciplinary penalty imposed, the disciplinary penalty
27 may include suspension of the license for a period not to
28 exceed 5 years. In the event that an agreement to satisfy a
29 judgment has been met, the board shall remove any restriction
30 on the license.

31 ~~5. The licensee has completed a form supplying~~

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1 ~~necessary information as required by the department.~~

2

3 ~~A licensee who meets the requirements of this paragraph shall~~
4 ~~be required either to post notice in the form of a sign~~
5 ~~prominently displayed in the reception area and clearly~~
6 ~~noticeable by all patients or to provide a written statement~~
7 ~~to any person to whom medical services are being provided.~~

8 ~~Such sign or statement shall state: "Under Florida law,~~
9 ~~physicians are generally required to carry medical malpractice~~
10 ~~insurance or otherwise demonstrate financial responsibility to~~
11 ~~cover potential claims for medical malpractice. YOUR DOCTOR~~
12 ~~HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This~~
13 ~~is permitted under Florida law subject to certain conditions.~~
14 ~~Florida law imposes penalties against noninsured physicians~~
15 ~~who fail to satisfy adverse judgments arising from claims of~~
16 ~~medical malpractice. This notice is provided pursuant to~~
17 ~~Florida law."~~

18 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent
19 representation by the licensee with respect to any provision
20 of this section shall result in permanent disqualification
21 from any exemption to mandated financial responsibility as
22 provided in this section and shall constitute grounds for
23 disciplinary action under s. 458.331.

24 ~~(8)(7)~~ Any licensee who relies on any exemption from
25 the financial responsibility requirement shall notify the
26 department, in writing, of any change of circumstance
27 regarding his or her qualifications for such exemption and
28 shall demonstrate that he or she is in compliance with the
29 requirements of this section.

30 ~~(9)(8)~~ Notwithstanding any other provision of this
31 section, the department shall suspend the license of any

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1 physician against whom has been entered a final judgment,
 2 arbitration award, or other order or who has entered into a
 3 settlement agreement to pay damages arising out of a claim for
 4 medical malpractice, if all appellate remedies have been
 5 exhausted and payment up to the amounts required by this
 6 section has not been made within 30 days after the entering of
 7 such judgment, award, or order or agreement, until proof of
 8 payment is received by the department or a payment schedule
 9 has been agreed upon by the physician and the claimant and
 10 presented to the department. This subsection does not apply to
 11 a physician who has met the financial responsibility
 12 requirements in paragraphs (1)(b) and (2)(b).

13 (10) The Department of Health shall verify that the
 14 licensee has the required financial responsibility in
 15 accordance with subsections (1) and (2) before a license is
 16 granted or renewed.

17 ~~(11)(9)~~ The board shall adopt rules to implement the
 18 provisions of this section.

19 Section 6. Section 459.0085, Florida Statutes, is
 20 amended to read:

21 459.0085 Financial responsibility.--

22 (1) As a condition of licensing and maintaining an
 23 active license, and prior to the issuance or renewal of an
 24 active license or reactivation of an inactive license for the
 25 practice of osteopathic medicine, an applicant must by one of
 26 the following methods demonstrate to the satisfaction of the
 27 board and the department financial responsibility to pay
 28 claims and costs ancillary thereto arising out of the
 29 rendering of, or the failure to render, medical care or
 30 services:

31 (a) Establishing and maintaining an escrow account

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1 consisting of cash or assets eligible for deposit in
 2 accordance with s. 625.52 in the per-claim amounts specified
 3 in paragraph (b). The required escrow amount set forth in this
 4 paragraph may not be used for litigation costs or attorney's
 5 fees for the defense of any medical malpractice claim.

6 (b) Obtaining and maintaining professional liability
 7 coverage in an amount not less than ~~\$250,000~~\$100,000 per
 8 claim, with a minimum annual aggregate of not less than
 9 ~~\$750,000~~\$300,000, from an authorized insurer as defined under
 10 s. 624.09, from a surplus lines insurer as defined under s.
 11 626.914(2), from a risk retention group as defined under s.
 12 627.942, from the Joint Underwriting Association established
 13 under s. 627.351(4), or through a plan of self-insurance as
 14 provided in s. 627.357. The required coverage amount set forth
 15 in this paragraph may not be used for litigation costs or
 16 attorney's fees for the defense of any medical malpractice
 17 claim.

18 (c) Obtaining and maintaining an unexpired,
 19 irrevocable letter of credit, established pursuant to chapter
 20 675, in an amount not less than ~~\$250,000~~\$100,000 per claim,
 21 with a minimum aggregate availability of credit of not less
 22 than ~~\$750,000~~\$300,000. The letter of credit must be payable
 23 to the osteopathic physician as beneficiary upon presentment
 24 of a final judgment indicating liability and awarding damages
 25 to be paid by the osteopathic physician or upon presentment of
 26 a settlement agreement signed by all parties to such agreement
 27 when such final judgment or settlement is a result of a claim
 28 arising out of the rendering of, or the failure to render,
 29 medical care and services. The letter of credit may not be
 30 used for litigation costs or attorney's fees for the defense
 31 of any medical malpractice claim. The letter of credit must be

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1 nonassignable and nontransferable. Such letter of credit must
 2 be issued by any bank or savings association organized and
 3 existing under the laws of this state or any bank or savings
 4 association organized under the laws of the United States
 5 which has its principal place of business in this state or has
 6 a branch office that is authorized under the laws of this
 7 state or of the United States to receive deposits in this
 8 state.

9 (2) Osteopathic physicians who perform surgery in an
 10 ambulatory surgical center licensed under chapter 395 and, as
 11 a continuing condition of hospital staff privileges,
 12 osteopathic physicians who have staff privileges must also
 13 establish financial responsibility by one of the following
 14 methods:

15 (a) Establishing and maintaining an escrow account
 16 consisting of cash or assets eligible for deposit in
 17 accordance with s. 625.52 in the per-claim amounts specified
 18 in paragraph (b). The required escrow amount set forth in this
 19 paragraph may not be used for litigation costs or attorney's
 20 fees for the defense of any medical malpractice claim.

21 (b) Obtaining and maintaining professional liability
 22 coverage in an amount not less than ~~\$500,000~~ ~~\$250,000~~ per
 23 claim, with a minimum annual aggregate of not less than \$1
 24 million ~~\$750,000~~ from an authorized insurer as defined under
 25 s. 624.09, from a surplus lines insurer as defined under s.
 26 626.914(2), from a risk retention group as defined under s.
 27 627.942, from the Joint Underwriting Association established
 28 under s. 627.351(4), through a plan of self-insurance as
 29 provided in s. 627.357, or through a plan of self-insurance
 30 that meets the conditions specified for satisfying financial
 31 responsibility in s. 766.110. The required coverage amount set

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1 forth in this paragraph may not be used for litigation costs
2 or attorney's fees for the defense of any medical malpractice
3 claim.

4 (c) Obtaining and maintaining an unexpired,
5 irrevocable letter of credit, established pursuant to chapter
6 675, in an amount not less than ~~\$500,000~~~~\$250,000~~ per claim,
7 with a minimum aggregate availability of credit of not less
8 than ~~\$1 million~~~~\$750,000~~. The letter of credit must be payable
9 to the osteopathic physician as beneficiary upon presentment
10 of a final judgment indicating liability and awarding damages
11 to be paid by the osteopathic physician or upon presentment of
12 a settlement agreement signed by all parties to such agreement
13 when such final judgment or settlement is a result of a claim
14 arising out of the rendering of, or the failure to render,
15 medical care and services. The letter of credit may not be
16 used for litigation costs or attorney's fees for the defense
17 of any medical malpractice claim. The letter of credit must be
18 nonassignable and nontransferable. The letter of credit must
19 be issued by any bank or savings association organized and
20 existing under the laws of this state or any bank or savings
21 association organized under the laws of the United States
22 which has its principal place of business in this state or has
23 a branch office that is authorized under the laws of this
24 state or of the United States to receive deposits in this
25 state.

26
27 This subsection shall be inclusive of the coverage in
28 subsection (1).

29 (3)(a) Meeting the financial responsibility
30 requirements of this section or the criteria for any exemption
31 from such requirements must be established at the time of

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1 issuance or renewal of a license.

2 (b) Any person may, at any time, submit to the
3 department a request for an advisory opinion regarding such
4 person's qualifications for exemption.

5 (4)(a) Each insurer, self-insurer, risk retention
6 group, or joint underwriting association must promptly notify
7 the department of cancellation or nonrenewal of insurance
8 required by this section. Unless the osteopathic physician
9 demonstrates that he or she is otherwise in compliance with
10 the requirements of this section, the department shall suspend
11 the license of the osteopathic physician pursuant to ss.
12 120.569 and 120.57 and notify all health care facilities
13 licensed under chapter 395, part IV of chapter 394, or part I
14 of chapter 641 of such action. Any suspension under this
15 subsection remains in effect until the osteopathic physician
16 demonstrates compliance with the requirements of this section.
17 If any judgments or settlements are pending at the time of
18 suspension, those judgments or settlements must be paid in
19 accordance with this section unless otherwise mutually agreed
20 to in writing by the parties. This paragraph does not abrogate
21 a judgment debtor's obligation to satisfy the entire amount of
22 any judgment.

23 (b) If financial responsibility requirements are met
24 by maintaining an escrow account or letter of credit as
25 provided in this section, upon the entry of an adverse final
26 judgment arising from a medical malpractice arbitration award,
27 from a claim of medical malpractice either in contract or
28 tort, or from noncompliance with the terms of a settlement
29 agreement arising from a claim of medical malpractice either
30 in contract or tort, the licensee shall pay the entire amount
31 of the judgment together with all accrued interest or the

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1 amount maintained in the escrow account or provided in the
 2 letter of credit as required by this section, whichever is
 3 less, within 60 days after the date such judgment became final
 4 and subject to execution, unless otherwise mutually agreed to
 5 in writing by the parties. If timely payment is not made by
 6 the osteopathic physician, the department shall suspend the
 7 license of the osteopathic physician pursuant to procedures
 8 set forth in subparagraphs (5)(g)3., 4., and 5. Nothing in
 9 this paragraph shall abrogate a judgment debtor's obligation
 10 to satisfy the entire amount of any judgment.

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

13 (a) Any person licensed under this chapter who
 14 practices medicine exclusively as an officer, employee, or
 15 agent of the Federal Government or of the state or its
 16 agencies or its subdivisions. For the purposes of this
 17 subsection, an agent of the state, its agencies, or its
 18 subdivisions is a person who is eligible for coverage under
 19 any self-insurance or insurance program authorized by the
 20 provisions of s. 768.28(16).

21 (b) Any person whose license has become inactive under
 22 this chapter and who is not practicing medicine in this state.
 23 Any person applying for reactivation of a license must show
 24 either that such licensee maintained tail insurance coverage
 25 that provided liability coverage for incidents that occurred
 26 on or after January 1, 1987, or the initial date of licensure
 27 in this state, whichever is later, and incidents that occurred
 28 before the date on which the license became inactive; or such
 29 licensee must submit an affidavit stating that such licensee
 30 has no unsatisfied medical malpractice judgments or
 31 settlements at the time of application for reactivation.

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

4 (d) Any person licensed or certified under this
5 chapter who practices only in conjunction with his or her
6 teaching duties at a college of osteopathic medicine. Such
7 person may engage in the practice of osteopathic medicine to
8 the extent that such practice is incidental to and a necessary
9 part of duties in connection with the teaching position in the
10 college of osteopathic medicine.

11 (e) Any person holding an active license under this
12 chapter who is not practicing osteopathic medicine in this
13 state. If such person initiates or resumes any practice of
14 osteopathic medicine in this state, he or she must notify the
15 department of such activity and fulfill the financial
16 responsibility requirements of this section before resuming
17 the practice of osteopathic medicine in this state.

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

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

23 2. The licensee has either retired from the practice
24 of osteopathic medicine or maintains a part-time practice of
25 osteopathic medicine of no more than 1,000 patient contact
26 hours per year.

27 3. The licensee has had no more than two claims for
28 medical malpractice resulting in an indemnity exceeding
29 \$25,000 within the previous 5-year period.

30 4. The licensee has not been convicted of, or pled
31 guilty or nolo contendere to, any criminal violation specified

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1 in this chapter or the practice act of any other state.

2 5. The licensee has not been subject within the last
3 10 years of practice to license revocation or suspension for
4 any period of time, probation for a period of 3 years or
5 longer, or a fine of \$500 or more for a violation of this
6 chapter or the medical practice act of another jurisdiction.
7 The regulatory agency's acceptance of an osteopathic
8 physician's relinquishment of a license, stipulation, consent
9 order, or other settlement, offered in response to or in
10 anticipation of the filing of administrative charges against
11 the osteopathic physician's license, constitutes action
12 against the physician's license for the purposes of this
13 paragraph.

14 6. The licensee has submitted a form supplying
15 necessary information as required by the department and an
16 affidavit affirming compliance with this paragraph.

17 7. The licensee must submit biennially to the
18 department a certification stating compliance with this
19 paragraph. The licensee must, upon request, demonstrate to the
20 department information verifying compliance with this
21 paragraph.

22
23 A licensee who meets the requirements of this paragraph must
24 post notice in the form of a sign prominently displayed in the
25 reception area and clearly noticeable by all patients or
26 provide a written statement to any person to whom medical
27 services are being provided. The sign or statement must read
28 as follows: "Under Florida law, osteopathic physicians are
29 generally required to carry medical malpractice insurance or
30 otherwise demonstrate financial responsibility to cover
31 potential claims for medical malpractice. However, certain

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1 part-time osteopathic physicians who meet state requirements
 2 are exempt from the financial responsibility law. YOUR
 3 OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED
 4 NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is
 5 provided pursuant to Florida law."

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

8 ~~(6)1.~~ Upon the entry of an adverse final judgment
 9 arising from a medical malpractice arbitration award, from a
 10 claim of medical malpractice either in contract or tort, or
 11 from noncompliance with the terms of a settlement agreement
 12 arising from a claim of medical malpractice either in contract
 13 or tort, a licensee required to maintain financial
 14 responsibility under this section ~~the licensee~~ shall pay the
 15 judgment creditor the lesser of the entire amount of the
 16 judgment with all accrued interest or either \$250,000
 17 ~~\$100,000~~, if the osteopathic physician is licensed pursuant to
 18 this chapter but does not maintain hospital staff privileges,
 19 or \$500,000 ~~\$250,000~~, if the osteopathic physician is licensed
 20 pursuant to this chapter and maintains hospital staff
 21 privileges, within 60 days after the date such judgment became
 22 final and subject to execution, unless otherwise mutually
 23 agreed to in writing by the parties. Such adverse final
 24 judgment shall include any cross-claim, counterclaim, or claim
 25 for indemnity or contribution arising from the claim of
 26 medical malpractice.

27 (a) Upon notification of the existence of an
 28 unsatisfied judgment or payment pursuant to this subsection
 29 ~~subparagraph~~, the department shall notify the licensee by
 30 certified mail that he or she shall be subject to disciplinary
 31 action unless, within 30 days from the date of mailing, the

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1 licensee either:

2 ~~1.a.~~ Shows proof that the unsatisfied judgment has
3 been paid in the amount specified in this subsection
4 ~~subparagraph~~; or

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

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

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

12 ~~(b)2.~~ The Department of Health shall issue an
13 emergency order suspending the license of any licensee who,
14 after 30 days following receipt of a notice from the
15 Department of Health, has failed to: satisfy a medical
16 malpractice claim against him or her; furnish the Department
17 of Health a copy of a timely filed notice of appeal; furnish
18 the Department of Health a copy of a supersedeas bond properly
19 posted in the amount required by law; or furnish the
20 Department of Health an order from a court of competent
21 jurisdiction staying execution on the final judgment pending
22 disposition of the appeal.

23 ~~(c)3.~~ Upon the next meeting of the probable cause
24 panel of the board following 30 days after the date of mailing
25 the notice of disciplinary action to the licensee, the panel
26 shall make a determination of whether probable cause exists to
27 take disciplinary action against the licensee pursuant to
28 paragraph (a) ~~subparagraph 1.~~

29 ~~(d)4.~~ If the board determines that the factual
30 requirements of this subsection ~~subparagraph 1.~~ are met, it
31 shall take disciplinary action as it deems appropriate against

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1 the licensee. Such disciplinary action shall include, at a
 2 minimum, probation of the license with the restriction that
 3 the licensee must make payments to the judgment creditor on a
 4 schedule determined by the board to be reasonable and within
 5 the financial capability of the osteopathic physician.
 6 Notwithstanding any other disciplinary penalty imposed, the
 7 disciplinary penalty may include suspension of the license for
 8 a period not to exceed 5 years. In the event that an
 9 agreement to satisfy a judgment has been met, the board shall
 10 remove any restriction on the license.

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

13
 14 ~~A licensee who meets the requirements of this paragraph shall~~
 15 ~~be required either to post notice in the form of a sign~~
 16 ~~prominently displayed in the reception area and clearly~~
 17 ~~noticeable by all patients or to provide a written statement~~
 18 ~~to any person to whom medical services are being provided.~~
 19 ~~Such sign or statement shall state: "Under Florida law,~~
 20 ~~osteopathic physicians are generally required to carry medical~~
 21 ~~malpractice insurance or otherwise demonstrate financial~~
 22 ~~responsibility to cover potential claims for medical~~
 23 ~~malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO~~
 24 ~~CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under~~
 25 ~~Florida law subject to certain conditions. Florida law~~
 26 ~~imposes strict penalties against noninsured osteopathic~~
 27 ~~physicians who fail to satisfy adverse judgments arising from~~
 28 ~~claims of medical malpractice. This notice is provided~~
 29 ~~pursuant to Florida law."~~

30 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent
 31 representation by the licensee with respect to any provision

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1 of this section shall result in permanent disqualification
2 from any exemption to mandated financial responsibility as
3 provided in this section and shall constitute grounds for
4 disciplinary action under s. 459.015.

5 ~~(8)(7)~~ Any licensee who relies on any exemption from
6 the financial responsibility requirement shall notify the
7 department in writing of any change of circumstance regarding
8 his or her qualifications for such exemption and shall
9 demonstrate that he or she is in compliance with the
10 requirements of this section.

11 ~~(9)(8)~~ If a physician is ~~either~~ a resident physician,
12 assistant resident physician, or intern in an approved
13 postgraduate training program, as defined by the board's
14 rules, and is supervised by a physician who is participating
15 in the Florida Birth-Related Neurological Injury Compensation
16 Plan, such resident physician, assistant resident physician,
17 or intern is deemed to be a participating physician without
18 the payment of the assessment set forth in s. 766.314(4).

19 ~~(10)(9)~~ Notwithstanding any other provision of this
20 section, the department shall suspend the license of any
21 osteopathic physician against whom has been entered a final
22 judgment, arbitration award, or other order or who has entered
23 into a settlement agreement to pay damages arising out of a
24 claim for medical malpractice, if all appellate remedies have
25 been exhausted and payment up to the amounts required by this
26 section has not been made within 30 days after the entering of
27 such judgment, award, or order or agreement, until proof of
28 payment is received by the department or a payment schedule
29 has been agreed upon by the osteopathic physician and the
30 claimant and presented to the department. This subsection does
31 not apply to an osteopathic physician who has met the

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1 financial responsibility requirements in paragraphs (1)(b) and
2 (2)(b).

3 (11) The Department of Health shall verify that the
4 licensee has the required financial responsibility in
5 accordance with subsections (1) and (2) before a license is
6 granted or renewed.

7 ~~(12)(10)~~ The board shall adopt rules to implement the
8 provisions of this section.

9
10 (Redesignate subsequent sections.)

11
12

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

14 And the title is amended as follows:

15 On page 1, line 2, delete that line

16
17 and insert:

18 An act relating to the regulation of health
19 care professionals; amending ss. 458.320 and
20 459.0085, F.S.; increasing the minimum amounts
21 of professional liability coverage, per claim
22 and aggregate, which are required for licensure
23 of a physician or osteopathic physician;
24 increasing the minimum amounts required, per
25 claim and aggregate, through an irrevocable
26 letter of credit; increasing the minimum
27 amounts of professional liability coverage, per
28 claim and aggregate, which are required for
29 physicians and osteopathic physicians who
30 perform surgery; increasing the minimum amounts
31 required, per claim and aggregate, through an

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1 irrevocable letter of credit; removing
2 provisions authorizing a physician or
3 osteopathic physician to be exempt from the
4 financial-responsibility requirements upon
5 posting notice and meeting certain other
6 criteria; providing that requirements
7 previously applicable to self-insured
8 physicians and osteopathic physicians apply to
9 all such physicians who are required to
10 maintain financial responsibility; requiring
11 that a physician or osteopathic physician
12 satisfy an adverse final judgment within a
13 specified period unless otherwise agreed to in
14 writing; requiring the Department of Health to
15 suspend the license of a physician or
16 osteopathic physician upon notice of failure to
17 satisfy an adverse final judgment; requiring
18 the department to verify that a physician or
19 osteopathic physician has met
20 financial-responsibility requirements before
21 granting or renewing a license; requiring the
22 Board of Medicine and the Board of Osteopathic
23 Medicine to adopt rules;

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