



1 satisfy an adverse final judgment; requiring  
2 the department to verify that a physician or  
3 osteopathic physician has met  
4 financial-responsibility requirements before  
5 granting or renewing a license; requiring the  
6 Board of Medicine and the Board of Osteopathic  
7 Medicine to adopt rules; providing an effective  
8 date.  
9

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

11  
12 Section 1. Section 458.320, Florida Statutes, is  
13 amended to read:

14 458.320 Financial responsibility.--

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

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

29 (b) Obtaining and maintaining professional liability  
30 coverage in an amount not less than ~~\$250,000~~\$100,000 per  
31 claim, with a minimum annual aggregate of not less than

1 ~~\$750,000~~~~\$300,000~~, from an authorized insurer as defined under  
2 s. 624.09, from a surplus lines insurer as defined under s.  
3 626.914(2), from a risk retention group as defined under s.  
4 627.942, from the Joint Underwriting Association established  
5 under s. 627.351(4), or through a plan of self-insurance as  
6 provided in s. 627.357. The required coverage amount set forth  
7 in this paragraph may not be used for litigation costs or  
8 attorney's fees for the defense of any medical malpractice  
9 claim.

10 (c) Obtaining and maintaining an unexpired,  
11 irrevocable letter of credit, established pursuant to chapter  
12 675, in an amount not less than ~~\$250,000~~~~\$100,000~~ per claim,  
13 with a minimum aggregate availability of credit of not less  
14 than ~~\$750,000~~~~\$300,000~~. The letter of credit must be payable  
15 to the physician as beneficiary upon presentment of a final  
16 judgment indicating liability and awarding damages to be paid  
17 by the physician or upon presentment of a settlement agreement  
18 signed by all parties to such agreement when such final  
19 judgment or settlement is a result of a claim arising out of  
20 the rendering of, or the failure to render, medical care and  
21 services. The letter of credit may not be used for litigation  
22 costs or attorney's fees for the defense of any medical  
23 malpractice claim. The letter of credit must be nonassignable  
24 and nontransferable. Such letter of credit must be issued by  
25 any bank or savings association organized and existing under  
26 the laws of this state or any bank or savings association  
27 organized under the laws of the United States which has its  
28 principal place of business in this state or has a branch  
29 office that is authorized under the laws of this state or of  
30 the United States to receive deposits in this state.

31

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

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

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

26           (c) Obtaining and maintaining an unexpired irrevocable  
27 letter of credit, established pursuant to chapter 675, in an  
28 amount not less than ~~\$500,000~~\$250,000 per claim, with a  
29 minimum aggregate availability of credit of not less than \$1  
30 million~~\$750,000~~. The letter of credit must be payable to the  
31 physician as beneficiary upon presentment of a final judgment

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

16 |  
17 | This subsection shall be inclusive of the coverage in  
18 | subsection (1).

19 |         (3)(a) Meeting the financial responsibility  
20 | requirements of this section or the criteria for any exemption  
21 | from such requirements must be established at the time of  
22 | issuance or renewal of a license.

23 |         (b) Any person may, at any time, submit to the  
24 | department a request for an advisory opinion regarding such  
25 | person's qualifications for exemption.

26 |         (4)(a) Each insurer, self-insurer, risk retention  
27 | group, or Joint Underwriting Association must promptly notify  
28 | the department of cancellation or nonrenewal of insurance  
29 | required by this section. Unless the physician demonstrates  
30 | that he or she is otherwise in compliance with the  
31 | requirements of this section, the department shall suspend the

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

11 |         (b) If financial responsibility requirements are met  
12 | by maintaining an escrow account or letter of credit as  
13 | provided in this section, upon the entry of an adverse final  
14 | judgment arising from a medical malpractice arbitration award,  
15 | from a claim of medical malpractice either in contract or  
16 | tort, or from noncompliance with the terms of a settlement  
17 | agreement arising from a claim of medical malpractice either  
18 | in contract or tort, the licensee shall pay the entire amount  
19 | of the judgment together with all accrued interest, or the  
20 | amount maintained in the escrow account or provided in the  
21 | letter of credit as required by this section, whichever is  
22 | less, within 60 days after the date such judgment became final  
23 | and subject to execution, unless otherwise mutually agreed to  
24 | in writing by the parties. If timely payment is not made by  
25 | the physician, the department shall suspend the license of the  
26 | physician pursuant to procedures set forth in subparagraphs  
27 | (5)(g)3., 4., and 5. Nothing in this paragraph shall abrogate  
28 | a judgment debtor's obligation to satisfy the entire amount of  
29 | any judgment.

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

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

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

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

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

30           (e) Any person holding an active license under this  
31 chapter who is not practicing medicine in this state. If such

1 person initiates or resumes any practice of medicine in this  
2 state, he or she must notify the department of such activity  
3 and fulfill the financial responsibility requirements of this  
4 section before resuming the practice of medicine in this  
5 state.

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

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

11 2. The licensee has either retired from the practice  
12 of medicine or maintains a part-time practice of no more than  
13 1,000 patient contact hours per year.

14 3. The licensee has had no more than two claims for  
15 medical malpractice resulting in an indemnity exceeding  
16 \$25,000 within the previous 5-year period.

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

21 5. The licensee has not been subject within the last  
22 10 years of practice to license revocation or suspension for  
23 any period of time; probation for a period of 3 years or  
24 longer; or a fine of \$500 or more for a violation of this  
25 chapter or the medical practice act of another jurisdiction.  
26 The regulatory agency's acceptance of a physician's  
27 relinquishment of a license, stipulation, consent order, or  
28 other settlement, offered in response to or in anticipation of  
29 the filing of administrative charges against the physician's  
30 license, constitutes action against the physician's license  
31 for the purposes of this paragraph.



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

4           7. The licensee must submit biennially to the  
5 department certification stating compliance with the  
6 provisions of this paragraph. The licensee must, upon request,  
7 demonstrate to the department information verifying compliance  
8 with this paragraph.

9  
10 A licensee who meets the requirements of this paragraph must  
11 post notice in the form of a sign prominently displayed in the  
12 reception area and clearly noticeable by all patients or  
13 provide a written statement to any person to whom medical  
14 services are being provided. The sign or statement must read  
15 as follows: "Under Florida law, physicians are generally  
16 required to carry medical malpractice insurance or otherwise  
17 demonstrate financial responsibility to cover potential claims  
18 for medical malpractice. However, certain part-time physicians  
19 who meet state requirements are exempt from the financial  
20 responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND  
21 HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This  
22 notice is provided pursuant to Florida law."

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

25           ~~(6)1-~~ Upon the entry of an adverse final judgment  
26 arising from a medical malpractice arbitration award, from a  
27 claim of medical malpractice either in contract or tort, or  
28 from noncompliance with the terms of a settlement agreement  
29 arising from a claim of medical malpractice either in contract  
30 or tort, a licensee required to maintain financial  
31 responsibility under this section ~~the licensee~~ shall pay the

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

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

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

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

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

25 b.(II) An order from a court of competent jurisdiction  
26 staying execution on the final judgment pending disposition of  
27 the appeal.

28 (b)2. The Department of Health shall issue an  
29 emergency order suspending the license of any licensee who,  
30 after 30 days following receipt of a notice from the  
31 Department of Health, has failed to: satisfy a medical

1 malpractice claim against him or her; furnish the Department  
2 of Health a copy of a timely filed notice of appeal; furnish  
3 the Department of Health a copy of a supersedeas bond properly  
4 posted in the amount required by law; or furnish the  
5 Department of Health an order from a court of competent  
6 jurisdiction staying execution on the final judgment pending  
7 disposition of the appeal.

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

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

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

29  
30 ~~A licensee who meets the requirements of this paragraph shall~~  
31 ~~be required either to post notice in the form of a sign~~

1 ~~prominently displayed in the reception area and clearly~~  
2 ~~noticeable by all patients or to provide a written statement~~  
3 ~~to any person to whom medical services are being provided.~~  
4 ~~Such sign or statement shall state: "Under Florida law,~~  
5 ~~physicians are generally required to carry medical malpractice~~  
6 ~~insurance or otherwise demonstrate financial responsibility to~~  
7 ~~cover potential claims for medical malpractice. YOUR DOCTOR~~  
8 ~~HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This~~  
9 ~~is permitted under Florida law subject to certain conditions.~~  
10 ~~Florida law imposes penalties against noninsured physicians~~  
11 ~~who fail to satisfy adverse judgments arising from claims of~~  
12 ~~medical malpractice. This notice is provided pursuant to~~  
13 ~~Florida law."~~

14 (7)~~(6)~~ Any deceptive, untrue, or fraudulent  
15 representation by the licensee with respect to any provision  
16 of this section shall result in permanent disqualification  
17 from any exemption to mandated financial responsibility as  
18 provided in this section and shall constitute grounds for  
19 disciplinary action under s. 458.331.

20 (8)~~(7)~~ Any licensee who relies on any exemption from  
21 the financial responsibility requirement shall notify the  
22 department, in writing, of any change of circumstance  
23 regarding his or her qualifications for such exemption and  
24 shall demonstrate that he or she is in compliance with the  
25 requirements of this section.

26 (9)~~(8)~~ Notwithstanding any other provision of this  
27 section, the department shall suspend the license of any  
28 physician against whom has been entered a final judgment,  
29 arbitration award, or other order or who has entered into a  
30 settlement agreement to pay damages arising out of a claim for  
31 medical malpractice, if all appellate remedies have been

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

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

13 ~~(11)(9)~~ The board shall adopt rules to implement the  
14 provisions of this section.

15 Section 2. Section 459.0085, Florida Statutes, is  
16 amended to read:

17 459.0085 Financial responsibility.--

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

27 (a) Establishing and maintaining an escrow account  
28 consisting of cash or assets eligible for deposit in  
29 accordance with s. 625.52 in the per-claim amounts specified  
30 in paragraph (b). The required escrow amount set forth in this  
31

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 osteopathic physician as beneficiary upon presentment  
21 of a final judgment indicating liability and awarding damages  
22 to be paid by the osteopathic physician or upon presentment of  
23 a settlement agreement signed by all parties to such agreement  
24 when such final judgment or settlement is a result of a claim  
25 arising out of the rendering of, or the failure to render,  
26 medical care and services. The letter of credit may not be  
27 used for litigation costs or attorney's fees for the defense  
28 of any medical malpractice claim. The letter of credit must be  
29 nonassignable and nontransferable. Such letter of credit must  
30 be issued by any bank or savings association organized and  
31 existing under the laws of this state or any bank or savings

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

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

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

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

1 (c) Obtaining and maintaining an unexpired,  
2 irrevocable letter of credit, established pursuant to chapter  
3 675, in an amount not less than ~~\$500,000~~\$250,000 per claim,  
4 with a minimum aggregate availability of credit of not less  
5 than \$1 million~~\$750,000~~. The letter of credit must be payable  
6 to the osteopathic physician as beneficiary upon presentment  
7 of a final judgment indicating liability and awarding damages  
8 to be paid by the osteopathic physician or upon presentment of  
9 a settlement agreement signed by all parties to such agreement  
10 when such final judgment or settlement is a result of a claim  
11 arising out of the rendering of, or the failure to render,  
12 medical care and services. The letter of credit may not be  
13 used for litigation costs or attorney's fees for the defense  
14 of any medical malpractice claim. The letter of credit must be  
15 nonassignable and nontransferable. The letter of credit must  
16 be issued by any bank or savings association organized and  
17 existing under the laws of this state or any bank or savings  
18 association organized under the laws of the United States  
19 which has its principal place of business in this state or has  
20 a branch office that is authorized under the laws of this  
21 state or of the United States to receive deposits in this  
22 state.

23  
24 This subsection shall be inclusive of the coverage in  
25 subsection (1).

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

30  
31



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

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

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

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

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

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

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

31

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  
31

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

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

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

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

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

1 otherwise demonstrate financial responsibility to cover  
2 potential claims for medical malpractice. However, certain  
3 part-time osteopathic physicians who meet state requirements  
4 are exempt from the financial responsibility law. YOUR  
5 OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED  
6 NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is  
7 provided pursuant to Florida law."

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

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

29 (a) Upon notification of the existence of an  
30 unsatisfied judgment or payment pursuant to this subsection  
31 ~~subparagraph~~, the department shall notify the licensee by

1 certified mail that he or she shall be subject to disciplinary  
2 action unless, within 30 days from the date of mailing, the  
3 licensee either:

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

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

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

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

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

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

31

1           ~~(d)4.~~ If the board determines that the factual  
2 requirements of this subsection ~~subparagraph 1.~~ are met, it  
3 shall take disciplinary action as it deems appropriate against  
4 the licensee. Such disciplinary action shall include, at a  
5 minimum, probation of the license with the restriction that  
6 the licensee must make payments to the judgment creditor on a  
7 schedule determined by the board to be reasonable and within  
8 the financial capability of the osteopathic physician.  
9 Notwithstanding any other disciplinary penalty imposed, the  
10 disciplinary penalty may include suspension of the license for  
11 a period not to exceed 5 years. In the event that an  
12 agreement to satisfy a judgment has been met, the board shall  
13 remove any restriction on the license.

14           ~~5. The licensee has completed a form supplying~~  
15 ~~necessary information as required by the department.~~  
16  
17 ~~A licensee who meets the requirements of this paragraph shall~~  
18 ~~be required either to post notice in the form of a sign~~  
19 ~~prominently displayed in the reception area and clearly~~  
20 ~~noticeable by all patients or to provide a written statement~~  
21 ~~to any person to whom medical services are being provided.~~  
22 ~~Such sign or statement shall state: "Under Florida law,~~  
23 ~~osteopathic physicians are generally required to carry medical~~  
24 ~~malpractice insurance or otherwise demonstrate financial~~  
25 ~~responsibility to cover potential claims for medical~~  
26 ~~malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO~~  
27 ~~CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under~~  
28 ~~Florida law subject to certain conditions. Florida law~~  
29 ~~imposes strict penalties against noninsured osteopathic~~  
30 ~~physicians who fail to satisfy adverse judgments arising from~~  
31

1 ~~claims of medical malpractice. This notice is provided~~  
2 ~~pursuant to Florida law."~~

3       ~~(7)(6)~~ Any deceptive, untrue, or fraudulent  
4 representation by the licensee with respect to any provision  
5 of this section shall result in permanent disqualification  
6 from any exemption to mandated financial responsibility as  
7 provided in this section and shall constitute grounds for  
8 disciplinary action under s. 459.015.

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

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

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



1 payment is received by the department or a payment schedule  
2 has been agreed upon by the osteopathic physician and the  
3 claimant and presented to the department. This subsection does  
4 not apply to an osteopathic physician who has met the  
5 financial responsibility requirements in paragraphs (1)(b) and  
6 (2)(b).

7 (11) The Department of Health shall verify that the  
8 licensee has the required financial responsibility in  
9 accordance with subsections (1) and (2) before a license is  
10 granted or renewed.

11 ~~(12)(10)~~ The board shall adopt rules to implement the  
12 provisions of this section.

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

15 \*\*\*\*\*

16  
17 SENATE SUMMARY

18 Increases the minimum amounts of professional liability  
19 coverage required for licensure as a physician or  
20 osteopathic physician, per claim and in the aggregate,  
21 from \$100,000 to \$250,000 and \$300,000 to \$750,000,  
22 respectively. Increases the minimum amounts of  
23 professional liability coverage required for physicians  
24 and osteopathic physicians who perform surgery, per claim  
25 and in the aggregate, from \$250,000 to \$500,000 and  
26 \$750,000 to \$1 million, respectively. Deletes provisions  
27 that authorize certain physicians or osteopathic  
28 physicians to be exempt from the financial-responsibility  
29 requirements. Requires the Department of Health to  
30 suspend the license of any physician or osteopathic  
31 physician upon notice of failure to satisfy an adverse  
final judgment. Requires the department to verify that  
each physician or osteopathic physician has met  
financial-responsibility requirements before granting or  
renewing a license. Requires the Board of Medicine and  
the Board of Osteopathic Medicine to adopt rules. (See  
bill for details.)