

1 A bill to be entitled
 2 An act relating to medical malpractice insurance
 3 contracts; amending s. 627.4147, F.S.; deleting a
 4 provision requiring certain medical malpractice insurance
 5 policies to include a provision authorizing insurers or
 6 self insurers to take certain actions relating to
 7 admissions of liability, settlement offers, or offers of
 8 judgment without permission of an insured; deleting a
 9 public policy statement; deleting a requirement that such
 10 actions be made in good faith and in the best interests of
 11 the insured; providing an effective date.

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

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 15 Section 1. Paragraph (b) of subsection (1) of section
 16 627.4147, Florida Statutes, is amended to read:

17 627.4147 Medical malpractice insurance contracts.--

18 (1) In addition to any other requirements imposed by law,
 19 each self-insurance policy as authorized under s. 627.357 or s.
 20 624.462 or insurance policy providing coverage for claims
 21 arising out of the rendering of, or the failure to render,
 22 medical care or services, including those of the Florida Medical
 23 Malpractice Joint Underwriting Association, shall include:

24 (b)1. ~~Except as provided in subparagraph 2., a clause~~
 25 ~~authorizing the insurer or self-insurer to determine, to make,~~
 26 ~~and to conclude, without the permission of the insured, any~~
 27 ~~offer of admission of liability and for arbitration pursuant to~~
 28 ~~s. 766.106, settlement offer, or offer of judgment, if the offer~~

29 ~~is within the policy limits. It is against public policy for any~~
30 ~~insurance or self-insurance policy to contain a clause giving~~
31 ~~the insured the exclusive right to veto any offer for admission~~
32 ~~of liability and for arbitration made pursuant to s. 766.106,~~
33 ~~settlement offer, or offer of judgment, when such offer is~~
34 ~~within the policy limits. However, any offer of admission of~~
35 ~~liability, settlement offer, or offer of judgment made by an~~
36 ~~insurer or self-insurer shall be made in good faith and in the~~
37 ~~best interests of the insured.~~

38 ~~2.a. With respect to dentists licensed under chapter 466,~~
39 A clause clearly stating whether or not the insured has the
40 exclusive right to veto any offer of admission of liability and
41 for arbitration pursuant to s. 766.106, settlement offer, or
42 offer of judgment if the offer is within policy limits. An
43 insurer or self-insurer shall not make or conclude, without the
44 permission of the insured, any offer of admission of liability
45 and for arbitration pursuant to s. 766.106, settlement offer, or
46 offer of judgment, if such offer is outside the policy limits.
47 However, any offer for admission of liability and for
48 arbitration made under s. 766.106, settlement offer, or offer of
49 judgment made by an insurer or self-insurer shall be made in
50 good faith and in the best interest of the insured.

51 ~~2.b.~~ If the policy contains a clause stating the insured
52 does not have the exclusive right to veto any offer or admission
53 of liability and for arbitration made pursuant to s. 766.106,
54 settlement offer or offer of judgment, the insurer or self-
55 insurer shall provide to the insured or the insured's legal
56 representative by certified mail, return receipt requested, a

HB 983

2005

57 | copy of the final offer of admission of liability and for
58 | arbitration made pursuant to s. 766.106, settlement offer or
59 | offer of judgment and at the same time such offer is provided to
60 | the claimant. A copy of any final agreement reached between the
61 | insurer and claimant shall also be provided to the insurer or
62 | his or her legal representative by certified mail, return
63 | receipt requested not more than 10 days after affecting such
64 | agreement.

65 | Section 2. This act shall take effect July 1, 2005.