

Bill No. SB 1912

Amendment No. 5 Barcode 940292

CHAMBER ACTION

Senate

House

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The Committee on Health, Aging, and Long-Term Care recommended the following amendment:

Senate Amendment (with title amendment)

On page 50, line 29, through page 51, line 3, delete those lines

and insert:

Section 14. Paragraph (g) of subsection (5) of section 459.0085, Florida Statutes, is amended, present subsection (9) of that section is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

459.0085 Financial responsibility.--

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

(a) Any person licensed under this chapter who practices medicine

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

1. Upon the entry of an adverse final judgment arising from a medical malpractice arbitration award, from a claim of

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1 medical malpractice either in contract or tort, or from
2 noncompliance with the terms of a settlement agreement arising
3 from a claim of medical malpractice either in contract or
4 tort, the licensee shall pay the judgment creditor the lesser
5 of the entire amount of the judgment with all accrued interest
6 or either \$100,000, if the osteopathic physician is licensed
7 pursuant to this chapter but does not maintain hospital staff
8 privileges, or \$250,000, if the osteopathic physician is
9 licensed pursuant to this chapter and maintains hospital staff
10 privileges, within 60 days after the date such judgment became
11 final and subject to execution, unless otherwise mutually
12 agreed to in writing by the parties. Such adverse final
13 judgment shall include any cross-claim, counterclaim, or claim
14 for indemnity or contribution arising from the claim of
15 medical malpractice. Upon notification of the existence of an
16 unsatisfied judgment or payment pursuant to this subparagraph,
17 the department shall notify the licensee by certified mail
18 that he or she shall be subject to disciplinary action unless,
19 within 30 days from the date of mailing, the licensee either:
20 a. Shows proof that the unsatisfied judgment has been
21 paid in the amount specified in this subparagraph; or
22 b. Furnishes the department with a copy of a timely
23 filed notice of appeal and either:
24 (I) A copy of a supersedeas bond properly posted in
25 the amount required by law; or
26 (II) An order from a court of competent jurisdiction
27 staying execution on the final judgment, pending disposition
28 of the appeal.
29 2. The Department of Health shall issue an emergency
30 order suspending the license of any licensee who, after 30
31 days following receipt of a notice from the Department of

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1 Health, has failed to: satisfy a medical malpractice claim
2 against him or her; furnish the Department of Health a copy of
3 a timely filed notice of appeal; furnish the Department of
4 Health a copy of a supersedeas bond properly posted in the
5 amount required by law; or furnish the Department of Health an
6 order from a court of competent jurisdiction staying execution
7 on the final judgment pending disposition of the appeal.

8 3. Upon the next meeting of the probable cause panel
9 of the board following 30 days after the date of mailing the
10 notice of disciplinary action to the licensee, the panel shall
11 make a determination of whether probable cause exists to take
12 disciplinary action against the licensee pursuant to
13 subparagraph 1.

14 4. If the board determines that the factual
15 requirements of subparagraph 1. are met, it shall take
16 disciplinary action as it deems appropriate against the
17 licensee. Such disciplinary action shall include, at a
18 minimum, probation of the license with the restriction that
19 the licensee must make payments to the judgment creditor on a
20 schedule determined by the board to be reasonable and within
21 the financial capability of the osteopathic physician.
22 Notwithstanding any other disciplinary penalty imposed, the
23 disciplinary penalty may include suspension of the license for
24 a period not to exceed 5 years. In the event that an
25 agreement to satisfy a judgment has been met, the board shall
26 remove any restriction on the license.

27 5. The licensee has completed a form supplying
28 necessary information as required by the department.

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30 A licensee who meets the requirements of this paragraph shall
31 be required ~~either~~ to post notice in the form of a sign, with

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1 dimensions of 8-1/2 inches by 11 inches and with lettering in
2 boldface type that is at least 1/2-inch in height and in a
3 font style specified by the department, which sign is
4 prominently displayed in at least two distinct spaces in the
5 reception area and in each space or room that is used for the
6 examination or treatment of patients. The notice must be
7 clearly visible to ~~noticeable by~~ all patients and other
8 persons who accompany a patient on an office visit.
9 Alternatively, the licensee may ~~or to~~ provide a written
10 statement, printed in boldface type with a minimum font size
11 of 12, to each ~~any~~ person to whom medical services are being
12 provided. Such sign or statement must ~~shall~~ state: "Under
13 Florida law, osteopathic physicians are generally required to
14 carry medical malpractice insurance or otherwise demonstrate
15 financial responsibility to cover potential claims for medical
16 malpractice. YOUR OSTEOPATHIC PHYSICIAN HAS DECIDED NOT TO
17 CARRY MEDICAL MALPRACTICE INSURANCE. This is permitted under
18 Florida law subject to certain conditions. Florida law
19 imposes strict penalties against noninsured osteopathic
20 physicians who fail to satisfy adverse judgments arising from
21 claims of medical malpractice. This notice is provided
22 pursuant to Florida law."

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25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 On page 6, line 27, after the semicolon,

28
29 insert:

30 specifying dimensions, placement, and font size

31 for certain notices; revising mandatory

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1 language to be included in a required sign;
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