

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Smith offered the following:

Amendment (with title amendment)

Between lines 1380 and 1381, insert:

Section 42. Effective upon this act becoming a law and applying to claims accruing on or after that date, section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.--

(1) As a condition of licensing and maintaining an active license, and prior to the issuance or renewal of an active license or reactivation of an inactive license for the practice of medicine, an applicant shall by one of the following methods demonstrate to the satisfaction of the board and the department financial responsibility to pay claims and costs ancillary thereto arising out of the rendering of, or the failure to render, medical care or services:

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28 (a) Establishing and maintaining an escrow account
29 consisting of cash or assets eligible for deposit in accordance
30 with s. 625.52 in the per claim amounts specified in paragraph
31 (b). The required escrow amount set forth in this paragraph
32 shall not be used for litigation costs and attorney's fees for
33 the defense of any medical malpractice claim.

34 (b) Obtaining and maintaining professional liability
35 coverage in an amount not less than \$100,000 per claim, with a
36 minimum annual aggregate of not less than \$300,000, from an
37 authorized insurer as defined under s. 624.09, from a surplus
38 lines insurer as defined under s. 626.914(2), from a risk
39 retention group as defined under s. 627.942, from the Joint
40 Underwriting Association established under s. 627.351(4), or
41 through a plan of self-insurance as provided in s. 627.357. The
42 required coverage amount set forth in this paragraph shall not
43 be used for litigation costs and attorney's fees for the defense
44 of any medical malpractice claim.

45 (c) Obtaining and maintaining an unexpired, irrevocable
46 letter of credit, established pursuant to chapter 675, in an
47 amount not less than \$100,000 per claim, with a minimum
48 aggregate availability of credit of not less than \$300,000. The
49 letter of credit shall be payable to the physician as
50 beneficiary upon presentment of a final judgment indicating
51 liability and awarding damages to be paid by the physician or
52 upon presentment of a settlement agreement signed by all parties
53 to such agreement when such final judgment or settlement is a
54 result of a claim arising out of the rendering of, or the
55 failure to render, medical care and services. The letter of
56 credit shall not be used for litigation costs and attorney's

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57 fees for the defense of any medical malpractice claim. The ~~Such~~
58 letter of credit shall be nonassignable and nontransferable.
59 Such letter of credit shall be issued by any bank or savings
60 association organized and existing under the laws of this state
61 or any bank or savings association organized under the laws of
62 the United States that has its principal place of business in
63 this state or has a branch office which is authorized under the
64 laws of this state or of the United States to receive deposits
65 in this state.

66 (2) Physicians who perform surgery in an ambulatory
67 surgical center licensed under chapter 395 and, as a continuing
68 condition of hospital staff privileges, physicians who have with
69 staff privileges shall also ~~be required to~~ establish financial
70 responsibility by one of the following methods:

71 (a) Establishing and maintaining an escrow account
72 consisting of cash or assets eligible for deposit in accordance
73 with s. 625.52 in the per claim amounts specified in paragraph
74 (b). The required escrow amount set forth in this paragraph
75 shall not be used for litigation costs and attorney's fees for
76 the defense of any medical malpractice claim.

77 (b) Obtaining and maintaining professional liability
78 coverage in an amount not less than \$250,000 per claim, with a
79 minimum annual aggregate of not less than \$750,000 from an
80 authorized insurer as defined under s. 624.09, from a surplus
81 lines insurer as defined under s. 626.914(2), from a risk
82 retention group as defined under s. 627.942, from the Joint
83 Underwriting Association established under s. 627.351(4),
84 through a plan of self-insurance as provided in s. 627.357, or
85 through a plan of self-insurance which meets the conditions

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86 specified for satisfying financial responsibility in s. 766.110.
87 The required coverage amount set forth in this paragraph shall
88 not be used for litigation costs and attorney's fees for the
89 defense of any medical malpractice claim.

90 (c) Obtaining and maintaining an unexpired irrevocable
91 letter of credit, established pursuant to chapter 675, in an
92 amount not less than \$250,000 per claim, with a minimum
93 aggregate availability of credit of not less than \$750,000. The
94 letter of credit shall be payable to the physician as
95 beneficiary upon presentment of a final judgment indicating
96 liability and awarding damages to be paid by the physician or
97 upon presentment of a settlement agreement signed by all parties
98 to such agreement when such final judgment or settlement is a
99 result of a claim arising out of the rendering of, or the
100 failure to render, medical care and services. The letter of
101 credit shall not be used for litigation costs and attorney's
102 fees for the defense of any medical malpractice claim. The ~~Such~~
103 letter of credit shall be nonassignable and nontransferable. ~~The~~
104 ~~Such~~ letter of credit shall be issued by any bank or savings
105 association organized and existing under the laws of this state
106 or any bank or savings association organized under the laws of
107 the United States that has its principal place of business in
108 this state or has a branch office which is authorized under the
109 laws of this state or of the United States to receive deposits
110 in this state.

111
112 This subsection shall be inclusive of the coverage in subsection
113 (1).

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114 ~~(3)(a) The financial responsibility requirements of~~
115 ~~subsections (1) and (2) shall apply to claims for incidents that~~
116 ~~occur on or after January 1, 1987, or the initial date of~~
117 ~~licensure in this state, whichever is later.~~

118 ~~(b)~~ Meeting the financial responsibility requirements of
119 this section or the criteria for any exemption from such
120 requirements shall be established at the time of issuance or
121 renewal of a license ~~on or after January 1, 1987.~~

122 ~~(b)(e)~~ Any person may, at any time, submit to the
123 department a request for an advisory opinion regarding such
124 person's qualifications for exemption.

125 (4)(a) Each insurer, self-insurer, risk retention group,
126 or Joint Underwriting Association shall promptly notify the
127 department of cancellation or nonrenewal of insurance required
128 by this section. Unless the physician demonstrates that he or
129 she is otherwise in compliance with the requirements of this
130 section, the department shall suspend the license of the
131 physician pursuant to ss. 120.569 and 120.57 and notify all
132 health care facilities licensed under chapter 395 of such
133 action. Any suspension under this subsection shall remain in
134 effect until the physician demonstrates compliance with the
135 requirements of this section. If any judgment or settlement is
136 pending at the time of suspension, such judgment or settlement
137 shall be paid in accordance with this section unless otherwise
138 mutually agreed to in writing by the parties. This paragraph
139 does not abrogate a judgment debtor's obligation to satisfy the
140 entire amount of any judgment, except that a license suspended
141 under paragraph (5)(g) shall not be reinstated until the

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142 ~~physician demonstrates compliance with the requirements of that~~
143 ~~provision.~~

144 (b) If financial responsibility requirements are met by
145 maintaining an escrow account or letter of credit as provided in
146 this section, upon the entry of an adverse final judgment
147 arising from a medical malpractice arbitration award, from a
148 claim of medical malpractice either in contract or tort, or from
149 noncompliance with the terms of a settlement agreement arising
150 from a claim of medical malpractice either in contract or tort,
151 the licensee shall pay the entire amount of the judgment
152 together with all accrued interest, or the amount maintained in
153 the escrow account or provided in the letter of credit as
154 required by this section, whichever is less, within 60 days
155 after the date such judgment became final and subject to
156 execution, unless otherwise mutually agreed to in writing by the
157 parties. If timely payment is not made by the physician, the
158 department shall suspend the license of the physician pursuant
159 to procedures set forth in subparagraphs (5)(g)3., 4., and 5.
160 Nothing in this paragraph shall abrogate a judgment debtor's
161 obligation to satisfy the entire amount of any judgment.

162 (5) The requirements of subsections (1), (2), and (3) do
163 ~~shall~~ not apply to:

164 (a) Any person licensed under this chapter who practices
165 medicine exclusively as an officer, employee, or agent of the
166 Federal Government or of the state or its agencies or its
167 subdivisions. For the purposes of this subsection, an agent of
168 the state, its agencies, or its subdivisions is a person who is
169 eligible for coverage under any self-insurance or insurance
170 program authorized by the provisions of s. 768.28(15).

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171 (b) Any person whose license has become inactive under
172 this chapter and who is not practicing medicine in this state.
173 Any person applying for reactivation of a license must show
174 either that such licensee maintained tail insurance coverage
175 which provided liability coverage for incidents that occurred on
176 or after January 1, 1987, or the initial date of licensure in
177 this state, whichever is later, and incidents that occurred
178 before the date on which the license became inactive; or such
179 licensee must submit an affidavit stating that such licensee has
180 no unsatisfied medical malpractice judgments or settlements at
181 the time of application for reactivation.

182 (c) Any person holding a limited license pursuant to s.
183 458.317 and practicing under the scope of such limited license.

184 (d) Any person licensed or certified under this chapter
185 who practices only in conjunction with his or her teaching
186 duties at an accredited medical school or in its main teaching
187 hospitals. Such person may engage in the practice of medicine to
188 the extent that such practice is incidental to and a necessary
189 part of duties in connection with the teaching position in the
190 medical school.

191 (e) Any person holding an active license under this
192 chapter who is not practicing medicine in this state. If such
193 person initiates or resumes any practice of medicine in this
194 state, he or she must notify the department of such activity and
195 fulfill the financial responsibility requirements of this
196 section before resuming the practice of medicine in this state.

197 (f) Any person holding an active license under this
198 chapter who meets all of the following criteria:

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199 1. The licensee has held an active license to practice in
200 this state or another state or some combination thereof for more
201 than 15 years.

202 2. The licensee has either retired from the practice of
203 medicine or maintains a part-time practice of no more than 1,000
204 patient contact hours per year.

205 3. The licensee has had no more than two claims for
206 medical malpractice resulting in an indemnity exceeding \$25,000
207 within the previous 5-year period.

208 4. The licensee has not been convicted of, or pled guilty
209 or nolo contendere to, any criminal violation specified in this
210 chapter or the medical practice act of any other state.

211 5. The licensee has not been subject within the last 10
212 years of practice to license revocation or suspension for any
213 period of time; probation for a period of 3 years or longer; or
214 a fine of \$500 or more for a violation of this chapter or the
215 medical practice act of another jurisdiction. The regulatory
216 agency's acceptance of a physician's relinquishment of a
217 license, stipulation, consent order, or other settlement,
218 offered in response to or in anticipation of the filing of
219 administrative charges against the physician's license,
220 constitutes ~~shall be construed as~~ action against the physician's
221 license for the purposes of this paragraph.

222 6. The licensee has submitted a form supplying necessary
223 information as required by the department and an affidavit
224 affirming compliance with ~~the provisions of~~ this paragraph.

225 7. The licensee shall submit biennially to the department
226 certification stating compliance with ~~the provisions of~~ this

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227 paragraph. The licensee shall, upon request, demonstrate to the
228 department information verifying compliance with this paragraph.

229
230 A licensee who meets the requirements of this paragraph shall ~~be~~
231 ~~required either to~~ post notice in the form of a sign prominently
232 displayed in the reception area and clearly noticeable by all
233 patients or provide a written statement to any person to whom
234 medical services are being provided. Such sign or statement
235 shall state that: Under Florida law, physicians are generally
236 required to carry medical malpractice insurance or otherwise
237 demonstrate financial responsibility to cover potential claims
238 for medical malpractice. However, certain part-time physicians
239 who meet state requirements are exempt from the financial
240 responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS
241 DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice
242 is provided pursuant to Florida law.

243 ~~(g) Any person holding an active license under this~~
244 ~~chapter who agrees to meet all of the following criteria:~~

245 (6)(a)1- Upon the entry of an adverse final judgment
246 arising from a medical malpractice arbitration award, from a
247 claim of medical malpractice either in contract or tort, or from
248 noncompliance with the terms of a settlement agreement arising
249 from a claim of medical malpractice either in contract or tort,
250 the licensee shall pay the judgment creditor the lesser of the
251 entire amount of the judgment with all accrued interest or
252 either \$250,000 ~~\$100,000~~, if the physician is licensed pursuant
253 to this chapter but does not maintain hospital staff privileges,
254 or \$500,000 ~~\$250,000~~, if the physician is licensed pursuant to
255 this chapter and maintains hospital staff privileges, within 60

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256 days after the date such judgment became final and subject to
257 execution, unless otherwise mutually agreed to in writing by the
258 parties. Such adverse final judgment shall include any cross-
259 claim, counterclaim, or claim for indemnity or contribution
260 arising from the claim of medical malpractice. Upon notification
261 of the existence of an unsatisfied judgment or payment pursuant
262 to this subparagraph, the department shall notify the licensee
263 by certified mail that he or she shall be subject to
264 disciplinary action unless, within 30 days from the date of
265 mailing, he or she either:

266 ~~1.a.~~ Shows proof that the unsatisfied judgment has been
267 paid in the amount specified in this subparagraph; or

268 ~~2.b.~~ Furnishes the department with a copy of a timely
269 filed notice of appeal and either:

270 ~~a.(I)~~ A copy of a supersedeas bond properly posted in the
271 amount required by law; or

272 ~~b.(II)~~ An order from a court of competent jurisdiction
273 staying execution on the final judgment pending disposition of
274 the appeal.

275 ~~(b)2.~~ The Department of Health shall issue an emergency
276 order suspending the license of any licensee who, after 30 days
277 following receipt of a notice from the Department of Health, has
278 failed to: satisfy a medical malpractice claim against him or
279 her; furnish the Department of Health a copy of a timely filed
280 notice of appeal; furnish the Department of Health a copy of a
281 supersedeas bond properly posted in the amount required by law;
282 or furnish the Department of Health an order from a court of
283 competent jurisdiction staying execution on the final judgment
284 pending disposition of the appeal.

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285 ~~(c)3-~~ Upon the next meeting of the probable cause panel of
286 the board following 30 days after the date of mailing the notice
287 of disciplinary action to the licensee, the panel shall make a
288 determination of whether probable cause exists to take
289 disciplinary action against the licensee pursuant to
290 subparagraph 1.

291 ~~(d)4-~~ If the board determines that the factual
292 requirements of subparagraph 1. are met, it shall take
293 disciplinary action as it deems appropriate against the
294 licensee. Such disciplinary action shall include, at a minimum,
295 probation of the license with the restriction that the licensee
296 must make payments to the judgment creditor on a schedule
297 determined by the board to be reasonable and within the
298 financial capability of the physician. Notwithstanding any other
299 disciplinary penalty imposed, the disciplinary penalty may
300 include suspension of the license for a period not to exceed 5
301 years. In the event that an agreement to satisfy a judgment has
302 been met, the board shall remove any restriction on the license.

303 ~~(e)5-~~ The licensee has completed a form supplying
304 necessary information as required by the department.

305
306 ~~A licensee who meets the requirements of this paragraph shall be~~
307 ~~required either to post notice in the form of a sign prominently~~
308 ~~displayed in the reception area and clearly noticeable by all~~
309 ~~patients or to provide a written statement to any person to whom~~
310 ~~medical services are being provided. Such sign or statement~~
311 ~~shall state: "Under Florida law, physicians are generally~~
312 ~~required to carry medical malpractice insurance or otherwise~~
313 ~~demonstrate financial responsibility to cover potential claims~~

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314 ~~for medical malpractice. YOUR DOCTOR HAS DECIDED NOT TO CARRY~~
315 ~~MEDICAL MALPRACTICE INSURANCE. This is permitted under Florida~~
316 ~~law subject to certain conditions. Florida law imposes penalties~~
317 ~~against noninsured physicians who fail to satisfy adverse~~
318 ~~judgments arising from claims of medical malpractice. This~~
319 ~~notice is provided pursuant to Florida law."~~

320 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent representation
321 by the licensee with respect to any provision of this section
322 shall result in permanent disqualification from any exemption to
323 mandated financial responsibility as provided in this section
324 and shall constitute grounds for disciplinary action under s.
325 458.331.

326 ~~(8)(7)~~ Any licensee who relies on any exemption from the
327 financial responsibility requirement shall notify the
328 department, in writing, of any change of circumstance regarding
329 his or her qualifications for such exemption and shall
330 demonstrate that he or she is in compliance with the
331 requirements of this section.

332 ~~(9)(8)~~ The board shall adopt rules to implement the
333 provisions of this section.

334 Section 42. Effective upon this act becoming a law and
335 applying to claims accruing on or after that date, section
336 459.0085, Florida Statutes, is amended to read:

337 459.0085 Financial responsibility.--

338 (1) As a condition of licensing and maintaining an active
339 license, and prior to the issuance or renewal of an active
340 license or reactivation of an inactive license for the practice
341 of osteopathic medicine, an applicant shall by one of the
342 following methods demonstrate to the satisfaction of the board

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343 and the department financial responsibility to pay claims and
344 costs ancillary thereto arising out of the rendering of, or the
345 failure to render, medical care or services:

346 (a) Establishing and maintaining an escrow account
347 consisting of cash or assets eligible for deposit in accordance
348 with s. 625.52 in the per-claim amounts specified in paragraph
349 (b).

350 (b) Obtaining and maintaining professional liability
351 coverage for the current year and for each of the prior years
352 that the applicant or licensee has been in the active practice
353 of medicine, up to a maximum of 4 prior years, in an amount not
354 less than \$100,000 per claim, with a minimum annual aggregate of
355 not less than \$300,000, from an authorized insurer as defined
356 under s. 624.09, from a surplus lines insurer as defined under
357 s. 626.914(2), from a risk retention group as defined under s.
358 627.942, from the Joint Underwriting Association established
359 under s. 627.351(4), or through a plan of self-insurance as
360 provided in s. 627.357. The required coverage amount set forth
361 in this paragraph shall not be used for litigation costs and
362 attorney's fees for the defense of any medical negligence claim.

363 (c) Obtaining and maintaining an unexpired, irrevocable
364 letter of credit, established pursuant to chapter 675, for the
365 current year and for each of the prior years that the applicant
366 or licensee has been in the active practice of medicine, up to a
367 maximum of 4 prior years, in an amount not less than \$100,000
368 per claim, with a minimum aggregate availability of credit of
369 not less than \$300,000. The letter of credit shall be payable to
370 the osteopathic physician as beneficiary upon presentment of a
371 final judgment indicating liability and awarding damages to be

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372 paid by the osteopathic physician or upon presentment of a
373 settlement agreement signed by all parties to such agreement
374 when such final judgment or settlement is a result of a claim
375 arising out of the rendering of, or the failure to render,
376 medical care and services. Such letter of credit shall be
377 nonassignable and nontransferable. Such letter of credit shall
378 be issued by any bank or savings association organized and
379 existing under the laws of this state or any bank or savings
380 association organized under the laws of the United States that
381 has its principal place of business in this state or has a
382 branch office which is authorized under the laws of this state
383 or of the United States to receive deposits in this state.

384 (2) Osteopathic physicians who perform surgery in an
385 ambulatory surgical center licensed under chapter 395 and, as a
386 continuing condition of hospital staff privileges, osteopathic
387 physicians who have ~~with~~ staff privileges shall also ~~be required~~
388 ~~to~~ establish financial responsibility by one of the following
389 methods:

390 (a) Establishing and maintaining an escrow account
391 consisting of cash or assets eligible for deposit in accordance
392 with s. 625.52 in the per-claim amounts specified in paragraph
393 (b).

394 (b) Obtaining and maintaining professional liability
395 coverage for the current year and for each of the prior years
396 that the applicant or licensee has been in the active practice
397 of medicine, up to a maximum of 4 prior years, in an amount not
398 less than \$250,000 per claim, with a minimum annual aggregate of
399 not less than \$750,000 from an authorized insurer as defined
400 under s. 624.09, from a surplus lines insurer as defined under

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401 s. 626.914(2), from a risk retention group as defined under s.
402 627.942, from the Joint Underwriting Association established
403 under s. 627.351(4), through a plan of self-insurance as
404 provided in s. 627.357, or through a plan of self-insurance
405 which meets the conditions specified for satisfying financial
406 responsibility in s. 766.110.

407 (c) Obtaining and maintaining an unexpired, irrevocable
408 letter of credit, for the current year and for each of the prior
409 years that the applicant or licensee has been in the active
410 practice of medicine, up to a maximum of 4 prior years,
411 established pursuant to chapter 675, in an amount not less than
412 \$250,000 per claim, with a minimum aggregate availability of
413 credit of not less than \$750,000. The letter of credit shall be
414 payable to the osteopathic physician as beneficiary upon
415 presentment of a final judgment indicating liability and
416 awarding damages to be paid by the osteopathic physician or upon
417 presentment of a settlement agreement signed by all parties to
418 such agreement when such final judgment or settlement is a
419 result of a claim arising out of the rendering of, or the
420 failure to render, medical care and services. ~~The Such~~ letter of
421 credit shall be nonassignable and nontransferable. Such letter
422 of credit shall be issued by any bank or savings association
423 organized and existing under the laws of this state or any bank
424 or savings association organized under the laws of the United
425 States that has its principal place of business in this state or
426 has a branch office which is authorized under the laws of this
427 state or of the United States to receive deposits in this state.

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429 This subsection shall be inclusive of the coverage in subsection
430 (1).

431 ~~(3)(a) The financial responsibility requirements of~~
432 ~~subsections (1) and (2) shall apply to claims for incidents that~~
433 ~~occur on or after January 1, 1987, or the initial date of~~
434 ~~licensure in this state, whichever is later.~~

435 ~~(b)~~ Meeting the financial responsibility requirements of
436 this section or the criteria for any exemption from such
437 requirements shall be established at the time of issuance or
438 renewal of a license ~~on or after January 1, 1987.~~

439 ~~(b)(e)~~ Any person may, at any time, submit to the
440 department a request for an advisory opinion regarding such
441 person's qualifications for exemption.

442 (4)(a) Each insurer, self-insurer, risk retention group,
443 or joint underwriting association shall promptly notify the
444 department of cancellation or nonrenewal of insurance required
445 by this section. Unless the osteopathic physician demonstrates
446 that he or she is otherwise in compliance with the requirements
447 of this section, the department shall suspend the license of the
448 osteopathic physician pursuant to ss. 120.569 and 120.57 and
449 notify all health care facilities licensed under chapter 395,
450 part IV of chapter 394, or part I of chapter 641 of such action.
451 Any suspension under this subsection shall remain in effect
452 until the osteopathic physician demonstrates compliance with the
453 requirements of this section. If any judgments or settlements
454 are pending at the time of suspension, those judgments or
455 settlements must be paid in accordance with subsection (6)
456 unless otherwise mutually agreed to in writing by the parties.
457 This paragraph does not abrogate a judgment debtor's obligation

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458 ~~to satisfy the entire amount of any judgment except that a~~
459 ~~license suspended under paragraph (5)(g) shall not be reinstated~~
460 ~~until the osteopathic physician demonstrates compliance with the~~
461 ~~requirements of that provision.~~

462 (b) If financial responsibility requirements are met by
463 maintaining an escrow account or letter of credit as provided in
464 this section, upon the entry of an adverse final judgment
465 arising from a medical malpractice arbitration award, from a
466 claim of medical malpractice either in contract or tort, or from
467 noncompliance with the terms of a settlement agreement arising
468 from a claim of medical malpractice either in contract or tort,
469 the licensee shall pay the entire amount of the judgment
470 together with all accrued interest or the amount maintained in
471 the escrow account or provided in the letter of credit as
472 required by this section, whichever is less, within 60 days
473 after the date such judgment became final and subject to
474 execution, unless otherwise mutually agreed to in writing by the
475 parties. If timely payment is not made by the osteopathic
476 physician, the department shall suspend the license of the
477 osteopathic physician pursuant to procedures set forth in
478 subparagraphs (5)(g)3., 4., and 5. Nothing in this paragraph
479 shall abrogate a judgment debtor's obligation to satisfy the
480 entire amount of any judgment.

481 (5) The requirements of subsections (1), (2), and (3) do
482 ~~shall~~ not apply to:

483 (a) Any person licensed under this chapter who practices
484 medicine exclusively as an officer, employee, or agent of the
485 Federal Government or of the state or its agencies or its
486 subdivisions. For the purposes of this subsection, an agent of

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487 the state, its agencies, or its subdivisions is a person who is
488 eligible for coverage under any self-insurance or insurance
489 program authorized by the provisions of s. 768.28(15).

490 (b) Any person whose license has become inactive under
491 this chapter and who is not practicing medicine in this state.
492 Any person applying for reactivation of a license must show
493 either that such licensee maintained tail insurance coverage
494 which provided liability coverage for incidents that occurred on
495 or after January 1, 1987, or the initial date of licensure in
496 this state, whichever is later, and incidents that occurred
497 before the date on which the license became inactive; or such
498 licensee must submit an affidavit stating that such licensee has
499 no unsatisfied medical malpractice judgments or settlements at
500 the time of application for reactivation.

501 (c) Any person holding a limited license pursuant to s.
502 459.0075 and practicing under the scope of such limited license.

503 (d) Any person licensed or certified under this chapter
504 who practices only in conjunction with his or her teaching
505 duties at a college of osteopathic medicine. Such person may
506 engage in the practice of osteopathic medicine to the extent
507 that such practice is incidental to and a necessary part of
508 duties in connection with the teaching position in the college
509 of osteopathic medicine.

510 (e) Any person holding an active license under this
511 chapter who is not practicing osteopathic medicine in this
512 state. If such person initiates or resumes any practice of
513 osteopathic medicine in this state, he or she must notify the
514 department of such activity and fulfill the financial

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515 responsibility requirements of this section before resuming the
516 practice of osteopathic medicine in this state.

517 (f) Any person holding an active license under this
518 chapter who meets all of the following criteria:

519 1. The licensee has held an active license to practice in
520 this state or another state or some combination thereof for more
521 than 15 years.

522 2. The licensee has either retired from the practice of
523 osteopathic medicine or maintains a part-time practice of
524 osteopathic medicine of no more than 1,000 patient contact hours
525 per year.

526 3. The licensee has had no more than two claims for
527 medical malpractice resulting in an indemnity exceeding \$25,000
528 within the previous 5-year period.

529 4. The licensee has not been convicted of, or pled guilty
530 or nolo contendere to, any criminal violation specified in this
531 chapter or the practice act of any other state.

532 5. The licensee has not been subject within the last 10
533 years of practice to license revocation or suspension for any
534 period of time, probation for a period of 3 years or longer, or
535 a fine of \$500 or more for a violation of this chapter or the
536 medical practice act of another jurisdiction. The regulatory
537 agency's acceptance of an osteopathic physician's relinquishment
538 of a license, stipulation, consent order, or other settlement,
539 offered in response to or in anticipation of the filing of
540 administrative charges against the osteopathic physician's
541 license, constitutes ~~shall be construed as~~ action against the
542 physician's license for the purposes of this paragraph.

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543 6. The licensee has submitted a form supplying necessary
544 information as required by the department and an affidavit
545 affirming compliance with ~~the provisions of~~ this paragraph.

546 7. The licensee shall submit biennially to the department
547 a certification stating compliance with ~~the provisions of~~ this
548 paragraph. The licensee shall, upon request, demonstrate to the
549 department information verifying compliance with this paragraph.

550
551 A licensee who meets the requirements of this paragraph shall ~~be~~
552 ~~required either to~~ post notice in the form of a sign prominently
553 displayed in the reception area and clearly noticeable by all
554 patients or to provide a written statement to any person to whom
555 medical services are being provided. The ~~Such~~ sign or statement
556 shall state that: Under Florida law, osteopathic physicians are
557 generally required to carry medical malpractice insurance or
558 otherwise demonstrate financial responsibility to cover
559 potential claims for medical malpractice. However, certain part-
560 time osteopathic physicians who meet state requirements are
561 exempt from the financial responsibility law. YOUR OSTEOPATHIC
562 PHYSICIAN MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY
563 MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant
564 to Florida law.

565 ~~(g) Any person holding an active license under this~~
566 ~~chapter who agrees to meet all of the following criteria:~~

567 (6)(a)1. Upon the entry of an adverse final judgment
568 arising from a medical malpractice arbitration award, from a
569 claim of medical malpractice either in contract or tort, or from
570 noncompliance with the terms of a settlement agreement arising
571 from a claim of medical malpractice either in contract or tort,

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572 the licensee shall pay the judgment creditor the lesser of the
573 entire amount of the judgment with all accrued interest or
574 either \$250,000 ~~\$100,000~~, if the osteopathic physician is
575 licensed pursuant to this chapter but does not maintain hospital
576 staff privileges, or \$500,000 ~~\$250,000~~, if the osteopathic
577 physician is licensed pursuant to this chapter and maintains
578 hospital staff privileges, within 60 days after the date such
579 judgment became final and subject to execution, unless otherwise
580 mutually agreed to in writing by the parties. Such adverse final
581 judgment shall include any cross-claim, counterclaim, or claim
582 for indemnity or contribution arising from the claim of medical
583 malpractice. Upon notification of the existence of an
584 unsatisfied judgment or payment pursuant to this subparagraph,
585 the department shall notify the licensee by certified mail that
586 he or she shall be subject to disciplinary action unless, within
587 30 days from the date of mailing, the licensee either:

588 1.a. Shows proof that the unsatisfied judgment has been
589 paid in the amount specified in this subparagraph; or

590 2.b. Furnishes the department with a copy of a timely
591 filed notice of appeal and either:

592 a.(I) A copy of a supersedeas bond properly posted in the
593 amount required by law; or

594 b.(II) An order from a court of competent jurisdiction
595 staying execution on the final judgment, pending disposition of
596 the appeal.

597 (b)2. The Department of Health shall issue an emergency
598 order suspending the license of any licensee who, after 30 days
599 following receipt of a notice from the Department of Health, has
600 failed to: satisfy a medical malpractice claim against him or

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601 her; furnish the Department of Health a copy of a timely filed
602 notice of appeal; furnish the Department of Health a copy of a
603 supersedeas bond properly posted in the amount required by law;
604 or furnish the Department of Health an order from a court of
605 competent jurisdiction staying execution on the final judgment
606 pending disposition of the appeal.

607 ~~(c)3-~~ Upon the next meeting of the probable cause panel of
608 the board following 30 days after the date of mailing the notice
609 of disciplinary action to the licensee, the panel shall make a
610 determination of whether probable cause exists to take
611 disciplinary action against the licensee pursuant to
612 subparagraph 1.

613 ~~(d)4-~~ If the board determines that the factual
614 requirements of subparagraph 1. are met, it shall take
615 disciplinary action as it deems appropriate against the
616 licensee. Such disciplinary action shall include, at a minimum,
617 probation of the license with the restriction that the licensee
618 must make payments to the judgment creditor on a schedule
619 determined by the board to be reasonable and within the
620 financial capability of the osteopathic physician.
621 Notwithstanding any other disciplinary penalty imposed, the
622 disciplinary penalty may include suspension of the license for a
623 period not to exceed 5 years. In the event that an agreement to
624 satisfy a judgment has been met, the board shall remove any
625 restriction on the license.

626 ~~(e)5-~~ The licensee has completed a form supplying
627 necessary information as required by the department.
628

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629 ~~A licensee who meets the requirements of this paragraph shall be~~
630 ~~required either to post notice in the form of a sign prominently~~
631 ~~displayed in the reception area and clearly noticeable by all~~
632 ~~patients or to provide a written statement to any person to whom~~
633 ~~medical services are being provided. Such sign or statement~~
634 ~~shall state: "Under Florida law, osteopathic physicians are~~
635 ~~generally required to carry medical malpractice insurance or~~
636 ~~otherwise demonstrate financial responsibility to cover~~
637 ~~potential claims for medical malpractice. YOUR OSTEOPATHIC~~
638 ~~PHYSICIAN HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE~~
639 ~~INSURANCE. This is permitted under Florida law subject to~~
640 ~~certain conditions. Florida law imposes strict penalties against~~
641 ~~noninsured osteopathic physicians who fail to satisfy adverse~~
642 ~~judgments arising from claims of medical malpractice. This~~
643 ~~notice is provided pursuant to Florida law."~~

644 ~~(7)(6)~~ Any deceptive, untrue, or fraudulent representation
645 by the licensee with respect to any provision of this section
646 shall result in permanent disqualification from any exemption to
647 mandated financial responsibility as provided in this section
648 and shall constitute grounds for disciplinary action under s.
649 459.015.

650 ~~(8)(7)~~ Any licensee who relies on any exemption from the
651 financial responsibility requirement shall notify the department
652 in writing of any change of circumstance regarding his or her
653 qualifications for such exemption and shall demonstrate that he
654 or she is in compliance with the requirements of this section.

655 ~~(9)(8)~~ If a physician is either a resident physician,
656 assistant resident physician, or intern in an approved
657 postgraduate training program, as defined by the board's rules,

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658 and is supervised by a physician who is participating in the
659 Florida Birth-Related Neurological Injury Compensation Plan,
660 such resident physician, assistant resident physician, or intern
661 is deemed to be a participating physician without the payment of
662 the assessment set forth in s. 766.314(4).

663 ~~(10)~~(9) The board shall adopt rules to implement the
664 provisions of this section.

665
666 ===== T I T L E A M E N D M E N T =====

667 Remove line(s) 103, and insert:
668 400.4295, F.S.; correcting cross references; amending ss.
669 458.320 and 459.0085, F.S.; requiring maintenance of financial
670 responsibility as a condition of licensure of physicians and
671 osteopathic physicians; providing for payment of any outstanding
672 judgments or settlements pending at the time a physician or
673 osteopathic physician is suspended by the Department of Business
674 and Professional Regulation; providing for alternative method of
675 providing financial responsibility; providing