

HB 1111

2006

1 A bill to be entitled

2 An act relating to financial responsibility of advanced
3 registered nurse practitioners; creating s. 464.028, F.S.;
4 providing for exempting licensed advanced registered nurse
5 practitioners from certain medical malpractice insurance
6 requirements under certain circumstances; providing
7 criteria; requiring licensees to pay certain medical
8 malpractice judgment amounts under certain circumstances;
9 requiring the Department of Health to notify a licensee of
10 possible disciplinary action under certain circumstances;
11 providing requirements; requiring the department to
12 suspend the license and certification of such licensed
13 practitioners for certain failures to comply; providing
14 duties of a probable cause panel relating to disciplinary
15 actions against a licensee; requiring the Board of Nursing
16 to take certain disciplinary actions against a licensee
17 under certain circumstances; authorizing the board to
18 remove certain restrictions on a license and
19 certification; requiring certain licensees to post a
20 notice disclosing lack of medical malpractice insurance
21 under certain circumstances; specifying notice contents;
22 requiring the department to suspend the license and
23 certification of a licensee for failing to pay certain
24 judgments or awards for damages; providing for
25 reinstatement of the license and certification; providing
26 an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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Section 1. Section 464.028, Florida Statutes, is created to read:

464.028 Financial responsibility of advanced registered nurse practitioners; exemption.--

(1) (a) Any person holding an active license and certification to practice as an advanced registered nurse practitioner under s. 464.012 who meets the criteria of paragraph (b) may be exempt from the requirement to maintain medical malpractice insurance as prescribed in s. 456.048 or by rule of the board.

(b) Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of medical malpractice in contract or in tort, or from noncompliance with the terms of a settlement agreement arising from a claim of medical malpractice in contract or in tort, the licensee shall pay the judgment creditor the lesser of the entire amount of the judgment with all accrued interest or \$100,000 if the advanced registered nurse practitioner is licensed pursuant to this chapter but does not maintain hospital staff privileges or \$250,000 if the advanced registered nurse practitioner is licensed pursuant to this chapter and maintains hospital staff privileges, within 60 days after the date such judgment becomes final and subject to execution, unless otherwise mutually agreed to by the parties. Such adverse final judgment shall include any cross claim, counterclaim, or claim for indemnity or contribution arising from the claim of medical malpractice. Upon notification of the existence of an

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57 unsatisfied judgment or payment pursuant to this paragraph, the
58 department shall notify the licensee by certified mail that he
59 or she shall be subject to disciplinary action unless, within 30
60 days after the date of mailing, he or she:

61 1. Shows proof that the unsatisfied judgment has been paid
62 in the amount specified in this paragraph; or

63 2. Provides the department a copy of a timely filed notice
64 of appeal, and:

65 a. A copy of a supersedeas bond properly posted in the
66 amount required by law; or

67 b. An order from a court of competent jurisdiction staying
68 execution on the final judgment pending disposition of the
69 appeal.

70 (2) The department shall issue an emergency order
71 suspending the license and certification of any licensee who,
72 after 30 days following the receipt of a notice from the
73 department, has failed to:

74 (a) Satisfy a medical practice claim against him or her;
75 or (b) Provide the Department of Health:

76 1. A copy of a timely filed notice of appeal; and

77 2.a. A copy of a supersedeas bond properly posted in the
78 amount declared by law; or

79 b. An order from a court of competent jurisdiction staying
80 execution on the final judgment pending disposition of the
81 appeal.

82 (3) Upon the next meeting of a probable cause panel of the
83 board following 30 days after the date of mailing the notice of
84 disciplinary action to the licensee, the panel shall make a

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85 determination of whether probable cause exists to take
86 disciplinary action against the licensee pursuant to subsection
87 (2).

88 (4) If the board determines that the factual requirements
89 of subsection (2) are met, the board shall take such
90 disciplinary action against the licensee as the board deems
91 appropriate. Such disciplinary action shall include, at a
92 minimum, probation of the license with the restriction that the
93 licensee must make payments to the judgment creditor on a
94 schedule determined by the board to be reasonable and within the
95 financial capability of the licensee. Notwithstanding any other
96 disciplinary action imposed, the disciplinary penalty may
97 include suspension of the license and certification for a period
98 not to exceed 5 years. If an agreement to satisfy a judgment has
99 been met and the licensee has completed a form supplying any
100 necessary information required by the department, the board may
101 remove any restriction on the license and certification.

102 (5) A licensee who meets the requirements of this section
103 shall post a notice in the form of a sign prominently displayed
104 in the reception area and clearly noticeable by all patients or
105 provide a written statement to any person to whom advanced
106 registered nurse practitioner services are provided stating:
107 "Under Florida law, advanced registered nurse practitioners
108 (ARNPs) are generally required to carry medical malpractice
109 insurance or otherwise demonstrate financial responsibility to
110 cover potential claims for medical malpractice. YOUR ADVANCED
111 REGISTERED NURSE PRACTITIONER HAS DECIDED NOT TO CARRY MEDICAL
112 MALPRACTICE INSURANCE. This is permitted under Florida law

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113 subject to certain conditions. Florida law imposes penalties
114 against noninsured advanced registered nurse practitioners who
115 fail to satisfy adverse judgments arising from claims of medical
116 malpractice. This notice is provided pursuant to Florida law."

117 (6) Notwithstanding any other provision of this section,
118 the department shall suspend the license and certification of
119 any advanced registered nurse practitioner against whom has been
120 entered a final judgment, arbitration award, or other order or
121 who has not entered into a settlement agreement to pay damages
122 arising out of a claim for medical malpractice, if all appellate
123 remedies have been exhausted and payment of up to the amounts
124 required by this section has not been made within 30 days after
125 the entering of such judgment, award, order, or agreement until
126 proof of payment is received by the department or a payment
127 schedule has been agreed upon by the advanced registered nurse
128 practitioner and the claimant and presented to the department.
129 After proof of payment is received by the department or a
130 payment schedule has been agreed upon by the advanced registered
131 nurse practitioner and the claimant and presented to the
132 department, the department shall reinstate the licensee's
133 license and certification.

134 Section 2. This act shall take effect July 1, 2006.