

By Senator Saunders

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A bill to be entitled  
An act relating to patient safety; creating the  
"Patient Safety and Provider Liability Act";  
providing legislative findings; amending s.  
766.110, F.S.; specifying certain authorized  
insurers who may make available liability  
insurance; authorizing a facility to assess a  
portion of such costs to a covered individual  
or provider; amending s. 766.118, F.S.;  
providing a limitation on noneconomic damages  
for a hospital facility that complies with  
certain patient-safety measures; creating s.  
766.401, F.S.; providing definitions; creating  
s. 766.402, F.S.; authorizing an eligible  
hospital to petition the agency for an order  
certifying the hospital as a certified  
patient-safety facility; providing requirements  
for certification as a patient-safety facility;  
authorizing the agency to conduct onsite  
examinations; providing for revocation of an  
order certifying approval of a certified  
patient-safety facility; providing that an  
order certifying the approval of a certified  
patient-safety facility is conclusive evidence  
of compliance with statutory patient-safety  
requirements; providing that evidence of  
noncompliance is not admissible for any action  
for medical malpractice; creating s. 766.403,  
F.S.; providing requirements for a hospital to  
demonstrate that it is engaged in a common  
enterprise for the care and treatment of

1 patients; specifying required patient-safety  
2 measures; providing that a report or document  
3 generated under the act is not admissible or  
4 discoverable as evidence; creating s. 766.404,  
5 F.S.; requiring a certified patient-safety  
6 facility to submit an annual report to the  
7 Agency for Health Care Administration and the  
8 Legislature; providing requirements for the  
9 annual report; providing that the annual report  
10 may include certain information from the Office  
11 of Insurance Regulation within the Department  
12 of Financial Services; providing that the  
13 annual report is subject to public-records  
14 requirements but is not admissible as evidence  
15 in a legal proceeding; creating s. 766.405,  
16 F.S.; providing for limitations on damages for  
17 eligible hospitals that are certified for  
18 compliance with certain patient-safety measures  
19 and certain faculty physicians on staff at  
20 those hospitals; providing that limitations on  
21 liability apply to certain causes of action;  
22 creating s. 766.406, F.S.; providing rulemaking  
23 authority for the Agency for Health Care  
24 Administration; amending s. 768.77, F.S.;  
25 requiring that items for future economic losses  
26 that are awarded to a claimant be itemized;  
27 providing appropriations and additional  
28 positions; providing an effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. This act may be cited as the "Patient  
2 Safety and Provider Liability Act."

3           Section 2. Legislative findings.--The Legislature  
4 finds that:

5           (1) This state is in the midst of a prolonged medical  
6 malpractice insurance crisis that has serious adverse effects  
7 on patients, practitioners, licensed health care facilities,  
8 and all residents of this state.

9           (2) Hospitals are central components of the modern  
10 health care delivery system.

11           (3) The medical malpractice insurance crisis in this  
12 state can be alleviated by adopting innovative approaches for  
13 patient safety in teaching hospitals, which can lead to a  
14 reduction in medical errors coupled with a limitation on  
15 noneconomic damages that can be awarded against a teaching  
16 hospital implementing such innovative approaches.

17           (4) Statutory incentives are necessary to facilitate  
18 innovative approaches for patient safety in hospitals and that  
19 such incentives and patient-safety measures will benefit all  
20 persons seeking health care services in this state.

21           (5) Coupling patient safety measures and a limitation  
22 on provider liability in teaching hospitals will lead to a  
23 reduction in the frequency and severity of incidents of  
24 medical malpractice in hospitals.

25           (6) A reduction in the frequency and severity of  
26 incidents of medical malpractice in hospitals will reduce  
27 attorney's fees and other expenses inherent in the medical  
28 liability system.

29           (7) There is no alternative method that addresses the  
30 overwhelming public necessity to implement patient-safety  
31 measures and limit provider liability.

1           (8) Making high-quality health care available to the  
2 residents of this state is an overwhelming public necessity.

3           (9) Medical education in this state is an overwhelming  
4 public necessity.

5           (10) That statutory teaching hospitals are essential  
6 for high-quality medical care and medical education in this  
7 state.

8           (11) The critical mission of statutory teaching  
9 hospitals is severely undermined by the ongoing medical  
10 malpractice crisis.

11           (12) Teaching hospitals are appropriate health care  
12 facilities for implementing innovative approaches to enhancing  
13 patient safety and limiting provider liability.

14           (13) There is an overwhelming public necessity to  
15 impose reasonable limitations on actions for medical  
16 malpractice against teaching hospitals in furtherance of the  
17 critical public interest in promoting access to high-quality  
18 medical care, medical education, and innovative approaches to  
19 patient safety and provider liability.

20           (14) There is an overwhelming public necessity for  
21 teaching hospitals to implement innovative measures for  
22 patient safety and limit provider liability in order to  
23 generate empirical data for state policymakers concerning the  
24 effectiveness of these measures. Such data may lead to broader  
25 application of these measures in a wider array of hospitals  
26 after a reasonable period of evaluation and review.

27           (15) There is an overwhelming public necessity to  
28 promote the academic mission of teaching hospitals.  
29 Furthermore, the Legislature finds that the academic mission  
30 of these medical facilities is materially enhanced by  
31 statutory authority for implementing innovative approaches to

1 promoting patient safety and limiting provider liability. Such  
2 approaches can be carefully studied and learned by medical  
3 students, medical school faculty, and affiliated physicians in  
4 appropriate clinical settings, thereby enlarging the body of  
5 knowledge concerning patient safety and provider liability  
6 which is essential for advancing patient safety, reducing  
7 expenses inherent in the medical liability system, and  
8 curtailing the medical malpractice insurance crisis in this  
9 state.

10 Section 3. Subsection (2) of section 766.110, Florida  
11 Statutes, is amended to read:

12 766.110 Liability of health care facilities.--

13 (2) Every hospital licensed under chapter 395 may  
14 carry liability insurance or adequately insure itself in an  
15 amount of not less than \$1.5 million per claim, \$5 million  
16 annual aggregate to cover all medical injuries to patients  
17 resulting from negligent acts or omissions on the part of  
18 those members of its medical staff who are covered thereby in  
19 furtherance of the requirements of ss. 458.320 and 459.0085.  
20 ~~Self insurance~~ Coverage extended hereunder to a member of a  
21 hospital's medical staff meets the financial responsibility  
22 requirements of ss. 458.320 and 459.0085 if the physician's  
23 coverage limits are not less than the minimum limits  
24 established in ss. 458.320 and 459.0085 and the hospital is a  
25 verified trauma center that has extended self-insurance  
26 coverage continuously to members of its medical staff for  
27 activities both inside and outside of the hospital. Any  
28 authorized insurer or approved insurer as defined in s.  
29 626.914(2), risk retention group as defined in s. 627.942, or  
30 joint underwriting association established under s. 627.351(4)  
31 which is authorized or approved to write casualty insurance

1 may make available, but ~~is shall~~ not ~~be~~ required to write, any  
2 ~~such~~ coverage authorized under this section. The hospital may  
3 assess on an equitable and pro rata basis the following  
4 individuals to whom it extends coverage pursuant to this  
5 section ~~professional health care providers~~ for a portion of  
6 the total hospital insurance cost for this coverage:  
7 physicians licensed under chapter 458, osteopathic physicians  
8 licensed under chapter 459, podiatric physicians licensed  
9 under chapter 461, dentists licensed under chapter 466, and  
10 nurses licensed under part I of chapter 464. The hospital may  
11 provide for a deductible amount to be applied against any  
12 individual health care provider found liable in a law suit in  
13 tort or for breach of contract. The legislative intent in  
14 providing for the deductible to be applied to individual  
15 health care providers found negligent or in breach of contract  
16 is to instill in each individual health care provider the  
17 incentive to avoid the risk of injury to the fullest extent  
18 and ensure that the citizens of this state receive the highest  
19 quality health care obtainable. Notwithstanding s. 626.901 or  
20 any other provision of this section, a certified  
21 patient-safety facility, as defined in s. 766.401, may extend  
22 insurance or self-insurance coverage to some or all members of  
23 its medical staff, including, but not limited to, physicians  
24 who are not employees or agents of the hospital and any  
25 incorporated or unincorporated organization, association, or  
26 group of persons liable for the medical negligence of such  
27 physicians, and some or all medical, nursing, or allied health  
28 professionals or students who are affiliated with the  
29 hospital, other than persons exempt from liability due to  
30 sovereign immunity under s. 768.28. Such coverage must be  
31 limited to legal liability arising out of medical negligence

1 within the hospital premises as defined under s. 766.401. A  
2 certified patient-safety facility may assess against any  
3 individual to whom it extends coverage a portion of the total  
4 hospital insurance cost for this coverage on an equitable and  
5 pro rata basis and may provide for a deductible amount to be  
6 applied against any covered health care provider found liable  
7 in a lawsuit in tort or for breach of contract.

8 Section 4. Present subsections (6) and (7) of section  
9 766.118, Florida Statutes, are renumbered as subsections (7)  
10 and (8), respectively, and a new subsection (6) is added to  
11 that section, to read:

12 766.118 Determination of noneconomic damages.--

13 (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE  
14 OF CERTAIN HOSPITALS.--Notwithstanding any other provision in  
15 this section, with respect to liability for personal injury or  
16 wrongful death arising from medical negligence within a  
17 certified patient-safety facility as defined in s. 766.401 by  
18 employees or agents of the certified patient-safety facility  
19 or by the employees or agents of a nonprofit medical school  
20 whose faculty comprise at least 50 percent of the certified  
21 patient-safety facility's medical staff, noneconomic damages  
22 may not exceed \$500,000 regardless of the number of claimants,  
23 number of claims, or theory of liability, including vicarious  
24 liability, arising from the same nucleus of operative fact.

25 Section 5. Section 766.401, Florida Statutes, is  
26 created to read:

27 766.401 Definitions.--As used in this section and ss.  
28 766.402-766.405, the term:

29 (1) "Adverse medical incident" has the same meaning as  
30 provided in s. 381.028 and has the same meaning as the term  
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1 "adverse incident" as provided in ss. 381.0271, 395.0197,  
2 458.351, and 459.026.

3 (2) "Affected patient" means a patient of a certified  
4 patient-safety facility.

5 (3) "Affected practitioner" means any person,  
6 including a physician, who is credentialed by the eligible  
7 hospital to provide health care services in a certified  
8 patient-safety facility.

9 (4) "Agency" means the Agency for Health Care  
10 Administration.

11 (5) "Certified patient-safety facility" means any  
12 eligible hospital that, in accordance with an order from the  
13 Agency for Health Care Administration, has adopted a  
14 patient-safety plan.

15 (6) "Eligible hospital" or "licensed facility" means a  
16 statutory teaching hospital, as defined by s. 408.07, which  
17 maintains at least seven different accredited programs in  
18 graduate medical education and has 100 or more full-time  
19 equivalent resident physicians.

20 (7) "Health care provider" or "provider" means:

21 (a) An eligible hospital.

22 (b) A physician or a physician assistant licensed  
23 under chapter 458.

24 (c) An osteopathic physician or an osteopathic  
25 physician assistant licensed under chapter 459.

26 (d) A registered nurse, nurse midwife, licensed  
27 practical nurse, or advanced registered nurse practitioner  
28 licensed or registered under part I of chapter 464 or any  
29 facility that employs nurses licensed or registered under part  
30 I of chapter 464 to supply all or part of the care delivered  
31 by that facility.



1           (e) A health care professional association and its  
2 employees or a corporate medical group and its employees.

3           (f) Any other medical facility in which the primary  
4 purpose is to deliver human medical diagnostic services or to  
5 deliver nonsurgical human medical treatment, including an  
6 office maintained by a provider.

7           (g) A free clinic that delivers only medical  
8 diagnostic services or nonsurgical medical treatment free of  
9 charge to low-income persons who are not otherwise covered by  
10 Medicaid or other programs for low-income persons.

11           (h) Any other health care professional, practitioner,  
12 or provider, including a student enrolled in an accredited  
13 program, who prepares the student for licensure as any one of  
14 the professionals listed in this subsection.

15           (i) Any person, organization, or entity that is  
16 vicariously liable under the theory of respondeat superior or  
17 any other theory of legal liability for medical negligence  
18 committed by any licensed professional listed in this  
19 subsection.

20           (j) Any nonprofit corporation qualified as exempt from  
21 federal income taxation under s. 501(a) of the Internal  
22 Revenue Code and described in s. 501(c) of the Internal  
23 Revenue Code, including any university or medical school that  
24 employs licensed professionals listed in this subsection or  
25 which delivers health care services provided by licensed  
26 professionals listed in this subsection, any federally funded  
27 community health center, and any volunteer corporation or  
28 volunteer health care provider that delivers health care  
29 services.

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1           (8) "Health care practitioner" or "practitioner" means  
2 any person, entity, or organization identified in subsection  
3 (7), except for a hospital.

4           (9) "Medical negligence" means medical malpractice,  
5 whether grounded in tort or in contract, arising out of the  
6 rendering of or failure to render medical care or services.

7           (10) "Person" means any individual, partnership,  
8 corporation, association, or governmental unit.

9           (11) "Premises" means those buildings, beds, and  
10 equipment located at the address of the licensed facility and  
11 all other buildings, beds, and equipment for the provision of  
12 the hospital, ambulatory surgical, mobile surgical care,  
13 primary care, or comprehensive health care under the dominion  
14 and control of the licensee, including offices and locations  
15 where the licensed facility offers medical care and treatment  
16 to affected patients.

17           (12) "Statutory teaching hospital" or "teaching  
18 hospital" has the same meaning as provided in s. 408.07.

19           Section 6. Section 766.402, Florida Statutes, is  
20 created to read:

21           766.402 Agency approval of patient-safety plans.--

22           (1) An eligible hospital that has adopted a  
23 patient-safety plan may petition the agency to enter an order  
24 certifying approval of the hospital as a certified  
25 patient-safety facility.

26           (2) In accordance with chapter 120, the agency shall  
27 enter an order certifying approval of the certified  
28 patient-safety facility upon a showing that, in furtherance of  
29 an approach to patient safety, the petitioner:

30           (a) Has established safety measures for the care and  
31 treatment of patients.

1           (b) Satisfies requirements for patient-protection  
2 measures, as specified in s. 766.403.

3           (c) Satisfies all other requirements of ss.  
4 766.401-766.405.

5           (3) Upon entry of an order approving the petition, the  
6 agency may conduct onsite examinations of the licensed  
7 facility to ensure continued compliance with the terms and  
8 conditions of the order.

9           (4) The order approving a petition under this section  
10 remains in effect until revoked. The agency may revoke the  
11 order upon reasonable notice to the eligible hospital that it  
12 fails to comply with material requirements of s. 766.403 and  
13 that the hospital has failed to cure the stated deficiencies  
14 within a reasonable time after receipt of the initial notice  
15 from the agency delineating the specific deficiencies to be  
16 cured by the hospital. Revocation of an agency order pursuant  
17 to s. 766.403 applies prospectively to any cause of action  
18 for medical negligence which arises on or after the effective  
19 date of the order of revocation.

20           (5) An order approving a petition under this section  
21 is, as a matter of law, conclusive evidence that the hospital  
22 complies with the applicable patient-safety requirements of s.  
23 766.403. A hospital's noncompliance with the requirements of  
24 s. 766.403 does not affect the limitations on damages  
25 conferred by this section. Evidence of noncompliance with s.  
26 766.403 is not admissible for any purpose in any action for  
27 medical malpractice. This section, or any portion thereof,  
28 does not give rise to an independent cause of action for  
29 damages against any hospital.

30           Section 7. Section 766.403, Florida Statutes, is  
31 created to read:

1           766.403 Patient-safety plans.--

2           (1) In order to satisfy the requirements of s.  
3 766.402, the licensed facility shall have a patient-safety  
4 plan, which provides that the facility shall:

5           (a) Have in place a process, either through the  
6 facility's patient-safety committee or a similar body, for  
7 coordinating the quality control, risk management, and  
8 patient-relations functions of the facility and for reporting  
9 to the facility's governing board at least quarterly regarding  
10 such efforts.

11           (b) Establish within the facility a system for  
12 reporting near misses and agree to submit any information  
13 collected to the Florida Patient Safety Corporation. Such  
14 information must be submitted by the facility and made  
15 available by the Patient Safety Corporation in accordance with  
16 s. 381.0271(7).

17           (c) Design and make available to facility staff,  
18 including medical staff, a patient-safety curriculum that  
19 provides lecture and web-based training on recognized  
20 patient-safety principles, which may include training in  
21 communication skills, team-performance assessment and  
22 training, risk-prevention strategies, and best practices and  
23 evidence-based medicine. The licensed facility shall report  
24 annually the programs presented to the agency.

25           (d) Implement a program to identify health care  
26 providers on the facility's staff who may be eligible for an  
27 early-intervention program that provides additional skills  
28 assessment and training and offer such training to the staff  
29 on a voluntary and confidential basis with established  
30 mechanisms to assess program performance and results.

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1           (e) Implement a simulation-based program for skills  
2 assessment, training, and retraining of a facility's staff in  
3 those tasks and activities that the agency identifies by rule.

4           (f) Designate a patient advocate who coordinates with  
5 members of the medical staff and the facility's chief medical  
6 officer regarding the disclosure of adverse medical incidents  
7 to patients. In addition, the patient advocate shall  
8 establish an advisory panel, consisting of providers, patients  
9 or their families, and other health care consumers or consumer  
10 groups to review general patient-safety concerns and other  
11 issues related to relations among and between patients and  
12 providers and to identify areas where additional education and  
13 program development may be appropriate.

14           (g) Establish a procedure to biennially review the  
15 facility's patient-safety program and its compliance with the  
16 requirements of this section. Such review shall be conducted  
17 by an independent patient-safety organization as defined in s.  
18 766.1016(1) or other professional organization approved by the  
19 agency. The organization performing the review shall prepare a  
20 written report that contains detailed findings and  
21 recommendations. The report shall be forwarded to the  
22 facility's risk manager or patient-safety officer, who may  
23 make written comments in response. The report and any written  
24 comments shall be presented to the governing board of the  
25 licensed facility. A copy of the report and any of the  
26 facility's responses to the findings and recommendations shall  
27 be provided to the agency within 60 days after the date that  
28 the governing board reviewed the report. The report is  
29 confidential and exempt from production or discovery in any  
30 civil action. Likewise, the report and the information

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1 contained therein are not admissible as evidence for any  
2 purpose in any action for medical negligence.

3 (h) Establish a system for the trending and tracking  
4 of quality and patient-safety indicators that the agency may  
5 identify by rule and a method for review of the data at least  
6 semiannually by the facility's patient-safety committee.

7 (2) This section does not constitute an applicable  
8 standard of care in any action for medical negligence or  
9 otherwise create a private right of action, and evidence of  
10 noncompliance with this section is not admissible for any  
11 purpose in any action for medical negligence against any  
12 health care provider.

13 (3) This section does not prohibit the licensed  
14 facility from implementing other measures for promoting  
15 patient safety within the premises. This section does not  
16 relieve the licensed facility from the duty to implement any  
17 other patient-safety measure that is required by state law.  
18 The Legislature intends that the patient-safety measures  
19 specified in this section are in addition to all other  
20 patient-safety measures required by state law, federal law,  
21 and applicable accreditation standards for licensed  
22 facilities.

23 (4) A review, report, or other document created,  
24 produced, delivered, or discussed pursuant to this section is  
25 not discoverable or admissible as evidence in any legal  
26 action.

27 Section 8. Section 766.404, Florida Statutes, is  
28 created to read:

29 766.404 Annual report.--

30 (1) Each certified patient-safety facility shall  
31 submit an annual report to the agency containing information

1 and data reasonably required by the agency to evaluate  
2 performance and effectiveness of its patient-safety plan.  
3 However, information may not be submitted or disclosed in  
4 violation of any patient's right to privacy under state or  
5 federal law.

6 (2) The agency shall aggregate information and data  
7 submitted by all certified patient-safety facilities, and each  
8 year, on or before March 1, the agency shall submit a report  
9 to the President of the Senate and the Speaker of the House of  
10 Representatives which evaluates the performance and  
11 effectiveness of the approach to enhancing patient safety and  
12 limiting provider liability in certified patient-safety  
13 facilities. The report must include, but need not be limited  
14 to, pertinent data concerning:

15 (a) The number and names of certified patient-safety  
16 facilities;

17 (b) The number and types of patient-protection  
18 measures currently in effect in these facilities;

19 (c) The number of affected patients;

20 (d) The number of surgical procedures on affected  
21 patients;

22 (e) The number of adverse medical incidents, claims of  
23 medical malpractice, and claims resulting in indemnity;

24 (f) The average time for resolving contested and  
25 uncontested claims of medical malpractice;

26 (g) The percentage of claims which result in civil  
27 trials;

28 (h) The percentage of civil trials which result in  
29 adverse judgments against affected facilities;

30 (i) The number and average amount of an indemnity paid  
31 to claimants;

1           (j) The estimated liability expense, inclusive of  
2 medical liability insurance premiums; and

3           (k) The percentage of medical liability expense,  
4 inclusive of medical liability insurance premiums, which is  
5 borne by affected practitioners in certified patient-safety  
6 facilities.

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8 The report may also include other information and data that  
9 the agency considers appropriate to gauge the cost and benefit  
10 of patient-safety plans.

11           (3) The agency's annual report to the President of the  
12 Senate and the Speaker of the House of Representatives may  
13 include relevant information and data obtained from the Office  
14 of Insurance Regulation within the Department of Financial  
15 Services concerning the availability and affordability of  
16 enterprise-wide medical liability insurance coverage for  
17 affected facilities and the availability and affordability of  
18 insurance policies for individual practitioners which contain  
19 coverage exclusions for acts of medical negligence in  
20 facilities that indemnify health practitioners. The Office of  
21 Insurance Regulation shall cooperate with the agency in  
22 reporting the information and data specified in this  
23 subsection.

24           (4) Reports submitted to the agency by certified  
25 patient-safety facilities pursuant to this section are public  
26 records under chapter 119. However, these reports, and the  
27 information contained therein, are not admissible as evidence  
28 in a court of law in any action.

29           Section 9. Section 766.405, Florida Statutes, is  
30 created to read:  
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1           766.405 Damages in malpractice actions against certain  
2 hospitals and faculty physicians who meet patient-safety  
3 requirements; agency approval of patient-safety measures.--

4           (1) Upon entry of an order pursuant to s. 766.402 and  
5 for the entire period that the order remains in effect, the  
6 damages recoverable from an eligible hospital covered by the  
7 order and from its physician employees, its nonphysician  
8 employees, its agents, a nonprofit medical school whose  
9 physicians comprise at least 50 percent of the medical staff  
10 of the eligible hospital, and the physicians of such a  
11 nonprofit medical school in actions arising from medical  
12 negligence on the premises of the eligible hospital shall be  
13 determined in accordance with the following provisions:

14           (a) Noneconomic damages shall be limited to a maximum  
15 of \$500,000, regardless of the number of claimants, number of  
16 claims, or the theory of liability pursuant to s. 766.118(6).

17           (b) Awards of economic damages shall be offset by  
18 payments from collateral sources, as defined by s. 766.202(2),  
19 and any set-offs available under ss. 46.015 and 768.041.  
20 Awards for future economic losses shall be offset by future  
21 collateral source payments.

22           (c) Awards of future economic damages, after being  
23 offset by collateral sources, shall, at the option of the  
24 eligible hospital, be:

25           1. Reduced by the court to present value and paid in  
26 full; or

27           2. Paid by means of periodic payments in the form of  
28 annuities or reversionary trusts.

29  
30 Periodic payments of future economic damages attributable to  
31 the medical care, health care, and personal care of the

1 claimant shall be payable until the end of the life of the  
2 claimant, at which time the obligation to make such payments  
3 terminates. A company that underwrites an annuity to pay  
4 future economic damages shall have a rating of "A" or higher  
5 by A.M. Best Company. The court shall approve the terms of the  
6 periodic payments, which shall identify the amount of the  
7 payment attributable to future medical care, health care, and  
8 personal care. Court approval may not be unreasonably  
9 withheld.

10 (2) The limitations on liability provided by this  
11 section apply to causes of action that accrue while an  
12 eligible facility is a certified patient safety facility.

13 Section 10. Section 766.406, Florida Statutes, is  
14 created to read:

15 766.406 Rulemaking authority.--The agency may adopt  
16 rules to administer ss. 766.401-766.405.

17 Section 11. Subsection (2) of section 768.77, Florida  
18 Statutes, is amended to read:

19 768.77 Itemized verdict.--

20 (2) In any action for damages based on personal injury  
21 or wrongful death arising out of medical malpractice, whether  
22 in tort or contract, to which this part applies in which the  
23 trier of fact determines that liability exists on the part of  
24 the defendant, the trier of fact shall, as a part of the  
25 verdict, itemize the amounts to be awarded to the claimant  
26 into the following categories of damages:

27 (a) Amounts intended to compensate the claimant for:

28 1. Past economic losses; and

29 2. Future economic losses, with a separate item

30 indicating the amount attributable to health care, medical

31 care, and personal care, not reduced to present value, and the

1 number of years or part thereof which the award is intended to  
2 cover;

3 (b) Amounts intended to compensate the claimant for:

4 1. Past noneconomic losses; and

5 2. Future noneconomic losses and the number of years

6 or part thereof which the award is intended to cover; and

7 (c) Amounts awarded to the claimant for punitive  
8 damages, if applicable.

9 Section 12. If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 invalidity does not affect other provisions or applications of  
12 the act which can be given effect without the invalid  
13 provision or application, and to this end, the provisions of  
14 this act are severable.

15 Section 13. The sum of \$226,984 in recurring funds  
16 from the Health Care Trust Fund and the sum of \$72,057 in  
17 nonrecurring funds from the Health Care Trust Fund are  
18 appropriated, and three additional full-time equivalent  
19 positions and associated salary rate of \$127,817 are  
20 authorized, to the Agency for Health Care Administration for  
21 the 2007-2008 fiscal year for the purpose of implementing the  
22 provisions of this act.

23 Section 14. This act shall take effect upon becoming a  
24 law.

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SENATE SUMMARY

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3 Creates the "Patient Safety and Provider Liability Act."  
4 Requires hospitals that assume liability for acts of  
5 medical negligence under the act to carry insurance.  
6 Authorizes an eligible hospital to petition the Agency  
7 for Health Care Administration to enter an order  
8 certifying the hospital as a patient-safety facility.  
9 Provides requirements for certification as a  
10 patient-safety facility. Authorizes the agency to enter  
11 an order certifying a hospital as a patient-safety  
12 facility and providing that the hospital bears liability  
13 for acts of medical negligence for its health care  
14 providers or an agent of the hospital. Authorizes the  
15 agency to conduct onsite examinations of a licensed  
16 facility. Provides circumstances when the agency may  
17 revoke its order certifying approval of an enterprise  
18 plan. Requires a certified patient-safety facility to  
19 submit an annual report to the agency and the  
20 Legislature. Authorizes certain teaching hospitals and  
21 eligible hospitals to petition the agency for  
22 certification. Provides for limitations on damages for  
23 eligible hospitals that are certified for compliance with  
24 certain patient-safety measures and certain faculty  
25 physicians on staff at those hospitals. Provides that  
26 claims for future economic losses be itemized. Provides  
27 appropriations. (See bill for details.)  
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