

By Senator Rouson

16-00302-26

20261596

A bill to be entitled

An act relating to medical malpractice liability coverage; amending ss. 458.320 and 459.0085, F.S.; increasing the minimum amount of professional liability coverage certain physicians and osteopathic physicians, respectively, are required to maintain as a condition of licensure; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (2) of section 458.320, Florida Statutes, are amended to read:

458.320 Financial responsibility.—

(2) Physicians who perform surgery in an ambulatory surgical center licensed under chapter 395 and, as a continuing condition of hospital staff privileges, physicians who have staff privileges must also establish financial responsibility by one of the following methods:

(b) Obtaining and maintaining professional liability coverage in an amount not less than \$1 million ~~\$250,000~~ per claim, with a minimum annual aggregate of not less than \$3 million ~~\$750,000~~ from an authorized insurer as defined under s. 624.09, from a surplus lines insurer as defined under s. 626.914(2), from a risk retention group as defined under s. 627.942, from the Joint Underwriting Association established under s. 627.351(4), through a plan of self-insurance as provided in s. 627.357, or through a plan of self-insurance which meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set

16-00302-26

20261596

30 forth in this paragraph may not be used for litigation costs or
31 attorney attorney's fees for the defense of any medical
32 malpractice claim.

33 (c) Obtaining and maintaining an unexpired irrevocable
34 letter of credit, established pursuant to chapter 675, in an
35 amount not less than \$1 million ~~\$250,000~~ per claim, with a
36 minimum aggregate availability of credit of not less than \$3
37 million ~~\$750,000~~. The letter of credit must be payable to the
38 physician as beneficiary upon presentment of a final judgment
39 indicating liability and awarding damages to be paid by the
40 physician or upon presentment of a settlement agreement signed
41 by all parties to such agreement when such final judgment or
42 settlement is a result of a claim arising out of the rendering
43 of, or the failure to render, medical care and services. The
44 letter of credit may not be used for litigation costs or
45 attorney attorney's fees for the defense of any medical
46 malpractice claim. The letter of credit must be nonassignable
47 and nontransferable. The letter of credit must be issued by any
48 bank or savings association organized and existing under the
49 laws of this state or any bank or savings association organized
50 under the laws of the United States which has its principal
51 place of business in this state or has a branch office that is
52 authorized under the laws of this state or of the United States
53 to receive deposits in this state.

54
55 This subsection shall be inclusive of the coverage in subsection
56 (1).

57 Section 2. Paragraphs (b) and (c) of subsection (2) of
58 section 459.0085, Florida Statutes, are amended to read:

16-00302-26

20261596

59 459.0085 Financial responsibility.—

60 (2) Osteopathic physicians who perform surgery in an
61 ambulatory surgical center licensed under chapter 395 and, as a
62 continuing condition of hospital staff privileges, osteopathic
63 physicians who have staff privileges must also establish
64 financial responsibility by one of the following methods:

65 (b) Obtaining and maintaining professional liability
66 coverage in an amount not less than \$1 million ~~\$250,000~~ per
67 claim, with a minimum annual aggregate of not less than \$3
68 ~~million~~ ~~\$750,000~~ from an authorized insurer as defined under s.
69 624.09, from a surplus lines insurer as defined under s.
70 626.914(2), from a risk retention group as defined under s.
71 627.942, from the Joint Underwriting Association established
72 under s. 627.351(4), through a plan of self-insurance as
73 provided in s. 627.357, or through a plan of self-insurance that
74 meets the conditions specified for satisfying financial
75 responsibility in s. 766.110. The required coverage amount set
76 forth in this paragraph may not be used for litigation costs or
77 ~~attorney attorney's~~ fees for the defense of any medical
78 malpractice claim.

79 (c) Obtaining and maintaining an unexpired, irrevocable
80 letter of credit, established pursuant to chapter 675, in an
81 amount not less than \$1 million ~~\$250,000~~ per claim, with a
82 minimum aggregate availability of credit of not less than \$3
83 ~~million~~ ~~\$750,000~~. The letter of credit must be payable to the
84 osteopathic physician as beneficiary upon presentment of a final
85 judgment indicating liability and awarding damages to be paid by
86 the osteopathic physician or upon presentment of a settlement
87 agreement signed by all parties to such agreement when such

16-00302-26

20261596

88 final judgment or settlement is a result of a claim arising out
89 of the rendering of, or the failure to render, medical care and
90 services. The letter of credit may not be used for litigation
91 costs or attorney attorney's fees for the defense of any medical
92 malpractice claim. The letter of credit must be nonassignable
93 and nontransferable. The letter of credit must be issued by any
94 bank or savings association organized and existing under the
95 laws of this state or any bank or savings association organized
96 under the laws of the United States which has its principal
97 place of business in this state or has a branch office that is
98 authorized under the laws of this state or of the United States
99 to receive deposits in this state.

100
101 This subsection shall be inclusive of the coverage in subsection
102 (1).

103 Section 3. This act shall take effect July 1, 2026.