

By Senator Jones

13-302A-06

1 A bill to be entitled
2 An act relating to the financial responsibility
3 of physicians and osteopathic physicians;
4 amending ss. 458.320 and 459.0085, F.S.;
5 providing additional requirements, relating to
6 licensure, for professional liability insurance
7 coverage, an escrow account, and an irrevocable
8 letter of credit; revising the amounts required
9 through the escrow account or letter of credit;
10 providing for submittal, to the Department of
11 Health, by a physician or an osteopathic
12 physician of a sworn statement and
13 documentation relating to the liability
14 insurance coverage, the escrow account, or the
15 letter of credit; providing for notification of
16 the department by a bank or savings association
17 when the escrow account is closed or
18 transferred or the letter of credit is
19 cancelled or expires; removing provisions
20 governing license suspension following
21 cancellation or nonrenewal of professional
22 liability insurance; providing for notification
23 of the department and requiring a sworn
24 statement by the physician or osteopathic
25 physician when the professional liability
26 insurance is cancelled or not renewed, the
27 escrow account is closed or transferred, or the
28 letter of credit is cancelled or expires;
29 providing for license suspension following such
30 termination of insurance, escrow account, or
31 letter of credit; providing criminal penalties

1 for a physician or an osteopathic physician who
2 fails to submit a required notice or statement
3 or who knowingly makes a false declaration in
4 the sworn statement; removing provisions
5 authorizing a physician or osteopathic
6 physician to be exempt from the
7 financial-responsibility requirements upon
8 posting notice and meeting certain other
9 criteria; providing that requirements
10 previously applicable to self-insured
11 physicians and osteopathic physicians apply to
12 all such physicians who are required to
13 maintain financial responsibility; requiring
14 that a physician or osteopathic physician
15 satisfy an adverse final judgment within a
16 specified period unless otherwise agreed to in
17 writing; providing that a physician or
18 osteopathic physician is not relieved from his
19 or her obligation to satisfy the entire amount
20 of a judgment or award; requiring the
21 Department of Health to suspend the license of
22 a physician or osteopathic physician upon the
23 mailing of a notice of failure to satisfy an
24 adverse final judgment; providing an exemption
25 for certain physicians or osteopathic
26 physicians for payment to a judgment creditor;
27 requiring the department to verify that a
28 physician or osteopathic physician has met
29 financial-responsibility requirements before
30 granting or renewing a license; requiring the
31 Board of Medicine and the Board of Osteopathic

1 Medicine to adopt rules; providing an effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 458.320, Florida Statutes, is
7 amended to read:

8 458.320 Financial responsibility.--

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

17 (a) Establishing and maintaining an escrow account
18 consisting of cash or assets eligible for deposit in
19 accordance with s. 625.52 in an amount sufficient to meet the
20 minimum annual aggregate claim amount the per claim amounts
21 specified in paragraph (b). The escrow account must be payable
22 to the physician as beneficiary upon presentment of a final
23 judgment indicating liability and awarding damages to be paid
24 by the physician or upon presentment of a settlement agreement
25 signed by all parties to such agreement when such final
26 judgment or settlement is a result of a claim arising out of
27 the rendering of, or the failure to render, medical care and
28 services. The required escrow amount set forth in this
29 paragraph may not be used for litigation costs or attorney's
30 fees for the defense of any medical malpractice claim. The
31 escrow account must be nonassignable and nontransferable.

1 Such escrow account must be made with and held by the trust
2 department of a bank or savings association organized and
3 existing under the laws of this state or a bank or savings
4 association organized under the laws of the United States
5 which has its principal place of business in this state or has
6 a branch office that is authorized under the laws of this
7 state or of the United States to receive deposits in this
8 state.

9 (b) Obtaining and maintaining professional liability
10 coverage in an amount not less than \$100,000 per claim, with a
11 minimum annual aggregate of not less than \$300,000, from an
12 authorized insurer as defined under s. 624.09, from a surplus
13 lines insurer as defined under s. 626.914(2), from a risk
14 retention group as defined under s. 627.942, from the Joint
15 Underwriting Association established under s. 627.351(4), or
16 through a plan of self-insurance as provided in s. 627.357.
17 The required coverage amount set forth in this paragraph may
18 not be used for litigation costs or attorney's fees for the
19 defense of any medical malpractice claim.

20 (c) Obtaining and maintaining an unexpired,
21 irrevocable letter of credit, established pursuant to chapter
22 675, in an amount sufficient to meet the minimum annual
23 aggregate claim amount specified in paragraph (b) not less
24 than \$100,000 per claim, with a minimum aggregate availability
25 of credit of not less than \$300,000. The letter of credit must
26 be payable to the physician as beneficiary upon presentment of
27 a final judgment indicating liability and awarding damages to
28 be paid by the physician or upon presentment of a settlement
29 agreement signed by all parties to such agreement when such
30 final judgment or settlement is a result of a claim arising
31 out of the rendering of, or the failure to render, medical

1 care and services. The letter of credit may not be used for
2 litigation costs or attorney's fees for the defense of any
3 medical malpractice claim. The letter of credit must be
4 nonassignable and nontransferable. Such letter of credit must
5 be issued by any bank or savings association organized and
6 existing under the laws of this state or any bank or savings
7 association organized under the laws of the United States
8 which has its principal place of business in this state or has
9 a branch office that is authorized under the laws of this
10 state or of the United States to receive deposits in this
11 state.

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

17 (a) Establishing and maintaining an escrow account
18 consisting of cash or assets eligible for deposit in
19 accordance with s. 625.52 in an amount sufficient to meet the
20 minimum annual aggregate claim amount ~~the per claim amounts~~
21 specified in paragraph (b). The escrow account must be payable
22 to the physician as beneficiary upon presentment of a final
23 judgment indicating liability and awarding damages to be paid
24 by the physician or upon presentment of a settlement agreement
25 signed by all parties to such agreement when such final
26 judgment or settlement is a result of a claim arising out of
27 the rendering of, or the failure to render, medical care and
28 services. The required escrow amount set forth in this
29 paragraph may not be used for litigation costs or attorney's
30 fees for the defense of any medical malpractice claim. The
31 escrow account must be nonassignable and nontransferable.

1 Such escrow account must be made with and held by the trust
2 department of a bank or savings association organized and
3 existing under the laws of this state or a bank or savings
4 association organized under the laws of the United States
5 which has its principal place of business in this state or has
6 a branch office that is authorized under the laws of this
7 state or of the United States to receive deposits in this
8 state.

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

22 (c) Obtaining and maintaining an unexpired irrevocable
23 letter of credit, established pursuant to chapter 675, in an
24 amount sufficient to meet the minimum annual aggregate claim
25 amount specified in paragraph (b) ~~not less than \$250,000 per~~
26 ~~claim, with a minimum aggregate availability of credit of not~~
27 ~~less than \$750,000.~~ The letter of credit must be payable to
28 the physician as beneficiary upon presentment of a final
29 judgment indicating liability and awarding damages to be paid
30 by the physician or upon presentment of a settlement agreement
31 signed by all parties to such agreement when such final

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

13

14 This subsection shall be inclusive of the coverage in
15 subsection (1).

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

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

23 (4)(a) If financial responsibility requirements are
24 met by maintaining professional liability insurance as
25 provided for in this section, the physician shall, at the time
26 of applying for or renewing a license, and within 10 days
27 after any such insurance coverage is instituted, submit to the
28 department a sworn statement identifying the insurer and
29 certifying that the coverage meets the requirements of this
30 section. The statement must be accompanied by a copy of the
31 certificate of insurance which shall be deemed to be

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

18 (b)1. If financial responsibility requirements are met
19 by maintaining an escrow account as provided for in this
20 section, the physician shall, at the time of applying for or
21 renewing a license, and within 10 days after any such escrow
22 account is opened, submit to the department a sworn statement
23 identifying the assets held in escrow and their value;
24 identifying the financial institution that is holding the
25 escrow; affirming that the account is nonassignable,
26 nontransferable, and not encumbered or pledged to a purpose
27 other than meeting the financial responsibility requirements
28 of this section; and granting such authorization as is
29 necessary for the department to verify such information with
30 the financial institution. A copy of the escrow agreement and
31 a recent statement from the institution reflecting the value

1 of the assets in the escrow account must accompany the
2 statement is considered to be incorporated in the statement.

3 2. If financial responsibility requirements are met by
4 maintaining a letter of credit as provided for in this
5 section, the physician shall, at the time of applying for or
6 renewing a license, and within 10 days after any such letter
7 of credit is issued, submit to the department a sworn
8 statement identifying the financial institution that issued
9 the letter of credit; affirming that the letter of credit is
10 nonassignable, nontransferable, otherwise meets the
11 requirements of this section, and is not encumbered or pledged
12 to a purpose other than meeting the financial responsibility
13 requirements in this section; and granting such authorization
14 as is necessary for the department to verify such information
15 with the financial institution. A copy of the letter of
16 credit must accompany the statement and is considered to be
17 incorporated in the statement.

18 3. If financial responsibility requirements are met by
19 maintaining an escrow account or letter of credit as provided
20 in this section, upon the entry of an adverse final judgment
21 arising from a medical malpractice arbitration award, from a
22 claim of medical malpractice either in contract or tort, or
23 from noncompliance with the terms of a settlement agreement
24 arising from a claim of medical malpractice either in contract
25 or tort, the licensee shall pay the entire amount of the
26 judgment together with all accrued interest, or the amount
27 maintained in the escrow account or provided in the letter of
28 credit as required by this section, whichever is less, within
29 60 days after the date such judgment became final and subject
30 to execution, unless otherwise mutually agreed to in writing
31 by the parties. If timely payment is not made by the

1 physician, the department shall suspend the license of the
2 physician pursuant to procedures ~~set forth~~ in subsection (6)
3 ~~subparagraphs (5)(g)3., 4., and 5.~~ ~~Nothing in~~ This paragraph
4 does not shall abrogate a judgment debtor's obligation to
5 satisfy the entire amount of any judgment.

6 (c)1. Each insurer, self-insurer, risk retention
7 group, or joint underwriting association must promptly notify
8 the department of the cancellation or nonrenewal of insurance
9 that is required by this section. Each bank or savings
10 association must promptly notify the department of the closing
11 or transfer of an escrow account, or the cancellation or
12 expiration of a letter of credit, which account or letter is
13 required by this section.

14 2. Within 10 days after the cancellation or nonrenewal
15 of professional liability insurance, the closing or transfer
16 of an escrow account, or the cancellation or expiration of a
17 letter of credit being used by a physician to meet the
18 financial responsibility requirements of this section, such
19 physician shall notify the department of such cancellation or
20 nonrenewal of the insurance coverage, closing or transfer of
21 the escrow account, or cancellation or expiration of the
22 letter of credit, and submit the sworn statement required by
23 paragraph (a) or paragraph (b) reflecting the institution of
24 professional liability insurance coverage, the opening of an
25 escrow account, or the issuance of a letter of credit, as
26 applicable, to otherwise meet the financial responsibility
27 requirements of this section. The department shall suspend,
28 pursuant to ss. 120.569 and 120.57, the license of a physician
29 whose liability insurance is cancelled or not renewed, whose
30 escrow account is closed or transferred, or whose letter of
31 credit is cancelled or expires, and who does not notify the

1 department of such action and submit the sworn statement
2 required by this subsection demonstrating that he or she is
3 otherwise in compliance with the requirements of this section.
4 The department shall notify all health care facilities
5 licensed under chapter 395 of such suspension action. A
6 suspension under this subparagraph must remain in effect until
7 the physician demonstrates compliance with the requirements of
8 this section. If any judgments or settlements are pending at
9 the time of suspension, those judgments or settlements must be
10 paid in accordance with this section unless otherwise agreed
11 in writing by the parties. This paragraph does not abrogate a
12 judgment debtor's obligation to satisfy the entire amount of
13 any judgment.

14 (d) The sworn statement required by paragraph (a) or
15 paragraph (b) must include the following declaration: "Under
16 penalties of perjury, I declare that I have read the foregoing
17 statement and that the facts stated in it are true." The
18 declaration must be printed or typed at the end of the
19 statement and above the signature of the physician making the
20 declaration. A physician who knowingly makes a false
21 declaration under this paragraph, in addition to being subject
22 to discipline as otherwise authorized by this chapter, commits
23 the crime of perjury by false written declaration, a felony of
24 the third degree, punishable as provided in s. 775.082, s.
25 775.083, or s. 775.084.

26 (e) A physician who fails to timely file a statement
27 required by paragraph (a) or paragraph (b) or the notice
28 required by paragraph (c) commits a misdemeanor of the first
29 degree, punishable as provided in s. 775.082 or s. 775.083.

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 who does not qualify for an exemption from
31 the financial responsibility requirements under subsection (5)

1 ~~the licensee~~ shall pay the judgment creditor at least the
2 lesser of the entire amount of the judgment with all accrued
3 interest or either \$100,000, if the physician is licensed
4 pursuant to this chapter but does not maintain hospital staff
5 privileges, or \$250,000, if the physician is licensed pursuant
6 to this chapter and maintains hospital staff privileges,
7 within 30 ~~60~~ days after the date such judgment became final
8 and subject to execution, unless otherwise mutually agreed to
9 in writing by the parties. Such adverse final judgment shall
10 include any cross-claim, counterclaim, or claim for indemnity
11 or contribution arising from the claim of medical malpractice.
12 This section does not abrogate a licensee's obligation to
13 satisfy the entire amount of any judgment, arbitration award,
14 or other court order.

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

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

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

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

28 b.(II) An order from a court of competent jurisdiction
29 staying execution on the final judgment pending disposition of
30 the appeal.

31

1 **(b)2-** The Department of Health shall issue an
2 emergency order suspending the license of any licensee who,
3 after 30 days following the mailing ~~receipt~~ of a notice from
4 the Department of Health, has failed to: satisfy a medical
5 malpractice claim against him or her in accordance with this
6 subsection; furnish the Department of Health a copy of a
7 timely filed notice of appeal; furnish the Department of
8 Health a copy of a supersedeas bond properly posted in the
9 amount required by law; or furnish the Department of Health an
10 order from a court of competent jurisdiction staying execution
11 on the final judgment pending disposition of the appeal.

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

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

31

1 (e) This subsection does not apply to a licensee whose
2 medical malpractice judgment or settlement is to be paid
3 pursuant to a licensee's professional liability insurance
4 coverage that is maintained in accordance with paragraph
5 (1)(b) or paragraph (2)(b).

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

8
9 ~~A licensee who meets the requirements of this paragraph shall~~
10 ~~be required either to post notice in the form of a sign~~
11 ~~prominently displayed in the reception area and clearly~~
12 ~~noticeable by all patients or to provide a written statement~~
13 ~~to any person to whom medical services are being provided.~~

14 ~~Such sign or statement shall state: "Under Florida law,~~
15 ~~physicians are generally required to carry medical malpractice~~
16 ~~insurance or otherwise demonstrate financial responsibility to~~
17 ~~cover potential claims for medical malpractice. YOUR DOCTOR~~
18 ~~HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This~~
19 ~~is permitted under Florida law subject to certain conditions.~~
20 ~~Florida law imposes penalties against noninsured physicians~~
21 ~~who fail to satisfy adverse judgments arising from claims of~~
22 ~~medical malpractice. This notice is provided pursuant to~~
23 ~~Florida law."~~

24 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent
25 representation by the licensee with respect to any provision
26 of this section shall result in permanent disqualification
27 from any exemption to mandated financial responsibility as
28 provided in this section and shall constitute grounds for
29 disciplinary action under s. 458.331.

30 ~~(8)(7)~~ Any licensee who relies on any exemption from
31 the financial responsibility requirement shall notify the

1 department, in writing, of any change of circumstance
2 regarding his or her qualifications for such exemption and
3 shall demonstrate that he or she is in compliance with the
4 requirements of this section.

5 (9) The department shall verify that the licensee has
6 the required financial responsibility in accordance with
7 subsections (1) and (2) before a license is granted or
8 renewed.

9 ~~(8) Notwithstanding any other provision of this~~
10 ~~section, the department shall suspend the license of any~~
11 ~~physician against whom has been entered a final judgment,~~
12 ~~arbitration award, or other order or who has entered into a~~
13 ~~settlement agreement to pay damages arising out of a claim for~~
14 ~~medical malpractice, if all appellate remedies have been~~
15 ~~exhausted and payment up to the amounts required by this~~
16 ~~section has not been made within 30 days after the entering of~~
17 ~~such judgment, award, or order or agreement, until proof of~~
18 ~~payment is received by the department or a payment schedule~~
19 ~~has been agreed upon by the physician and the claimant and~~
20 ~~presented to the department. This subsection does not apply to~~
21 ~~a physician who has met the financial responsibility~~
22 ~~requirements in paragraphs (1)(b) and (2)(b).~~

23 ~~(10)(9)~~ The board shall adopt rules to implement the
24 provisions of this section.

25 Section 2. Section 459.0085, Florida Statutes, is
26 amended to read:

27 459.0085 Financial responsibility.--

28 (1) As a condition of licensing and maintaining an
29 active license, and prior to the issuance or renewal of an
30 active license or reactivation of an inactive license for the
31 practice of osteopathic medicine, an applicant must by one of

1 | the following methods demonstrate to the satisfaction of the
2 | board and the department financial responsibility to pay
3 | claims and costs ancillary thereto arising out of the
4 | rendering of, or the failure to render, medical care or
5 | services:

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 an amount sufficient to meet the
9 | minimum annual aggregate claim amount ~~the per claim amounts~~
10 | specified in paragraph (b). The escrow account must be payable
11 | to the osteopathic physician as beneficiary upon presentment
12 | of a final judgment indicating liability and awarding damages
13 | to be paid by the osteopathic physician or upon presentment of
14 | a settlement agreement signed by all parties to such agreement
15 | when such final judgment or settlement is a result of a claim
16 | arising out of the rendering of, or the failure to render,
17 | medical care and services. The required escrow amount set
18 | forth in this paragraph may not be used for litigation costs
19 | or attorney's fees for the defense of any medical malpractice
20 | claim. The escrow account must be nonassignable and
21 | nontransferable. Such escrow account must be made with and
22 | held by the trust department of a bank or savings association
23 | organized and existing under the laws of this state or a bank
24 | or savings association organized under the laws of the United
25 | States which has its principal place of business in this state
26 | or has a branch office that is authorized under the laws of
27 | this state or of the United States to receive deposits in this
28 | state.

29 | (b) Obtaining and maintaining professional liability
30 | coverage in an amount not less than \$100,000 per claim, with a
31 | minimum annual aggregate of not less than \$300,000, from an

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

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

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

7 (a) Establishing and maintaining an escrow account
8 consisting of cash or assets eligible for deposit in
9 accordance with s. 625.52 in an amount sufficient to meet the
10 minimum annual aggregate claim amount ~~the per claim amounts~~
11 specified in paragraph (b). The escrow account must be payable
12 to the osteopathic physician as beneficiary upon presentment
13 of a final judgment indicating liability and awarding damages
14 to be paid by the osteopathic physician or upon presentment of
15 a settlement agreement signed by all parties to such agreement
16 when such final judgment or settlement is a result of a claim
17 arising out of the rendering of, or the failure to render,
18 medical care and services. The required escrow amount set
19 forth in this paragraph may not be used for litigation costs
20 or attorney's fees for the defense of any medical malpractice
21 claim. The escrow account must be nonassignable and
22 nontransferable. Such escrow account must be made with and
23 held by the trust department of a bank or savings association
24 organized and existing under the laws of this state or a bank
25 or savings association organized under the laws of the United
26 States which has its principal place of business in this state
27 or has a branch office that is authorized under the laws of
28 this state or of the United States to receive deposits in this
29 state.

30 (b) Obtaining and maintaining professional liability
31 coverage in an amount not less than \$250,000 per claim, with a

1 | minimum annual aggregate of not less than \$750,000 from an
2 | authorized insurer as defined under s. 624.09, from a surplus
3 | lines insurer as defined under s. 626.914(2), from a risk
4 | retention group as defined under s. 627.942, from the Joint
5 | Underwriting Association established under s. 627.351(4),
6 | through a plan of self-insurance as provided in s. 627.357, or
7 | through a plan of self-insurance that meets the conditions
8 | specified for satisfying financial responsibility in s.
9 | 766.110. The required coverage 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 | (c) Obtaining and maintaining an unexpired,
13 | irrevocable letter of credit, established pursuant to chapter
14 | 675, in an amount sufficient to meet the minimum annual
15 | aggregate claim amount specified in paragraph (b) ~~not less~~
16 | ~~than \$250,000 per claim, with a minimum aggregate availability~~
17 | ~~of credit of not less than \$750,000~~. The letter of credit must
18 | be payable to the osteopathic physician as beneficiary upon
19 | presentment of a final judgment indicating liability and
20 | awarding damages to be paid by the osteopathic physician or
21 | upon presentment of a settlement agreement signed by all
22 | parties to such agreement when such final judgment or
23 | settlement is a result of a claim arising out of the rendering
24 | of, or the failure to render, medical care and services. The
25 | letter of credit may not be used for litigation costs or
26 | attorney's fees for the defense of any medical malpractice
27 | claim. The letter of credit must be nonassignable and
28 | nontransferable. The letter of credit must be issued by any
29 | bank or savings association organized and existing under the
30 | laws of this state or any bank or savings association
31 | organized under the laws of the United States which has its

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

4
5 This subsection shall be inclusive of the coverage in
6 subsection (1).

7 (3)(a) Meeting the financial responsibility
8 requirements of this section or the criteria for any exemption
9 from such requirements must be established at the time of
10 issuance or renewal of a license.

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

14 (4)(a) If financial responsibility requirements are
15 met by maintaining professional liability insurance as
16 provided for in this section, the osteopathic physician shall,
17 at the time of applying for or renewing a license, and within
18 10 days after any such insurance coverage is instituted,
19 submit to the department a sworn statement identifying the
20 insurer and certifying that the coverage meets the
21 requirements of this section. The statement must be
22 accompanied by a copy of the certificate of insurance which is
23 considered to be incorporated in the statement. Each insurer,
24 self-insurer, risk retention group, or joint underwriting
25 association must promptly notify the department of
26 cancellation or nonrenewal of insurance required by this
27 section. Unless the osteopathic physician demonstrates that he
28 or she is otherwise in compliance with the requirements of
29 this section, the department shall suspend the license of the
30 osteopathic physician pursuant to ss. 120.569 and 120.57 and
31 notify all health care facilities licensed under chapter 395,

1 part IV of chapter 394, or part I of chapter 641 of such
2 action. Any suspension under this subsection remains in effect
3 until the osteopathic physician demonstrates compliance with
4 the requirements of this section. If any judgments or
5 settlements are pending at the time of suspension, those
6 judgments or settlements must be paid in accordance with this
7 section unless otherwise mutually agreed to in writing by the
8 parties. This paragraph does not abrogate a judgment debtor's
9 obligation to satisfy the entire amount of any judgment.

10 (b)1. If financial responsibility requirements are met
11 by maintaining an escrow account as provided for in this
12 section, the physician shall, at the time of applying for or
13 renewing a license, and within 10 days after any such escrow
14 account is opened, submit to the department a sworn statement
15 identifying the assets held in escrow and their value;
16 identifying the financial institution that is holding the
17 escrow; affirming that the account is nonassignable,
18 nontransferable, and not encumbered or pledged to a purpose
19 other than meeting the financial responsibility requirements
20 of this section; and granting such authorization as is
21 necessary for the department to verify such information with
22 the financial institution. A copy of the escrow agreement and
23 a recent statement from the institution reflecting the value
24 of the assets in the escrow account must accompany the
25 statement and is considered to be incorporated by reference
26 therein.

27 2. If financial responsibility requirements are met by
28 maintaining a letter of credit as provided for in this
29 section, the physician shall, at the time of applying for or
30 renewing a license, and within 10 days after any such letter
31 of credit is issued, submit to the department a sworn

1 statement identifying the financial institution that issued
2 the letter of credit; affirming that the letter of credit is
3 nonassignable, nontransferable, otherwise meets the
4 requirements of this section, and is not encumbered or pledged
5 to a purpose other than meeting the financial responsibility
6 requirements in this section; and granting such authorization
7 as is necessary for the department to verify such information
8 with the financial institution. A copy of the letter of credit
9 must accompany the statement and is considered to be
10 incorporated therein by reference.

11 3. If financial responsibility requirements are met by
12 maintaining an escrow account or letter of credit as provided
13 in this section, upon the entry of an adverse final judgment
14 arising from a medical malpractice arbitration award, from a
15 claim of medical malpractice either in contract or tort, or
16 from noncompliance with the terms of a settlement agreement
17 arising from a claim of medical malpractice either in contract
18 or tort, the licensee shall pay the entire amount of the
19 judgment together with all accrued interest or the amount
20 maintained in the escrow account or provided in the letter of
21 credit as required by this section, whichever is less, within
22 60 days after the date such judgment became final and subject
23 to execution, unless otherwise mutually agreed to in writing
24 by the parties. If timely payment is not made by the
25 osteopathic physician, the department shall suspend the
26 license of the osteopathic physician pursuant to procedures
27 set forth in subsection (6) subparagraphs (5)(g)3., 4., and 5.
28 ~~Nothing in~~ This paragraph does not ~~shall~~ abrogate a judgment
29 debtor's obligation to satisfy the entire amount of any
30 judgment.
31

1 (c)1. Each insurer, self-insurer, risk retention
2 group, or joint underwriting association must promptly notify
3 the department of the cancellation or nonrenewal of insurance
4 that is required by this section. Each bank or savings
5 association must promptly notify the department of the closing
6 or transfer of an escrow account, or the cancellation or
7 expiration of a letter of credit, which account or letter is
8 required by this section.

9 2. Within 10 days after the cancellation or nonrenewal
10 of professional liability insurance, the closing or transfer
11 of an escrow account, or the cancellation or expiration of a
12 letter of credit being used by an osteopathic physician to
13 meet the financial responsibility requirements of this
14 section, such osteopathic physician shall notify the
15 department of such cancellation or nonrenewal of the insurance
16 coverage, closing or transfer of the escrow account, or
17 cancellation or expiration of the letter of credit, and submit
18 the sworn statement required by paragraph (a) or paragraph (b)
19 reflecting the institution of professional liability insurance
20 coverage, the opening of an escrow account, or the issuance of
21 a letter of credit, as applicable, to otherwise meet the
22 financial responsibility requirements of this section. The
23 department shall suspend, pursuant to ss. 120.569 and 120.57,
24 the license of an osteopathic physician whose liability
25 insurance is cancelled or not renewed, whose escrow account is
26 closed or transferred, or whose letter of credit is cancelled
27 or expires, and who does not notify the department of such
28 action and submit the sworn statement required by this
29 subsection demonstrating that he or she is otherwise in
30 compliance with the requirements of this section. The
31 department shall notify all health care facilities licensed

1 under chapter 395 of such suspension action. A suspension
2 under this subparagraph must remain in effect until the
3 osteopathic physician demonstrates compliance with the
4 requirements of this section. If any judgments or settlements
5 are pending at the time of suspension, those judgments or
6 settlements must be paid in accordance with this section
7 unless otherwise agreed in writing by the parties. This
8 paragraph does not abrogate a judgment debtor's obligation to
9 satisfy the entire amount of any judgment.

10 (d) The sworn statement required by paragraph (a) or
11 paragraph (b) must include the following declaration: "Under
12 penalties of perjury, I declare that I have read the foregoing
13 statement and that the facts stated in it are true." The
14 declaration must be printed or typed at the end of the
15 statement and above the signature of the osteopathic physician
16 making the declaration. An osteopathic physician who knowingly
17 makes a false declaration under this paragraph, in addition to
18 being subject to discipline as otherwise authorized by this
19 chapter, commits the crime of perjury by false written
20 declaration, a felony of the third degree, punishable as
21 provided in s. 775.082, s. 775.083, or s. 775.084.

22 (e) An osteopathic physician who fails to timely file
23 a statement required by paragraph (a) or paragraph (b) or the
24 notice required by paragraph (c) commits a misdemeanor of the
25 first degree, punishable as provided in s. 775.082 or s.
26 775.083.

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

29 (a) Any person licensed under this chapter who
30 practices medicine exclusively as an officer, employee, or
31 agent of the Federal Government or of the state or its

1 agencies or its subdivisions. For the purposes of this
2 subsection, an agent of the state, its agencies, or its
3 subdivisions is a person who is eligible for coverage under
4 any self-insurance or insurance program authorized by the
5 provisions of s. 768.28(16).

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

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

20 (d) Any person licensed or certified under this
21 chapter who practices only in conjunction with his or her
22 teaching duties at a college of osteopathic medicine. Such
23 person may engage in the practice of osteopathic medicine to
24 the extent that such practice is incidental to and a necessary
25 part of duties in connection with the teaching position in the
26 college of osteopathic medicine.

27 (e) Any person holding an active license under this
28 chapter who is not practicing osteopathic medicine in this
29 state. If such person initiates or resumes any practice of
30 osteopathic medicine in this state, he or she must notify the
31 department of such activity and fulfill the financial

1 responsibility requirements of this section before resuming
2 the practice of osteopathic medicine in this state.

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

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

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

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

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

18 5. The licensee has not been subject within the last
19 10 years of practice to license revocation or suspension for
20 any period of time, probation for a period of 3 years or
21 longer, or a fine of \$500 or more for a violation of this
22 chapter or the medical practice act of another jurisdiction.
23 The regulatory agency's acceptance of an osteopathic
24 physician's relinquishment of a license, stipulation, consent
25 order, or other settlement, offered in response to or in
26 anticipation of the filing of administrative charges against
27 the osteopathic physician's license, constitutes action
28 against the physician's license for the purposes of this
29 paragraph.

30
31

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 a certification stating compliance with this
6 paragraph. The licensee must, upon request, demonstrate to the
7 department information verifying compliance with this
8 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, osteopathic physicians are
16 generally required to carry medical malpractice insurance or
17 otherwise demonstrate financial responsibility to cover
18 potential claims for medical malpractice. However, certain
19 part-time osteopathic physicians who meet state requirements
20 are exempt from the financial responsibility law. YOUR
21 OSTEOPATHIC PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED
22 NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is
23 provided pursuant to Florida law."

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

26 (6)1- Upon the entry of an adverse final judgment
27 arising from a medical malpractice arbitration award, from a
28 claim of medical malpractice either in contract or tort, or
29 from noncompliance with the terms of a settlement agreement
30 arising from a claim of medical malpractice either in contract
31 or tort, a licensee who does not qualify for an exemption from

1 the financial responsibility requirements under section (5)
2 ~~the licensee~~ shall pay the judgment creditor at least the
3 lesser of the entire amount of the judgment with all accrued
4 interest or either \$100,000, if the osteopathic physician is
5 licensed pursuant to this chapter but does not maintain
6 hospital staff privileges, or \$250,000, if the osteopathic
7 physician is licensed pursuant to this chapter and maintains
8 hospital staff privileges, within 30 ~~60~~ days after the date
9 such judgment became final and subject to execution, unless
10 otherwise mutually agreed to in writing by the parties. Such
11 adverse final judgment shall include any cross-claim,
12 counterclaim, or claim for indemnity or contribution arising
13 from the claim of medical malpractice. This section does not
14 abrogate a licensee's obligation to satisfy the entire amount
15 of any judgment, arbitration award, or other court order.

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

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

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

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

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

1 **(b)2-** The Department of Health shall issue an
2 emergency order suspending the license of any licensee who,
3 after 30 days following ~~the mailing receipt~~ of a notice from
4 the Department of Health, has failed to: satisfy a medical
5 malpractice claim against him or her in accordance with this
6 subsection; furnish the Department of Health a copy of a
7 timely filed notice of appeal; furnish the Department of
8 Health a copy of a supersedeas bond properly posted in the
9 amount required by law; or furnish the Department of Health an
10 order from a court of competent jurisdiction staying execution
11 on the final judgment pending disposition of the appeal.

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

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

31

1 (e) This subsection does not apply to a licensee whose
2 medical malpractice judgment or settlement is to be paid
3 pursuant to a licensee's professional liability insurance
4 coverage that is maintained in accordance with paragraph
5 (1)(b) or paragraph (2)(b).

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

8
9 ~~A licensee who meets the requirements of this paragraph shall~~
10 ~~be required either to post notice in the form of a sign~~
11 ~~prominently displayed in the reception area and clearly~~
12 ~~noticeable by all patients or to provide a written statement~~
13 ~~to any person to whom medical services are being provided.~~
14 ~~Such sign or statement shall state: "Under Florida law,~~
15 ~~osteopathic physicians are generally required to carry medical~~
16 ~~malpractice insurance or otherwise demonstrate financial~~
17 ~~responsibility to cover potential claims for medical~~
18 ~~malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO~~
19 ~~CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under~~
20 ~~Florida law subject to certain conditions. Florida law~~
21 ~~imposes strict penalties against noninsured osteopathic~~
22 ~~physicians who fail to satisfy adverse judgments arising from~~
23 ~~claims of medical malpractice. This notice is provided~~
24 ~~pursuant to Florida law."~~

25 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent
26 representation by the licensee with respect to any provision
27 of this section shall result in permanent disqualification
28 from any exemption to mandated financial responsibility as
29 provided in this section and shall constitute grounds for
30 disciplinary action under s. 459.015.

31

1 ~~(8)(7)~~ Any licensee who relies on any exemption from
2 the financial responsibility requirement shall notify the
3 department in writing of any change of circumstance regarding
4 his or her qualifications for such exemption and shall
5 demonstrate that he or she is in compliance with the
6 requirements of this section.

7 ~~(9)(8)~~ If a physician is ~~either~~ a resident physician,
8 assistant resident physician, or intern in an approved
9 postgraduate training program, as defined by the board's
10 rules, and is supervised by a physician who is participating
11 in the Florida Birth-Related Neurological Injury Compensation
12 Plan, such resident physician, assistant resident physician,
13 or intern is deemed to be a participating physician without
14 the payment of the assessment set forth in s. 766.314(4).

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

19 ~~(9) Notwithstanding any other provision of this~~
20 ~~section, the department shall suspend the license of any~~
21 ~~osteopathic physician against whom has been entered a final~~
22 ~~judgment, arbitration award, or other order or who has entered~~
23 ~~into a settlement agreement to pay damages arising out of a~~
24 ~~claim for medical malpractice, if all appellate remedies have~~
25 ~~been exhausted and payment up to the amounts required by this~~
26 ~~section has not been made within 30 days after the entering of~~
27 ~~such judgment, award, or order or agreement, until proof of~~
28 ~~payment is received by the department or a payment schedule~~
29 ~~has been agreed upon by the osteopathic physician and the~~
30 ~~claimant and presented to the department. This subsection does~~
31 ~~not apply to an osteopathic physician who has met the~~

1 ~~financial responsibility requirements in paragraphs (1)(b) and~~
2 ~~(2)(b).~~

3 (11)~~(10)~~ The board shall adopt rules to implement the
4 provisions of this section.

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

7
8 *****

9 SENATE SUMMARY

10 Revises the requirements for physicians and osteopathic
11 physicians with respect to maintaining professional
12 liability insurance. Requires that the Department of
13 Health be notified of insurance coverage, an escrow
14 account, or a letter of credit. Provides for license
15 suspension following the termination of insurance
16 coverage, an escrow account, or a letter of credit.
17 Provides criminal penalties. Requires that an adverse
18 final judgment be satisfied within a specified period.
19 Provides rulemaking authority to the Board of Medicine
20 and the Board of Osteopathic Medicine. (See bill for
21 details.)