

1 A bill to be entitled
2 An act relating to the financial responsibility of
3 physicians and osteopathic physicians; amending ss.
4 458.320 and 459.0085, F.S.; increasing the minimum amounts
5 of professional liability coverage, per claim and
6 aggregate, which are required for licensure; increasing
7 the minimum amounts required, per claim and aggregate,
8 through an irrevocable letter of credit; increasing the
9 minimum amounts of professional liability coverage, per
10 claim and aggregate, which are required for physicians and
11 osteopathic physicians who perform surgery; increasing the
12 minimum amounts required, per claim and aggregate, through
13 an irrevocable letter of credit; removing provisions
14 authorizing a physician or osteopathic physician to be
15 exempt from the financial responsibility requirements upon
16 posting notice and meeting certain other criteria;
17 providing that requirements previously applicable to self-
18 insured physicians and osteopathic physicians apply to all
19 such physicians who are required to maintain financial
20 responsibility; requiring that a physician or osteopathic
21 physician satisfy an adverse final judgment within a
22 specified period unless otherwise agreed to in writing;
23 requiring the Department of Health to suspend the license
24 of a physician or osteopathic physician upon notice of
25 failure to satisfy an adverse final judgment; requiring
26 the department to verify that a physician or osteopathic
27 physician has met financial responsibility requirements
28 before granting or renewing a license; requiring the Board

29 of Medicine and the Board of Osteopathic Medicine to adopt
 30 rules; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Section 458.320, Florida Statutes, is amended
 35 to read:

36 458.320 Financial responsibility.--

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

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

51 (b) Obtaining and maintaining professional liability
 52 coverage in an amount not less than \$250,000 ~~\$100,000~~ per claim,
 53 with a minimum annual aggregate of not less than \$750,000
 54 ~~\$300,000~~, from an authorized insurer as defined under s. 624.09,
 55 from a surplus lines insurer as defined under s. 626.914(2),
 56 from a risk retention group as defined under s. 627.942, from

57 | the Joint Underwriting Association established under s.
 58 | 627.351(4), or through a plan of self-insurance as provided in
 59 | s. 627.357. The required coverage amount set forth in this
 60 | paragraph may not be used for litigation costs or attorney's
 61 | fees for the defense of any medical malpractice claim.

62 | (c) Obtaining and maintaining an unexpired, irrevocable
 63 | letter of credit, established pursuant to chapter 675, in an
 64 | amount not less than \$250,000 ~~\$100,000~~ per claim, with a minimum
 65 | aggregate availability of credit of not less than \$750,000
 66 | ~~\$300,000~~. The letter of credit must be payable to the physician
 67 | as beneficiary upon presentment of a final judgment indicating
 68 | liability and awarding damages to be paid by the physician or
 69 | upon presentment of a settlement agreement signed by all parties
 70 | to such agreement when such final judgment or settlement is a
 71 | result of a claim arising out of the rendering of, or the
 72 | failure to render, medical care and services. The letter of
 73 | credit may not be used for litigation costs or attorney's fees
 74 | for the defense of any medical malpractice claim. The letter of
 75 | credit must be nonassignable and nontransferable. Such letter of
 76 | credit must be issued by any bank or savings association
 77 | organized and existing under the laws of this state or any bank
 78 | or savings association organized under the laws of the United
 79 | States which has its principal place of business in this state
 80 | or has a branch office that is authorized under the laws of this
 81 | state or of the United States to receive deposits in this state.

82 | (2) Physicians who perform surgery in an ambulatory
 83 | surgical center licensed under chapter 395 and, as a continuing
 84 | condition of hospital staff privileges, physicians who have

85 staff privileges must also establish financial responsibility by
 86 one of the following methods:

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

93 (b) Obtaining and maintaining professional liability
 94 coverage in an amount not less than \$500,000 ~~\$250,000~~ per claim,
 95 with a minimum annual aggregate of not less than \$1 million
 96 ~~\$750,000~~ from an authorized insurer as defined under s. 624.09,
 97 from a surplus lines insurer as defined under s. 626.914(2),
 98 from a risk retention group as defined under s. 627.942, from
 99 the Joint Underwriting Association established under s.
 100 627.351(4), through a plan of self-insurance as provided in s.
 101 627.357, or through a plan of self-insurance which meets the
 102 conditions specified for satisfying financial responsibility in
 103 s. 766.110. The required coverage amount set forth in this
 104 paragraph may not be used for litigation costs or attorney's
 105 fees for the defense of any medical malpractice claim.

106 (c) Obtaining and maintaining an unexpired irrevocable
 107 letter of credit, established pursuant to chapter 675, in an
 108 amount not less than \$500,000 ~~\$250,000~~ per claim, with a minimum
 109 aggregate availability of credit of not less than \$1 million
 110 ~~\$750,000~~. The letter of credit must be payable to the physician
 111 as beneficiary upon presentment of a final judgment indicating
 112 liability and awarding damages to be paid by the physician or

113 upon presentment of a settlement agreement signed by all parties
 114 to such agreement when such final judgment or settlement is a
 115 result of a claim arising out of the rendering of, or the
 116 failure to render, medical care and services. The letter of
 117 credit may not be used for litigation costs or attorney's fees
 118 for the defense of any medical malpractice claim. The letter of
 119 credit must be nonassignable and nontransferable. The letter of
 120 credit must be issued by any bank or savings association
 121 organized and existing under the laws of this state or any bank
 122 or savings association organized under the laws of the United
 123 States which has its principal place of business in this state
 124 or has a branch office that is authorized under the laws of this
 125 state or of the United States to receive deposits in this state.

126
 127 This subsection shall be inclusive of the coverage in subsection
 128 (1).

129 (3)(a) Meeting the financial responsibility requirements
 130 of this section or the criteria for any exemption from such
 131 requirements must be established at the time of issuance or
 132 renewal of a license.

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

136 (4)(a) Each insurer, self-insurer, risk retention group,
 137 or Joint Underwriting Association must promptly notify the
 138 department of cancellation or nonrenewal of insurance required
 139 by this section. Unless the physician demonstrates that he or
 140 she is otherwise in compliance with the requirements of this

141 section, the department shall suspend the license of the
 142 physician pursuant to ss. 120.569 and 120.57 and notify all
 143 health care facilities licensed under chapter 395 of such
 144 action. Any suspension under this subsection remains in effect
 145 until the physician demonstrates compliance with the
 146 requirements of this section. If any judgments or settlements
 147 are pending at the time of suspension, those judgments or
 148 settlements must be paid in accordance with this section unless
 149 otherwise mutually agreed to in writing by the parties. This
 150 paragraph does not abrogate a judgment debtor's obligation to
 151 satisfy the entire amount of any judgment.

152 (b) If financial responsibility requirements are met by
 153 maintaining an escrow account or letter of credit as provided in
 154 this section, upon the entry of an adverse final judgment
 155 arising from a medical malpractice arbitration award, from a
 156 claim of medical malpractice either in contract or tort, or from
 157 noncompliance with the terms of a settlement agreement arising
 158 from a claim of medical malpractice either in contract or tort,
 159 the licensee shall pay the entire amount of the judgment
 160 together with all accrued interest, or the amount maintained in
 161 the escrow account or provided in the letter of credit as
 162 required by this section, whichever is less, within 60 days
 163 after the date such judgment became final and subject to
 164 execution, unless otherwise mutually agreed to in writing by the
 165 parties. If timely payment is not made by the physician, the
 166 department shall suspend the license of the physician pursuant
 167 to procedures set forth in paragraphs (6)(c) and (d)
 168 ~~subparagraphs (5)(g)3., 4., and 5.~~ Nothing in this paragraph

169 shall abrogate a judgment debtor's obligation to satisfy the
170 entire amount of any judgment.

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

173 (a) Any person licensed under this chapter who practices
174 medicine exclusively as an officer, employee, or agent of the
175 Federal Government or of the state or its agencies or its
176 subdivisions. For the purposes of this subsection, an agent of
177 the state, its agencies, or its subdivisions is a person who is
178 eligible for coverage under any self-insurance or insurance
179 program authorized by the provisions of s. 768.28(16).

180 (b) Any person whose license has become inactive under
181 this chapter and who is not practicing medicine in this state.
182 Any person applying for reactivation of a license must show
183 either that such licensee maintained tail insurance coverage
184 which provided liability coverage for incidents that occurred on
185 or after January 1, 1987, or the initial date of licensure in
186 this state, whichever is later, and incidents that occurred
187 before the date on which the license became inactive; or such
188 licensee must submit an affidavit stating that such licensee has
189 no unsatisfied medical malpractice judgments or settlements at
190 the time of application for reactivation.

191 (c) Any person holding a limited license pursuant to s.
192 458.317 and practicing under the scope of such limited license.

193 (d) Any person licensed or certified under this chapter
194 who practices only in conjunction with his or her teaching
195 duties at an accredited medical school or in its main teaching
196 hospitals. Such person may engage in the practice of medicine to

197 the extent that such practice is incidental to and a necessary
198 part of duties in connection with the teaching position in the
199 medical school.

200 (e) Any person holding an active license under this
201 chapter who is not practicing medicine in this state. If such
202 person initiates or resumes any practice of medicine in this
203 state, he or she must notify the department of such activity and
204 fulfill the financial responsibility requirements of this
205 section before resuming the practice of medicine in this state.

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

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

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

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

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

220 5. The licensee has not been subject within the last 10
221 years of practice to license revocation or suspension for any
222 period of time; probation for a period of 3 years or longer; or
223 a fine of \$500 or more for a violation of this chapter or the
224 medical practice act of another jurisdiction. The regulatory

225 agency's acceptance of a physician's relinquishment of a
 226 license, stipulation, consent order, or other settlement,
 227 offered in response to or in anticipation of the filing of
 228 administrative charges against the physician's license,
 229 constitutes action against the physician's license for the
 230 purposes of this paragraph.

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

234 7. The licensee must submit biennially to the department
 235 certification stating compliance with the provisions of this
 236 paragraph. The licensee must, upon request, demonstrate to the
 237 department information verifying compliance with this paragraph.

238
 239 A licensee who meets the requirements of this paragraph must
 240 post notice in the form of a sign prominently displayed in the
 241 reception area and clearly noticeable by all patients or provide
 242 a written statement to any person to whom medical services are
 243 being provided. The sign or statement must read as follows:
 244 "Under Florida law, physicians are generally required to carry
 245 medical malpractice insurance or otherwise demonstrate financial
 246 responsibility to cover potential claims for medical
 247 malpractice. However, certain part-time physicians who meet
 248 state requirements are exempt from the financial responsibility
 249 law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO
 250 CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided
 251 pursuant to Florida law."

252 ~~(g) Any person holding an active license under this~~

253 ~~chapter who agrees to meet all of the following criteria:~~

254 ~~(6)1.~~ Upon the entry of an adverse final judgment arising
 255 from a medical malpractice arbitration award, from a claim of
 256 medical malpractice either in contract or tort, or from
 257 noncompliance with the terms of a settlement agreement arising
 258 from a claim of medical malpractice either in contract or tort,
 259 a licensee required to maintain financial responsibility under
 260 this section ~~the licensee~~ shall pay the judgment creditor the
 261 lesser of the entire amount of the judgment with all accrued
 262 interest or either \$250,000 ~~\$100,000~~, if the physician is
 263 licensed pursuant to this chapter but does not maintain hospital
 264 staff privileges, or \$500,000 ~~\$250,000~~, if the physician is
 265 licensed pursuant to this chapter and maintains hospital staff
 266 privileges, within 60 days after the date such judgment became
 267 final and subject to execution, unless otherwise mutually agreed
 268 to in writing by the parties. Such adverse final judgment shall
 269 include any cross-claim, counterclaim, or claim for indemnity or
 270 contribution arising from the claim of medical malpractice.

271 (a) Upon notification of the existence of an unsatisfied
 272 judgment or payment pursuant to this subsection ~~subparagraph~~,
 273 the department shall notify the licensee by certified mail that
 274 he or she shall be subject to disciplinary action unless, within
 275 30 days from the date of mailing, he or she either:

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

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

280 a.(I) A copy of a supersedeas bond properly posted in the

281 amount required by law; or

282 b.~~(II)~~ An order from a court of competent jurisdiction
 283 staying execution on the final judgment pending disposition of
 284 the appeal.

285 (b)2. The Department of Health shall issue an emergency
 286 order suspending the license of any licensee who, after 30 days
 287 following receipt of a notice from the Department of Health, has
 288 failed to: satisfy a medical malpractice claim against him or
 289 her; furnish the Department of Health a copy of a timely filed
 290 notice of appeal; furnish the Department of Health a copy of a
 291 supersedeas bond properly posted in the amount required by law;
 292 or furnish the Department of Health an order from a court of
 293 competent jurisdiction staying execution on the final judgment
 294 pending disposition of the appeal.

295 (c)3. Upon the next meeting of the probable cause panel of
 296 the board following 30 days after the date of mailing the notice
 297 of disciplinary action to the licensee, the panel shall make a
 298 determination of whether probable cause exists to take
 299 disciplinary action against the licensee pursuant to paragraph
 300 (a) subparagraph 1.

301 (d)4. If the board determines that the factual
 302 requirements of this subsection ~~subparagraph 1.~~ are met, it
 303 shall take disciplinary action as it deems appropriate against
 304 the licensee. Such disciplinary action shall include, at a
 305 minimum, probation of the license with the restriction that the
 306 licensee must make payments to the judgment creditor on a
 307 schedule determined by the board to be reasonable and within the
 308 financial capability of the physician. Notwithstanding any other

309 disciplinary penalty imposed, the disciplinary penalty may
 310 include suspension of the license for a period not to exceed 5
 311 years. In the event that an agreement to satisfy a judgment has
 312 been met, the board shall remove any restriction on the license.

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

315
 316 ~~A licensee who meets the requirements of this paragraph shall be~~
 317 ~~required either to post notice in the form of a sign prominently~~
 318 ~~displayed in the reception area and clearly noticeable by all~~
 319 ~~patients or to provide a written statement to any person to whom~~
 320 ~~medical services are being provided. Such sign or statement~~
 321 ~~shall state: "Under Florida law, physicians are generally~~
 322 ~~required to carry medical malpractice insurance or otherwise~~
 323 ~~demonstrate financial responsibility to cover potential claims~~
 324 ~~for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY~~
 325 ~~MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida~~
 326 ~~law subject to certain conditions. Florida law imposes penalties~~
 327 ~~against noninsured physicians who fail to satisfy adverse~~
 328 ~~judgments arising from claims of medical malpractice. This~~
 329 ~~notice is provided pursuant to Florida law."~~

330 (7)~~(6)~~ Any deceptive, untrue, or fraudulent representation
 331 by the licensee with respect to any provision of this section
 332 shall result in permanent disqualification from any exemption to
 333 mandated financial responsibility as provided in this section
 334 and shall constitute grounds for disciplinary action under s.
 335 458.331.

336 (8)~~(7)~~ Any licensee who relies on any exemption from the

337 financial responsibility requirement shall notify the
 338 department, in writing, of any change of circumstance regarding
 339 his or her qualifications for such exemption and shall
 340 demonstrate that he or she is in compliance with the
 341 requirements of this section.

342 ~~(9)(8)~~ Notwithstanding any other provision of this
 343 section, the department shall suspend the license of any
 344 physician against whom has been entered a final judgment,
 345 arbitration award, or other order or who has entered into a
 346 settlement agreement to pay damages arising out of a claim for
 347 medical malpractice, if all appellate remedies have been
 348 exhausted and payment up to the amounts required by this section
 349 has not been made within 30 days after the entering of such
 350 judgment, award, or order or agreement, until proof of payment
 351 is received by the department or a payment schedule has been
 352 agreed upon by the physician and the claimant and presented to
 353 the department. This subsection does not apply to a physician
 354 who has met the financial responsibility requirements in
 355 paragraphs (1)(b) and (2)(b).

356 (10) The Department of Health shall verify that the
 357 licensee has the required financial responsibility in accordance
 358 with subsections (1) and (2) before a license is granted or
 359 renewed.

360 ~~(11)(9)~~ The board shall adopt rules to implement the
 361 provisions of this section.

362 Section 2. Section 459.0085, Florida Statutes, is amended
 363 to read:

364 459.0085 Financial responsibility.--

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

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

379 (b) Obtaining and maintaining professional liability
 380 coverage in an amount not less than \$250,000 ~~\$100,000~~ per claim,
 381 with a minimum annual aggregate of not less than \$750,000
 382 ~~\$300,000~~, from an authorized insurer as defined under s. 624.09,
 383 from a surplus lines insurer as defined under s. 626.914(2),
 384 from a risk retention group as defined under s. 627.942, from
 385 the Joint Underwriting Association established under s.
 386 627.351(4), or through a plan of self-insurance as provided in
 387 s. 627.357. The required coverage amount set forth in this
 388 paragraph may not be used for litigation costs or attorney's
 389 fees for the defense of any medical malpractice claim.

390 (c) Obtaining and maintaining an unexpired, irrevocable
 391 letter of credit, established pursuant to chapter 675, in an
 392 amount not less than \$250,000 ~~\$100,000~~ per claim, with a minimum

393 aggregate availability of credit of not less than \$750,000
 394 ~~\$300,000~~. The letter of credit must be payable to the
 395 osteopathic physician as beneficiary upon presentment of a final
 396 judgment indicating liability and awarding damages to be paid by
 397 the osteopathic physician or upon presentment of a settlement
 398 agreement signed by all parties to such agreement when such
 399 final judgment or settlement is a result of a claim arising out
 400 of the rendering of, or the failure to render, medical care and
 401 services. The letter of credit may not be used for litigation
 402 costs or attorney's fees for the defense of any medical
 403 malpractice claim. The letter of credit must be nonassignable
 404 and nontransferable. Such letter of credit must be issued by any
 405 bank or savings association organized and existing under the
 406 laws of this state or any bank or savings association organized
 407 under the laws of the United States which has its principal
 408 place of business in this state or has a branch office that is
 409 authorized under the laws of this state or of the United States
 410 to receive deposits in this state.

411 (2) Osteopathic physicians who perform surgery in an
 412 ambulatory surgical center licensed under chapter 395 and, as a
 413 continuing condition of hospital staff privileges, osteopathic
 414 physicians who have staff privileges must also establish
 415 financial responsibility by one of the following methods:

416 (a) Establishing and maintaining an escrow account
 417 consisting of cash or assets eligible for deposit in accordance
 418 with s. 625.52 in the per-claim amounts specified in paragraph
 419 (b). The required escrow amount set forth in this paragraph may
 420 not be used for litigation costs or attorney's fees for the

421 defense of any medical malpractice claim.

422 (b) Obtaining and maintaining professional liability
 423 coverage in an amount not less than \$500,000 ~~\$250,000~~ per claim,
 424 with a minimum annual aggregate of not less than \$1 million
 425 ~~\$750,000~~ from an authorized insurer as defined under s. 624.09,
 426 from a surplus lines insurer as defined under s. 626.914(2),
 427 from a risk retention group as defined under s. 627.942, from
 428 the Joint Underwriting Association established under s.
 429 627.351(4), through a plan of self-insurance as provided in s.
 430 627.357, or through a plan of self-insurance that meets the
 431 conditions specified for satisfying financial responsibility in
 432 s. 766.110. The required coverage amount set forth in this
 433 paragraph may not be used for litigation costs or attorney's
 434 fees for the defense of any medical malpractice claim.

435 (c) Obtaining and maintaining an unexpired, irrevocable
 436 letter of credit, established pursuant to chapter 675, in an
 437 amount not less than \$500,000 ~~\$250,000~~ per claim, with a minimum
 438 aggregate availability of credit of not less than \$1 million
 439 ~~\$750,000~~. The letter of credit must be payable to the
 440 osteopathic physician as beneficiary upon presentment of a final
 441 judgment indicating liability and awarding damages to be paid by
 442 the osteopathic physician or upon presentment of a settlement
 443 agreement signed by all parties to such agreement when such
 444 final judgment or settlement is a result of a claim arising out
 445 of the rendering of, or the failure to render, medical care and
 446 services. The letter of credit may not be used for litigation
 447 costs or attorney's fees for the defense of any medical
 448 malpractice claim. The letter of credit must be nonassignable

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449 and nontransferable. The letter of credit must be issued by any
450 bank or savings association organized and existing under the
451 laws of this state or any bank or savings association organized
452 under the laws of the United States which has its principal
453 place of business in this state or has a branch office that is
454 authorized under the laws of this state or of the United States
455 to receive deposits in this state.

456

457 This subsection shall be inclusive of the coverage in subsection
458 (1).

459 (3)(a) Meeting the financial responsibility requirements
460 of this section or the criteria for any exemption from such
461 requirements must be established at the time of issuance or
462 renewal of a license.

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

466 (4)(a) Each insurer, self-insurer, risk retention group,
467 or joint underwriting association must promptly notify the
468 department of cancellation or nonrenewal of insurance required
469 by this section. Unless the osteopathic physician demonstrates
470 that he or she is otherwise in compliance with the requirements
471 of this section, the department shall suspend the license of the
472 osteopathic physician pursuant to ss. 120.569 and 120.57 and
473 notify all health care facilities licensed under chapter 395,
474 part IV of chapter 394, or part I of chapter 641 of such action.
475 Any suspension under this subsection remains in effect until the
476 osteopathic physician demonstrates compliance with the

477 requirements of this section. If any judgments or settlements
 478 are pending at the time of suspension, those judgments or
 479 settlements must be paid in accordance with this section unless
 480 otherwise mutually agreed to in writing by the parties. This
 481 paragraph does not abrogate a judgment debtor's obligation to
 482 satisfy the entire amount of any judgment.

483 (b) If financial responsibility requirements are met by
 484 maintaining an escrow account or letter of credit as provided in
 485 this section, upon the entry of an adverse final judgment
 486 arising from a medical malpractice arbitration award, from a
 487 claim of medical malpractice either in contract or tort, or from
 488 noncompliance with the terms of a settlement agreement arising
 489 from a claim of medical malpractice either in contract or tort,
 490 the licensee shall pay the entire amount of the judgment
 491 together with all accrued interest or the amount maintained in
 492 the escrow account or provided in the letter of credit as
 493 required by this section, whichever is less, within 60 days
 494 after the date such judgment became final and subject to
 495 execution, unless otherwise mutually agreed to in writing by the
 496 parties. If timely payment is not made by the osteopathic
 497 physician, the department shall suspend the license of the
 498 osteopathic physician pursuant to procedures set forth in
 499 paragraphs (6)(c) and (d) ~~subparagraphs (5)(g)3., 4., and 5.~~
 500 Nothing in this paragraph shall abrogate a judgment debtor's
 501 obligation to satisfy the entire amount of any judgment.

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

504 (a) Any person licensed under this chapter who practices

505 medicine exclusively as an officer, employee, or agent of the
 506 Federal Government or of the state or its agencies or its
 507 subdivisions. For the purposes of this subsection, an agent of
 508 the state, its agencies, or its subdivisions is a person who is
 509 eligible for coverage under any self-insurance or insurance
 510 program authorized by the provisions of s. 768.28(16).

511 (b) Any person whose license has become inactive under
 512 this chapter and who is not practicing medicine in this state.
 513 Any person applying for reactivation of a license must show
 514 either that such licensee maintained tail insurance coverage
 515 that provided liability coverage for incidents that occurred on
 516 or after January 1, 1987, or the initial date of licensure in
 517 this state, whichever is later, and incidents that occurred
 518 before the date on which the license became inactive; or such
 519 licensee must submit an affidavit stating that such licensee has
 520 no unsatisfied medical malpractice judgments or settlements at
 521 the time of application for reactivation.

522 (c) Any person holding a limited license pursuant to s.
 523 459.0075 and practicing under the scope of such limited license.

524 (d) Any person licensed or certified under this chapter
 525 who practices only in conjunction with his or her teaching
 526 duties at a college of osteopathic medicine. Such person may
 527 engage in the practice of osteopathic medicine to the extent
 528 that such practice is incidental to and a necessary part of
 529 duties in connection with the teaching position in the college
 530 of osteopathic medicine.

531 (e) Any person holding an active license under this
 532 chapter who is not practicing osteopathic medicine in this

533 state. If such person initiates or resumes any practice of
534 osteopathic medicine in this state, he or she must notify the
535 department of such activity and fulfill the financial
536 responsibility requirements of this section before resuming the
537 practice of osteopathic medicine in this state.

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

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

543 2. The licensee has either retired from the practice of
544 osteopathic medicine or maintains a part-time practice of
545 osteopathic medicine of no more than 1,000 patient contact hours
546 per year.

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

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

553 5. The licensee has not been subject within the last 10
554 years of practice to license revocation or suspension for any
555 period of time, probation for a period of 3 years or longer, or
556 a fine of \$500 or more for a violation of this chapter or the
557 medical practice act of another jurisdiction. The regulatory
558 agency's acceptance of an osteopathic physician's relinquishment
559 of a license, stipulation, consent order, or other settlement,
560 offered in response to or in anticipation of the filing of

561 administrative charges against the osteopathic physician's
 562 license, constitutes action against the physician's license for
 563 the purposes of this paragraph.

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

567 7. The licensee must submit biennially to the department a
 568 certification stating compliance with this paragraph. The
 569 licensee must, upon request, demonstrate to the department
 570 information verifying compliance with this paragraph.

571
 572 A licensee who meets the requirements of this paragraph must
 573 post notice in the form of a sign prominently displayed in the
 574 reception area and clearly noticeable by all patients or provide
 575 a written statement to any person to whom medical services are
 576 being provided. The sign or statement must read as follows:

577 "Under Florida law, osteopathic physicians are generally
 578 required to carry medical malpractice insurance or otherwise
 579 demonstrate financial responsibility to cover potential claims
 580 for medical malpractice. However, certain part-time osteopathic
 581 physicians who meet state requirements are exempt from the
 582 financial responsibility law. YOUR OSTEOPATHIC PHYSICIAN MEETS
 583 THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL
 584 MALPRACTICE INSURANCE. This notice is provided pursuant to
 585 Florida law."

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

588 (6)1. Upon the entry of an adverse final judgment arising

589 from a medical malpractice arbitration award, from a claim of
 590 medical malpractice either in contract or tort, or from
 591 noncompliance with the terms of a settlement agreement arising
 592 from a claim of medical malpractice either in contract or tort,
 593 a licensee required to maintain financial responsibility under
 594 this section ~~the licensee~~ shall pay the judgment creditor the
 595 lesser of the entire amount of the judgment with all accrued
 596 interest or either \$250,000 ~~\$100,000~~, if the osteopathic
 597 physician is licensed pursuant to this chapter but does not
 598 maintain hospital staff privileges, or \$500,000 ~~\$250,000~~, if the
 599 osteopathic physician is licensed pursuant to this chapter and
 600 maintains hospital staff privileges, within 60 days after the
 601 date such judgment became final and subject to execution, unless
 602 otherwise mutually agreed to in writing by the parties. Such
 603 adverse final judgment shall include any cross-claim,
 604 counterclaim, or claim for indemnity or contribution arising
 605 from the claim of medical malpractice.

606 (a) Upon notification of the existence of an unsatisfied
 607 judgment or payment pursuant to this subsection ~~subparagraph~~,
 608 the department shall notify the licensee by certified mail that
 609 he or she shall be subject to disciplinary action unless, within
 610 30 days from the date of mailing, the licensee either:

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

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

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

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

620 (b)2. The Department of Health shall issue an emergency
 621 order suspending the license of any licensee who, after 30 days
 622 following receipt of a notice from the Department of Health, has
 623 failed to: satisfy a medical malpractice claim against him or
 624 her; furnish the Department of Health a copy of a timely filed
 625 notice of appeal; furnish the Department of Health a copy of a
 626 supersedeas bond properly posted in the amount required by law;
 627 or furnish the Department of Health an order from a court of
 628 competent jurisdiction staying execution on the final judgment
 629 pending disposition of the appeal.

630 (c)3. Upon the next meeting of the probable cause panel of
 631 the board following 30 days after the date of mailing the notice
 632 of disciplinary action to the licensee, the panel shall make a
 633 determination of whether probable cause exists to take
 634 disciplinary action against the licensee pursuant to paragraph
 635 (a) subparagraph 1.

636 (d)4. If the board determines that the factual
 637 requirements of this subsection ~~subparagraph 1.~~ are met, it
 638 shall take disciplinary action as it deems appropriate against
 639 the licensee. Such disciplinary action shall include, at a
 640 minimum, probation of the license with the restriction that the
 641 licensee must make payments to the judgment creditor on a
 642 schedule determined by the board to be reasonable and within the
 643 financial capability of the osteopathic physician.
 644 Notwithstanding any other disciplinary penalty imposed, the

645 disciplinary penalty may include suspension of the license for a
 646 period not to exceed 5 years. In the event that an agreement to
 647 satisfy a judgment has been met, the board shall remove any
 648 restriction on the license.

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

651
 652 ~~A licensee who meets the requirements of this paragraph shall be~~
 653 ~~required either to post notice in the form of a sign prominently~~
 654 ~~displayed in the reception area and clearly noticeable by all~~
 655 ~~patients or to provide a written statement to any person to whom~~
 656 ~~medical services are being provided. Such sign or statement~~
 657 ~~shall state: "Under Florida law, osteopathic physicians are~~
 658 ~~generally required to carry medical malpractice insurance or~~
 659 ~~otherwise demonstrate financial responsibility to cover~~
 660 ~~potential claims for medical malpractice. YOUR OSTEOPATHIC~~
 661 ~~PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE~~
 662 ~~INSURANCE. This is permitted under Florida law subject to~~
 663 ~~certain conditions. Florida law imposes strict penalties against~~
 664 ~~noninsured osteopathic physicians who fail to satisfy adverse~~
 665 ~~judgments arising from claims of medical malpractice. This~~
 666 ~~notice is provided pursuant to Florida law."~~

667 (7)(6) Any deceptive, untrue, or fraudulent representation
 668 by the licensee with respect to any provision of this section
 669 shall result in permanent disqualification from any exemption to
 670 mandated financial responsibility as provided in this section
 671 and shall constitute grounds for disciplinary action under s.
 672 459.015.

673 (8)~~(7)~~ Any licensee who relies on any exemption from the
 674 financial responsibility requirement shall notify the department
 675 in writing of any change of circumstance regarding his or her
 676 qualifications for such exemption and shall demonstrate that he
 677 or she is in compliance with the requirements of this section.

678 (9)~~(8)~~ If a physician is ~~either~~ a resident physician,
 679 assistant resident physician, or intern in an approved
 680 postgraduate training program, as defined by the board's rules,
 681 and is supervised by a physician who is participating in the
 682 Florida Birth-Related Neurological Injury Compensation Plan,
 683 such resident physician, assistant resident physician, or intern
 684 is deemed to be a participating physician without the payment of
 685 the assessment set forth in s. 766.314(4).

686 (10)~~(9)~~ Notwithstanding any other provision of this
 687 section, the department shall suspend the license of any
 688 osteopathic physician against whom has been entered a final
 689 judgment, arbitration award, or other order or who has entered
 690 into a settlement agreement to pay damages arising out of a
 691 claim for medical malpractice, if all appellate remedies have
 692 been exhausted and payment up to the amounts required by this
 693 section has not been made within 30 days after the entering of
 694 such judgment, award, or order or agreement, until proof of
 695 payment is received by the department or a payment schedule has
 696 been agreed upon by the osteopathic physician and the claimant
 697 and presented to the department. This subsection does not apply
 698 to an osteopathic physician who has met the financial
 699 responsibility requirements in paragraphs (1)(b) and (2)(b).

700 (11) The Department of Health shall verify that the

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701 licensee has the required financial responsibility in accordance
702 with subsections (1) and (2) before a license is granted or
703 renewed.

704 ~~(12)~~~~(10)~~ The board shall adopt rules to implement the
705 provisions of this section.

706 Section 3. This act shall take effect upon becoming a law.