

By the Committees on General Government Appropriations; and
Banking and Insurance; and Senator Baker

601-05043-09

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1 A bill to be entitled

2 An act relating to professional liability claims;
3 amending s. 627.912, F.S.; revising requirements for
4 reporting professional liability claims and actions;
5 providing definitions; specifying events for which
6 certain reports are required; requiring certain
7 absence of claims submission reports to be filed under
8 certain circumstances; providing requirements for
9 treatment of reopened claims; providing an effective
10 date.

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

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14 Section 1. Subsection (1) of section 627.912, Florida
15 Statutes, is amended to read:

16 627.912 Professional liability claims and actions; reports
17 by insurers and health care providers; annual report by office.—

18 (1) (a) Each self-insurer authorized under s. 627.357 and
19 each commercial self-insurance fund authorized under s. 624.462,
20 authorized insurer, surplus lines insurer, risk retention group,
21 and joint underwriting association providing professional
22 liability insurance to a practitioner of medicine licensed under
23 chapter 458, to a practitioner of osteopathic medicine licensed
24 under chapter 459, to a podiatric physician licensed under
25 chapter 461, to a dentist licensed under chapter 466, to a
26 hospital licensed under chapter 395, to a crisis stabilization
27 unit licensed under part IV of chapter 394, to a health
28 maintenance organization certificated under part I of chapter
29 641, to clinics included in chapter 390, or to an ambulatory

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30 surgical center as defined in s. 395.002, and each insurer
31 providing professional liability insurance to a member of The
32 Florida Bar shall report to the office as set forth in paragraph
33 (c) any written claim or action for damages for personal
34 injuries claimed to have been caused by error, omission, or
35 negligence in the performance of such insured's professional
36 services or based on a claimed performance of professional
37 services without consent, ~~if the claim resulted in:~~

38 1. ~~A final judgment in any amount.~~

39 2. ~~A settlement in any amount.~~

40 3. ~~A final disposition of a medical malpractice claim~~
41 ~~resulting in no indemnity payment on behalf of the insured.~~

42 (b) For purposes of this section, the term "claim" means
43 the receipt of a notice of intent to initiate litigation, a
44 summons and complaint, or a written demand from a person or his
45 or her legal representative stating an intention to pursue an
46 action for damages against a person described in paragraph (a).

47 (c) The duty to report specified in paragraph (a) arises
48 upon the occurrence of the first of:

49 1. The entry of any judgment against any provider
50 identified in paragraph (a) for which all appeals as a matter of
51 right have been exhausted or for which the time period for
52 filing such an appeal has expired;

53 2. The execution of an agreement between a provider
54 identified in paragraph (a) or an entity required to report
55 under that paragraph and a claimant to settle damages purported
56 to arise from the provision of professional services, which
57 agreement includes the indemnity payment of at least \$1;
58 however, if any applicable law requires any such agreement to be

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59 approved by the court, the duty arises when the agreement is
60 approved;

61 3. The final payment of any indemnity money by any of the
62 entities required to report under paragraph (a) on behalf of any
63 provider identified in that paragraph for damages purported to
64 arise from professional services rendered; or

65 4. The final disposition of a claim for which no indemnity
66 payment was made on behalf of the insured but for which loss
67 adjustment expenses were paid in excess of \$5,000. As used in
68 this subparagraph, the term "final disposition" means the
69 insurer has brought down all reserves and closed its file.

70 (d) After any calendar year in which no claim or action for
71 damages was closed, the entity shall file a no claim submission
72 report. Such report shall be filed with the office no later than
73 April 1 of each calendar year for the immediately preceding
74 calendar year. If a reporting entity submits such a report for a
75 particular calendar year and subsequently discovers that its
76 report was submitted in error, the reporting entity shall
77 promptly notify the office of the error and take steps as
78 directed by the office to make the needed corrections.

79 (e) If a claim is initially opened and then closed, and is
80 subsequently reopened, the reopened claim shall be treated as a
81 new claim and reported after the occurrence of the first of any
82 event listed in paragraph (c).

83 (f) ~~(b)~~ Each health care practitioner and health care
84 facility listed in paragraph (a) must report any claim or action
85 for damages as described in paragraph (a), if the claim is not
86 otherwise required to be reported by an insurer or other
87 insuring entity.

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88 (g) Reports under this subsection shall be filed with the
89 office no later than 30 days following the occurrence of the
90 first of any event listed in paragraph (c) ~~(a)~~.

91 Section 2. This act shall take effect July 1, 2009.