By Senator Baker

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1 A bill to be entitled
2 An act relating to professional liability insurance;
3 amending s. 627.912, F.S.; requiring that certain
4 written claims or actions for damages be reported to
5 the Office of Insurance Regulation; defining the term
6 “claim”; specifying events giving rise to the duty to
7 report claims; requiring that certain reports be filed
8 following any calendar year in which no claim or
9 action for damages was closed; specifying a deadline
10 for the filing of such reports; providing a procedure
11 for the correction of reports submitted in error;
12 requiring that certain reopened claims be treated as
13 new claims and reported following specified events;
14 requiring that corrective reports be made for certain
15 claims; providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
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19 Section 1. Subsection (1) of section 627.912, Florida
20 Statutes, is amended to read:
21 627.912 Professional liability claims and actions; reports
22 by insurers and health care providers; annual report by office.—
23 (1)(a) Each self-insurer authorized under s. 627.357 and
24 each commercial self-insurance fund authorized under s. 624.462,
25 authorized insurer, surplus lines insurer, risk retention group,
26 and joint underwriting association providing professional
27 liability insurance to a practitioner of medicine licensed under
28 chapter 458, to a practitioner of osteopathic medicine licensed
29 under chapter 459, to a podiatric physician licensed under

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30 chapter 461, to a dentist licensed under chapter 466, to a
31 hospital licensed under chapter 395, to a crisis stabilization
32 unit licensed under part IV of chapter 394, to a health
33 maintenance organization certificated under part I of chapter
34 641, to clinics included in chapter 390, or to an ambulatory
35 surgical center as defined in s. 395.002, and each insurer
36 providing professional liability insurance to a member of The
37 Florida Bar shall report to the office as set forth below any
38 written claim or action for damages for personal injuries
39 claimed to have been caused by error, omission, or negligence in
40 the performance of such insured's professional services or based
41 on a claimed performance of professional services without
42 consent.~~, if the claim resulted in:~~
43 ~~1. A final judgment in any amount.~~
44 ~~2. A settlement in any amount.~~
45 ~~3. A final disposition of a medical malpractice claim~~
46 ~~resulting in no indemnity payment on behalf of the insured.~~
47 (b) As used in this subsection, the term “claim” means the
48 receipt of a notice of intent to initiate litigation, a summons
49 and complaint, or a written demand from a person or his or her
50 legal representative stating an intention to pursue an action
51 for damages against a person as described in paragraph (a).
52 (c) The duty to report set forth in paragraph (a) arises at
53 the earliest occurrence of the following:
54 1. The entry of any judgment against any health care
55 provider identified in paragraph (a) for which all appeals as a
56 matter of right have been exhausted or for which the period for
57 filing such an appeal has expired;
58 2. The execution of an agreement including the payment of

20-00688B-09 20092252__

59 at least $1 between a health care provider identified in
60 paragraph (a) or an entity required to report thereunder and a
61 claimant as defined in s. 766.202 to settle damages purported to
62 arise from the provision of professional services; however, if
63 applicable statutes require that any such agreement be approved
64 by the court, the duty arises when the agreement is approved;
65 3. The final payment of any money by any of the entities
66 required to report under paragraph (a) on behalf of any health
67 care provider identified therein for damages purported to arise
68 from professional services rendered; or
69 4. The final disposition of a medical malpractice claim for
70 which no indemnity payment was made on behalf of the insured but
71 for which there were loss adjustment expenses paid in excess of
72 $2,500. As used in this subparagraph, the term "final
73 disposition" means that the insurer has brought down all
74 reserves and closed its file, and the term "medical malpractice
75 claim" means an assertion that the recipient of one of the
76 health services from a provider identified in paragraph (a)
77 received personal injuries as a result of error, omission, or
78 negligence in the performance of such health service or received
79 such health service without consent, and for which the insurer
80 has set indemnification reserves.
81 (d) Following any calendar year in which no claim or action
82 for damages was closed, the entity shall file a "No Claim
83 Submission Report." Such reports shall be filed with the Office
84 of Insurance Regulation by April 1st of each calendar year for
85 the immediately preceding calendar year. However, if a reporting
86 entity submits such a report for a particular calendar year and
87 subsequently discovers that its report was submitted in error,

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88 the reporting entity shall promptly notify the office of the
89 error and take steps as directed by the office to make the
90 needed corrections.
91 (e) If a claim is closed without payment and subsequently
92 reopened, the reopened claim shall be treated as a new claim and
93 reported following the earliest occurrence of any event listed
94 in paragraph (c). If the claim was previously closed with
95 payment, and subsequent additional payments are made, a
96 corrective report must be made to reflect such additional
97 payments.
98 (f) Each health care practitioner and health care facility
99 listed in paragraph (a) must report any claim or action for
100 damages as described in paragraph (a), if the claim is not
101 otherwise required to be reported by an insurer or other
102 insuring entity.
103 (g) Reports under this subsection shall be filed with the
104 office no later than 30 days following the earliest occurrence
105 of any event listed in paragraph (c) ~~(a)~~.
106 Section 2. This act shall take effect July 1, 2009.

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