

Florida Medical Association FACT SHEET



FINANCIAL RESPONSIBILITY

SB Senator

HB Representative

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This bill takes away a physician's ability to self-insure (go bare) and imposes onerous requirements on physicians who elect to meet their financial responsibility requirements through an escrow account or an irrevocable letter of credit. The bill also establishes unnecessary new reporting requirements with accompanying criminal penalties for failure to comply.

There is no demonstrated need for any of the provisions of this bill. Current law protects patients while giving physicians the maximum flexibility to tailor their financial responsibility plans to meet their individual needs. Forbidding physicians from self-insuring would effect a needless financial hardship on some physicians without providing any additional protection to the public.

The issue of physician malpractice insurance requirements was studied by the legislature in 1997, and in response, a bill was passed that required the Department of Health to issue an emergency order suspending the license of any physician who failed to pay a judgment against him/her. In 2003, the legislature strengthened this provision and required the Department of Health to keep a physician's license suspended until the physician pays the required amount or agrees on a payment schedule with the claimant. The statistics demonstrate that these are adequate safeguards to ensure that a physician who self-insures either pays the judgment or is forced to stop practicing.

Current Florida law require physicians who self-insure to satisfy any malpractice judgment entered against them up to the amount of malpractice insurance they would otherwise be required to have. If the physician fails to pay a judgment entered against him, the Department of Health **must** enter an emergency order suspending his/her license, and the license must stay suspended until the physician pays the judgment or agrees upon a payment schedule with the claimant.

There is no indication that physicians who self-insure fail to pay these judgments. In fact statistics kept by the Board of Medicine indicate that these judgments are paid as required by law.

Physicians have been allowed to self-insure since 1986. Since 1997 (which is as far back as can be researched), there have only been five physicians disciplined for not paying a judgment against them. Three of the five judgments were paid, and the other two physicians lost their licenses permanently.

Many physicians, especially in South Florida, cannot afford insurance at even the minimum limits. Many others are unable to find private insurers willing to cover them. Letters of credit and escrow accounts, especially under this bill, are not a viable option. These physicians simply would be unable to continue practicing in Florida – a state already facing a critical shortage of neurosurgeons, obstetricians and other specialists. Prohibiting these physicians from self-insuring would have devastating results for Florida patients in need of specialized care.

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