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1 A bill to be entitled
2 An act relating to professional liability claims;
3 amending s. 624.424, F.S.; clarifying a provision
4 requiring that the Financial Services Commission adopt
5 rules; amending s. 627.912, F.S.; revising
6 requirements for reporting professional liability
7 claims and actions; providing definitions; specifying
8 events for which certain reports are required;
9 requiring certain absence of claims submission reports
10 to be filed under certain circumstances; providing
11 requirements for treatment of reopened claims;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (e) of subsection (8) of section
17 624.424, Florida Statutes, is amended to read:

18 624.424 Annual statement and other information.—

19 (8)

20 (e) The commission shall adopt rules to implement this
21 subsection, which rules must be in substantial conformity with
22 the 1998 Model Rule Requiring Annual Audited Financial Reports
23 adopted by the National Association of Insurance Commissioners
24 or subsequent amendments, except where inconsistent with the
25 requirements of this subsection. Any exception to, waiver of, or
26 interpretation of accounting requirements of the commission must
27 be in writing and signed by an authorized representative of the
28 office. No insurer may raise as a defense in any action, any
29 exception to, waiver of, or interpretation of accounting

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30 requirements, unless previously issued in writing by an
31 authorized representative of the office.

32 Section 2. Subsection (1) of section 627.912, Florida
33 Statutes, is amended to read:

34 627.912 Professional liability claims and actions; reports
35 by insurers and health care providers; annual report by office.—

36 (1) (a) Each self-insurer authorized under s. 627.357 and
37 each commercial self-insurance fund authorized under s. 624.462,
38 authorized insurer, surplus lines insurer, risk retention group,
39 and joint underwriting association providing professional
40 liability insurance to a practitioner of medicine licensed under
41 chapter 458, to a practitioner of osteopathic medicine licensed
42 under chapter 459, to a podiatric physician licensed under
43 chapter 461, to a dentist licensed under chapter 466, to a
44 hospital licensed under chapter 395, to a crisis stabilization
45 unit licensed under part IV of chapter 394, to a health
46 maintenance organization certificated under part I of chapter
47 641, to clinics included in chapter 390, or to an ambulatory
48 surgical center as defined in s. 395.002, and each insurer
49 providing professional liability insurance to a member of The
50 Florida Bar shall report to the office as set forth in paragraph
51 (c) any written claim or action for damages for personal
52 injuries claimed to have been caused by error, omission, or
53 negligence in the performance of such insured's professional
54 services or based on a claimed performance of professional
55 services without consent, ~~if the claim resulted in:~~

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

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

58 ~~3. A final disposition of a medical malpractice claim~~

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59 ~~resulting in no indemnity payment on behalf of the insured.~~

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

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

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

71 2. The execution of an agreement between a provider
72 identified in paragraph (a) or an entity required to report
73 under that paragraph and a claimant to settle damages purported
74 to arise from the provision of professional services, which
75 agreement includes the indemnity payment of at least \$1;
76 however, if any applicable law requires any such agreement to be
77 approved by the court, the duty arises when the agreement is
78 approved;

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

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

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88 (d) After any calendar year in which no claim or action for
89 damages was closed, the entity shall file a no claim submission
90 report. Such report shall be filed with the office no later than
91 April 1 of each calendar year for the immediately preceding
92 calendar year. If a reporting entity submits such a report for a
93 particular calendar year and subsequently discovers that its
94 report was submitted in error, the reporting entity shall
95 promptly notify the office of the error and take steps as
96 directed by the office to make the needed corrections.

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

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

106 (g) Reports under this subsection shall be filed with the
107 office no later than 30 days following the occurrence of the
108 first of any event listed in paragraph (c) ~~(a)~~. An insurer is
109 not required to file a new or amended report on a claim more
110 than 1 year after submitting an initial report.

111 Section 3. This act shall take effect July 1, 2009.