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1 A bill to be entitled
 2 An act relating to state universities; amending s.
 3 1004.24, F.S.; transferring responsibility for securing
 4 liability insurance from the State Board of Education to
 5 the Board of Governors; authorizing discussion of patient
 6 care information for certain purposes; amending ss.
 7 1004.43 and 1004.445, F.S.; conforming provisions;
 8 amending s. 1012.965, F.S.; authorizing a university board
 9 of trustees to intervene in a civil action for medical
 10 negligence under certain circumstances; providing legal
 11 status of employees and agents of a university board of
 12 trustees and university faculty practice plan entities;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 1004.24, Florida Statutes, is amended
 18 to read:

19 1004.24 Board of Governors ~~State Board of Education~~
 20 authorized to secure liability insurance.--

21 (1) The Board of Governors ~~State Board of Education~~ is
 22 authorized to secure, or otherwise provide as a self-insurer, or
 23 by a combination thereof, comprehensive general liability
 24 insurance, including professional liability for health care and
 25 veterinary sciences, for:

26 (a) The Board of Governors ~~State Board of Education~~ and
 27 its officers and members.

28 (b) A university board of trustees and its officers and
 29 members.

30 (c) The faculty and other employees and agents of a
 31 university board of trustees.

32 (d) The students of a state university.

33 (e) A state university or any college, school, institute,
 34 center, or program thereof.

35 (f) Any not-for-profit corporation organized pursuant to
 36 chapter 617, and the directors, officers, employees, and agents
 37 thereof, which is affiliated with a state university, if the
 38 corporation is operated for the benefit of the state university
 39 in a manner consistent with the best interests of the state, and
 40 if such participation is approved by a self-insurance program
 41 council, the university president, and the board of trustees.

42 (2) In the event the Board of Governors ~~State Board of~~
 43 ~~Education~~ adopts a self-insurance program, a governing council
 44 chaired by the vice president for health affairs or his or her
 45 academic equivalent shall be established to administer the
 46 program and its duties and responsibilities, including the
 47 administration of self-insurance program assets and expenditure
 48 policies, which shall be defined by its rules adopted by the
 49 Board of Governors ~~as authorized by this section~~. The council
 50 shall have an annual actuary review performed to establish
 51 funding requirements to maintain the fiscal integrity of the
 52 self-insurance program. The assets of a self-insurance program
 53 shall be deposited outside the State Treasury and shall be
 54 administered in accordance with rules as authorized by this
 55 section.

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56 (3) Any self-insurance program created under this section
57 shall be funded by the entities and individuals protected by
58 such program. There shall be no funds appropriated to any self-
59 insurance program. The assets of the self-insurance program
60 shall be the property of the Board of Governors ~~State Board of~~
61 ~~Education~~ and shall be used only to pay the administrative
62 expenses of the self-insurance program and to pay any claim,
63 judgment, or claims bill arising out of activities for which the
64 self-insurance program was created. Investment income that is in
65 excess of that income necessary to ensure the solvency of a
66 self-insurance program as established by a casualty actuary may
67 be used to defray the annual contribution paid into the program
68 by the entities and individuals protected by the program.

69 (4) No self-insurance program adopted by the Board of
70 Governors ~~State Board of Education~~ may sue or be sued. The
71 claims files of any such program are privileged and
72 confidential, exempt from the provisions of s. 119.07(1), and
73 are only for the use of the program in fulfilling its duties.
74 Physicians, health care providers, and other agents or employees
75 of participants in a self-insurance program, as described in
76 this section, are authorized to discuss patient care information
77 for the purposes of quality improvement, incident investigation,
78 and claim defense with self-insurance program council members,
79 staff, and attorneys retained by the self-insurance program, and
80 such communications do not constitute a violation of any statute
81 or rule relating to patient privacy or confidentiality. ~~Any~~
82 ~~self-insurance trust fund and revenues generated by that fund~~
83 ~~shall only be used to pay claims and administration expenses.~~

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84 (5) Each self-insurance program council shall make
85 provision for an annual financial audit pursuant to s. 11.45 of
86 its accounts to be conducted by an independent certified public
87 accountant. The annual audit report must include a management
88 letter and shall be submitted to the Board of Governors State
89 ~~Board of Education~~ for review. The Board of Governors State
90 ~~Board of Education~~ shall have the authority to require and
91 receive from the self-insurance program council or from its
92 independent auditor any detail or supplemental data relative to
93 the operation of the self-insurance program.

94 (6) The Board of Governors State ~~Board of Education~~ may
95 adopt ~~make~~ such rules as are necessary to carry out the
96 provisions of this section.

97 Section 2. Subsection (3) of section 1004.43, Florida
98 Statutes, is amended to read:

99 1004.43 H. Lee Moffitt Cancer Center and Research
100 Institute.--There is established the H. Lee Moffitt Cancer
101 Center and Research Institute at the University of South
102 Florida.

103 (3) The Board of Governors State ~~Board of Education~~ is
104 authorized to secure comprehensive general liability protection,
105 including professional liability protection, for the not-for-
106 profit corporation and its subsidiaries pursuant to s. 1004.24.
107 The not-for-profit corporation and its subsidiaries shall be
108 exempt from any participation in any property insurance trust
109 fund established by law, including any property insurance trust
110 fund established pursuant to chapter 284, so long as the not-

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111 for-profit corporation and its subsidiaries maintain property
 112 insurance protection with comparable or greater coverage limits.

113 Section 3. Subsection (4) of section 1004.445, Florida
 114 Statutes, is amended to read:

115 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and
 116 Research Institute.--

117 (4) The Board of Governors ~~State Board of Education~~ is
 118 authorized to secure comprehensive general liability protection,
 119 including professional liability protection, for the not-for-
 120 profit corporation and its subsidiaries, pursuant to s. 1004.24.
 121 The not-for-profit corporation and its subsidiaries shall be
 122 exempt from any participation in any property insurance trust
 123 fund established by law, including any property insurance trust
 124 fund established pursuant to chapter 284, so long as the not-
 125 for-profit corporation and its subsidiaries maintain property
 126 insurance protection with comparable or greater coverage limits.

127 Section 4. Section 1012.965, Florida Statutes, is amended
 128 to read:

129 1012.965 Payment of costs of civil action against
 130 employees; legal status of employees and agents of university
 131 board of trustees and university faculty practice plan
 132 entities.--

133 (1) An employee or agent under the right of control of a
 134 university board of trustees who, pursuant to the university
 135 board's policies or rules, renders medical care or treatment at
 136 any hospital or health care facility with which the university
 137 board maintains an affiliation agreement whereby the hospital or
 138 health care facility provides to the university board a clinical

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139 setting for health care education, research, and services, shall
140 not be deemed to be an agent of any person other than the
141 university board in any civil action resulting from any act or
142 omission of the employee or agent while rendering said medical
143 care or treatment. For this subsection to apply, the patient
144 shall be provided separate written conspicuous notice by the
145 university board of trustees or by the hospital or health care
146 facility, and shall acknowledge receipt of this notice, in
147 writing, unless impractical by reason of an emergency, either
148 personally or through another person authorized to give consent
149 for him or her, that he or she will receive care provided by
150 university board's employees and liability, if any, that may
151 arise from that care is limited as provided by law. Compliance
152 by a hospital or health care facility with the requirements of
153 chapter 395 or s. 766.110(1) shall not be used as evidence in
154 any civil action to establish an employment or agency
155 relationship between the hospital or health care facility and an
156 employee or agent of the university board of trustees providing
157 services within the hospital or health care facility.

158 (2) A university board of trustees shall have the
159 unconditional right and shall be permitted to intervene in any
160 civil action for medical negligence filed against an affiliated
161 hospital or health care facility when an employee or agent of a
162 university board of trustees delivered care at such affiliated
163 hospital or health care facility to the patient whose care is at
164 issue in the civil action. A university's assertion that an
165 employee or agent of the university board of trustees is or was
166 its agent is conclusive for purposes of the motion to intervene.

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167 (3) A university's faculty practice plan entities function
 168 as the university's agents for the orderly collection and
 169 administration of income generated from university faculty
 170 practice activities as part of the university board's provision
 171 for a clinical setting for health care education, research, and
 172 services, subject to control by the university board and its
 173 rules. A university's faculty practice plan entities are not and
 174 shall not be providers of medical services or the employers of
 175 any faculty physicians or other health care professionals and do
 176 not have, and shall not be deemed or construed to have, a
 177 partnership, joint venture, association, employment, or agency
 178 relationship with any university faculty physicians or other
 179 health care professionals.

180 (4)~~(2)~~ All faculty physicians employed by a university
 181 board of trustees who are subject to the requirements of s.
 182 456.013 shall complete their risk management continuing
 183 education on issues specific to academic medicine. Such
 184 continuing education shall include instruction for the
 185 supervision of resident physicians as required by the
 186 Accreditation Council for Graduate Medical Education. The boards
 187 described in s. 456.013 shall adopt rules to implement the
 188 provisions of this subsection.

189 (5)~~(3)~~ There are appropriated out of any funds available
 190 to a university, not subject to the obligation of contract,
 191 covenant, or trust, the amounts necessary to carry out the
 192 purposes of this section.

193 (6)~~(4)~~ Failure of a university board of trustees or an
 194 affiliated health care provider to do any act authorized by this

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195 | section shall not constitute a cause of action against the
196 | university board, or an affiliated health care provider, or any
197 | of their members, officers, or employees.

198 | Section 5. This act shall take effect July 1, 2007.