

By Senator Saunders

37-1247A-06

1 A bill to be entitled
2 An act relating to the practice of nursing;
3 creating s. 464.0186, F.S.; providing that an
4 advanced registered nurse practitioner who
5 meets certain criteria is not required to carry
6 professional liability insurance; requiring the
7 licensee to pay certain dollar amounts under
8 certain circumstances regarding a claim of
9 medical malpractice; requiring the Department
10 of Health to notify the licensee about
11 disciplinary action if specific conditions are
12 not met; requiring the department to issue an
13 emergency order suspending the license of a
14 licensee under certain circumstances; requiring
15 a probable cause panel of the Board of Nursing
16 to make a determination of probable cause;
17 requiring the board to take disciplinary action
18 under certain circumstances; providing minimum
19 requirements for disciplinary action; requiring
20 the licensee to complete a form; requiring the
21 licensee to post a sign that is prominently
22 displayed to the licensee's patients regarding
23 his or her possession of medical malpractice
24 insurance; requiring the department to suspend
25 the license of a licensee against whom a final
26 judgment or arbitration award has been entered
27 or who has entered into a settlement agreement
28 to pay damages arising out of a claim for
29 medical malpractice under certain
30 circumstances; requiring the department to
31 reinstate the license and certification of a

1 licensee under certain conditions; providing an
2 effective date.

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

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6 Section 1. Section 464.0186, Florida Statutes, is
7 created to read:

8 464.0186 Financial responsibility of advanced
9 registered nurse practitioners.--

10 (1) Any person who holds an active license to practice
11 and is certified as an advanced registered nurse practitioner
12 under s. 464.012 and who meets the criteria set forth in this
13 section may be exempt from the requirement to carry
14 professional liability insurance as prescribed in s. 456.048
15 or by rule of the board.

16 (2) Upon the entry of an adverse final judgment
17 arising from a medical malpractice arbitration award, from a
18 claim of medical malpractice in contract or tort, or from
19 noncompliance with terms of a settlement agreement arising
20 from a claim of medical malpractice in contract or tort, the
21 licensee shall pay the judgment creditor:

22 (a) The lesser of the entire amount of the judgment
23 with all accrued interest;

24 (b) The sum of \$100,000 if the advanced registered
25 nurse practitioner is licensed under this chapter but does not
26 maintain hospital staff privileges; or

27 (c) The sum of \$250,000 if the advanced registered
28 nurse practitioner is licensed pursuant to this chapter and
29 maintains hospital staff privileges,

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1 within 60 days after the date such judgment becomes final and
2 subject to execution, unless otherwise mutually agreed to by
3 the parties. Such adverse final judgment includes any
4 cross-claim, counterclaim, or claim for indemnity or
5 contribution arising from the claim of medical malpractice.

6 (3) Upon notification of the existence of an
7 unsatisfied judgment or payment pursuant to subsection (2),
8 the department shall notify the licensee by certified mail
9 that he or she shall be subject to disciplinary action unless,
10 within 30 days after the date of mailing, he or she:

11 (a) Shows proof that the unsatisfied judgment has been
12 paid in the amount specified in subsection (2); or

13 (b) Furnishes the department with a copy of a timely
14 filed notice of appeal and:

15 1. A copy of a supersedeas bond properly posted in the
16 amount required by law; or

17 2. An order from a court of competent jurisdiction
18 staying execution on the final judgment pending disposition of
19 the appeal.

20 (4) The department shall issue an emergency order
21 suspending the license of any licensee who, after 30 days
22 following the receipt of a notice from the Department of
23 Health, has failed to:

24 (a) Satisfy a medical malpractice claim against him or
25 her;

26 (b) Furnish the department with a copy of a timely
27 filed notice of appeal;

28 (c) Furnish the department with a copy of a
29 supersedeas bond properly posted in the amount declared by
30 law; or

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1 (d) Furnish the department with an order from a court
2 of competent jurisdiction staying execution on the final
3 judgment pending disposition of the appeal.

4 (5) Upon the next meeting of a probable cause panel of
5 the board following 30 days after the date of mailing the
6 notice of disciplinary action to the licensee, the panel shall
7 make a determination of whether probable cause exists to take
8 disciplinary action against the licensee pursuant to
9 subsection (3).

10 (6) If the board determines that the factual
11 requirements of subsection (3) are met, it shall take
12 disciplinary action as it deems appropriate against the
13 licensee. Such disciplinary action shall include, at a
14 minimum, probation of the license with the restriction that
15 the licensee must make payments to the judgment creditor on a
16 schedule determined by the board to be reasonable and within
17 the financial capability of the advanced registered nurse
18 practitioner. Notwithstanding any other disciplinary action
19 imposed, the disciplinary penalty may include suspension of
20 the license for a period not to exceed 5 years. If an
21 agreement to satisfy a judgment has been met, the board may
22 remove any restriction on the license. The licensee must
23 complete a form supplying necessary information as required by
24 the department.

25 (7) A licensee who meets the requirements of
26 subsection (1) must post notice in the form of a sign
27 prominently displayed in the reception area and clearly
28 noticeable by all patients or provide a written statement to
29 any person to whom services are provided by the advanced
30 registered nurse practitioner. The sign or statement must
31 state: "Under Florida law Advanced Registered Nurse

1 Practitioners (A.R.N.P.s) are generally required to carry
2 medical malpractice insurance or otherwise demonstrate
3 financial responsibility to cover potential claims for medical
4 malpractice. YOUR A.R.N.P. HAS DECIDED NOT TO CARRY MEDICAL
5 MALPRACTICE INSURANCE. This is permitted under Florida law
6 subject to certain conditions. Florida law imposes penalties
7 against noninsured A.R.N.P.s who fail to satisfy adverse
8 judgments arising from claims of medical malpractice. This
9 notice is provided pursuant to Florida law."

10 (8) Notwithstanding any other provision of this
11 section, the department shall suspend the license of any
12 advanced registered nurse practitioner against whom has been
13 entered a final judgment, arbitration award, or other order or
14 who has entered into a settlement agreement to pay damages
15 arising out of a claim for medical malpractice, if all
16 appellate remedies have been exhausted and payment of the
17 amounts required by this section has not been made within 30
18 days after the entering of such judgment, award, order, or
19 agreement, until proof of payment is received by the
20 department or a payment schedule has been agreed upon by the
21 advanced registered nurse practitioner and the claimant and
22 presented to the department. After proof of payment is
23 received by the department or a payment schedule has been
24 agreed upon by the advanced registered nurse practitioner and
25 the claimant and presented to the department, the department
26 shall reinstate the licensee's license and certification.

27 Section 2. This act shall take effect upon becoming a
28 law.

SENATE SUMMARY

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3 Provides that a licensed advanced registered nurse
4 practitioner who meets certain criteria is not required
5 to carry professional liability insurance. Requires the
6 licensee to pay certain dollar amounts under certain
7 circumstances regarding a claim of medical malpractice.
8 Requires the Department of Health to notify the licensee
9 about disciplinary action if specific conditions are not
10 met. Requires the department to issue an emergency order
11 suspending the license of a licensee under certain
12 circumstances. Requires a probable cause panel of the
13 Board of Nursing to make a determination of probable
14 cause. Requires the board to take disciplinary action
15 under certain circumstances. Requires the licensee to
16 post a sign that is prominently displayed to the
17 licensee's patients regarding his or her possession of
18 medical malpractice insurance. Requires the department to
19 suspend the license of a licensee against whom a final
20 judgment or arbitration award has been entered or who has
21 entered into a settlement agreement to pay damages
22 arising out of a claim for medical malpractice under
23 certain circumstances. Requires the department to
24 reinstate the license and certification of a licensee
25 under certain conditions.
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