

By Senator Rouson

16-00302-26

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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

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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.

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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:

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459.0085 Financial responsibility.—

(2) Osteopathic physicians who perform surgery in an ambulatory surgical center licensed under chapter 395 and, as a continuing condition of hospital staff privileges, osteopathic 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 that meets the conditions specified for satisfying financial responsibility in s. 766.110. The required coverage amount set forth in this paragraph may not be used for litigation costs or attorney ~~attorney's~~ fees for the defense of any medical malpractice claim.

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

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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.