



Journal of the Senate

Number 2—Special Session E

Wednesday, February 3, 1988

CALL TO ORDER

The Senate was called to order by the President at 1:26 p.m. A quorum present—39:

Mr. President	Frank	Johnson	Peterson
Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crawford	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Dudley	Jennings	Myers	

Excused: Senator Stuart until 1:55 p.m.

PRAYER

The following prayer was offered by Senator Peterson:

Father, we thank you for giving us another day to serve you and the people of Florida. We ask that you will fill us with the strength of our faith and that you will help us solve these problems. Your presence here will fill us full of the strength necessary to accomplish the job. We ask that you fill us also with the firmness of our convictions and to help us to be sure that what we do is within thy will and within the needs of the people of Florida. We ask this in thy name. Amen.

REPORTS OF COMMITTEES

The Committee on Commerce recommends the following pass: SB 6-E with 18 amendments

The Committee on Personnel, Retirement and Collective Bargaining recommends the following pass: SB 8-E with 2 amendments

The bills contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

The Committee on Personnel, Retirement and Collective Bargaining recommends the following pass: SB 4-E

The bill was placed on the calendar.

The Committee on Appropriations recommends a committee substitute for the following: SB 6-E

The bill with committee substitute attached was placed on the calendar.

Senator Barron reported that the Committee on Rules and Calendar recommended that introduction of a bill relating to regulation of professions and occupations be allowed, pursuant to the motion by Senator Myers.

INTRODUCTION AND REFERENCE OF BILLS

First Reading

On motion by Senator Myers, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senator Myers—

SB 9-E—A bill to be entitled An act relating to regulation of professions and occupations; amending s. 455.213, F.S., providing for establishment of initial license fee by rule; providing a period for issuance; authorizing professional regulatory boards to defer compliance with continuing education requirements; amending s. 455.218, F.S., modifying eligibility

requirements for examination for licensure of foreign-trained professionals; deleting provisions relating to a special license for podiatric technicians; amending s. 455.219, F.S., providing for establishment of license application and examination fees by rule; providing for refund of examination fee under certain circumstances; providing a fee for verifying licensure and disciplinary status; amending s. 455.232, F.S., prohibiting unlawful conveyance or misuse of a license; providing penalties; amending s. 455.24, F.S., including acupuncturists under provisions regulating advertisement by health care providers of free or discounted services; amending s. 455.241, F.S., providing for reports of psychiatric examination and treatment; authorizing disclosure of confidential patient-psychiatrist communications under certain circumstances; amending ss. 458.347 and 459.022, F.S., relating to physician's assistants and osteopathic physician assistants, respectively, to permit applicants who fail the proficiency examination to apply for an extension of temporary certification; amending s. 460.408, F.S., providing conditions for approval of continuing education courses by the Board of Chiropractic; repealing s. 455.218, F.S., relating to examination and licensure of foreign-trained professionals; repealing s. 455.2182, F.S., relating to construction of chapter 86-290, Laws of Florida; providing an effective date.

—which was referred to the Committee on Economic, Community and Consumer Affairs.

Motion

On motion by Senator McPherson, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senator McPherson—

SB 10-E—A bill to be entitled An act relating to notes secured by mortgages; amending s. 697.06, F.S.; repealing certain restrictions on assessing certain charges, fees, or penalties for the prepayment of such a note when the obligee has accelerated the maturity date of such note; providing an effective date.

—which was referred to the Committee on Commerce.

FIRST READING OF COMMITTEE SUBSTITUTE

By the Committees on Appropriations and Commerce—

CS for SB 6-E—A bill to be entitled An act relating to medical incidents; providing legislative findings and intent regarding regulatory reform; amending s. 20.30, F.S.; creating the Division of Medical Quality Assurance within the Department of Professional Regulation and creating the Bureau of Medical Regulation within said division; providing duties of the division and bureau; requiring a report; placing the licensing boards for various health care professions within the division; amending s. 395.0115, F.S.; providing antitrust immunity through establishment of a state-mandated peer review process; requiring licensed facilities to provide for peer review of physicians who provide health care services at such facilities and providing procedures therefor; requiring report of final disciplinary actions to the Division of Medical Quality Assurance for further investigation; providing for peer review panel immunity and for confidentiality of records; amending s. 395.017, F.S.; providing maximum charge for copying records; providing access to confidential patient records for certain proceedings of the Department of Professional Regulation; limiting public access thereto; amending s. 395.041, F.S.; expanding internal risk management education and training requirements; requiring certain incident reports relating to surgical procedures; requiring report of certain incidents to the department; limiting public access; providing for department review and investigation of incidents which may involve conduct subject to discipline; providing administrative fines for violation of reporting requirements; providing for annual review of risk management programs; protecting risk managers from liability for implementation of risk management programs; requiring a report to the Legislature;

amending s. 395.504, F.S., to correct a cross-reference; amending s. 455.225, F.S.; providing civil immunity and prohibition from discharge to persons reporting with respect to incompetence, impairment, or unprofessional conduct of specified health care providers; providing penalties; amending s. 455.241, F.S.; providing for reports of patient records; creating s. 455.2415, F.S.; providing for disclosure of patient communications under certain circumstances; amending s. 455.242, F.S.; providing for disposition of records of physicians who terminate practice or relocate; amending s. 455.245, F.S.; providing conditions for considering emergency suspension or restriction of a license; creating s. 455.247, F.S.; requiring physicians, osteopathic physicians, podiatrists, and dentists to report professional liability claims and actions to the department; specifying contents; creating s. 455.28, F.S.; requiring reporting of certain physicians for violation of grounds for disciplinary action; providing a penalty; requiring investigation of probable disciplinary violations; amending s. 458.303, F.S.; revising exemption of certain commissioned medical officers from specified medical practice provisions; amending s. 458.307, F.S.; modifying membership of the Board of Medicine; specifying composition of probable cause panels; providing for a training program; providing for completion of a panel's work; amending s. 458.311, F.S.; relating to requirements for licensure of physicians by examination; providing for an investigative process; providing for restricted licenses; amending s. 458.313, F.S.; providing for an investigative process for licensure by endorsement; requiring certain active practice; providing for restricted licenses; amending s. 458.315, F.S.; prohibiting issuance of temporary certificates for practice in areas of critical need to certain persons by endorsement; amending s. 458.3165, F.S.; providing for biennial renewal of public psychiatry certificates; amending s. 458.319, F.S.; increasing the maximum fee for renewal of a license to practice medicine; requiring evidence of active practice for license renewal; providing for supervised practice; amending s. 458.320 and 459.0085, F.S.; authorizing physicians and osteopathic physicians to use risk retention groups to meet financial responsibility requirements; amending s. 458.327, F.S.; providing a penalty for leading the public to believe that one is licensed as a medical doctor, or is engaged in the licensed practice of medicine, without a license; amending ss. 458.331 and 459.015, F.S.; providing additional grounds for disciplinary action against physicians and osteopathic physicians; providing penalties and providing priorities for application thereof; establishing the burden of proof for administrative actions against physicians; providing for injunctive relief; providing for department review and investigation of claims; amending ss. 458.3315, 459.0155, F.S.; providing that a physician or osteopathic physician who is believed to be impaired must execute a release of his medical records to a consultant retained by the Department of Professional Regulation and limiting the use which the consultant may make of such records; amending s. 458.337, F.S.; specifying requirements for reports by medical organizations and hospitals when the physician has resigned; amending s. 458.345, F.S.; establishing requirements for registration of resident physicians and interns; providing a fee; restricting renewal or extension; prohibiting registration of certain persons; increasing a penalty; amending s. 458.347 and 459.022, F.S.; allowing extended temporary certification of physician assistants and osteopathic physician assistants; amending s. 459.0055, F.S.; providing for an investigative process for licensure of osteopathic physicians; amending s. 459.008, F.S.; requiring evidence of active practice for license renewal; providing for supervised practice; amending s. 459.0092, F.S.; increasing the maximum fee for renewal of a license to practice osteopathic medicine; amending ss. 460.413, 461.013, 464.018, 465.016, and 466.028, F.S.; providing additional grounds for disciplinary action against chiropractic physicians, podiatrists, nurses, pharmacists, and dentists; amending s. 627.912, F.S.; requiring insurers to report certain claims against dentists; providing for department review and investigation; providing for an annual report; amending s. 641.55, F.S.; providing for department review and investigation of certain incidents reported by health maintenance organization internal risk management programs; limiting public access; requiring report of certain incidents relating to surgical procedures; amending s. 768.13, F.S.; providing immunity from civil liability to physicians, hospitals, and certain hospital employees rendering medical care or treatment in response to an emergency within a hospital or trauma center; providing exceptions to such immunity; providing definitions; amending s. 768.40, F.S.; providing for professional society review of certain physicians; providing specified immunity with respect thereto; providing for nonbinding arbitration of civil cases involving claims for medical negligence; providing for selection of arbitration panels; providing for referral of cases to arbitration and procedures for referral; providing procedures for hearings; providing for arbitration awards and judgments; providing for trial de novo; providing for assessment of attorney's fees and costs in certain circumstances; providing a

cap on noneconomic damages; creating s. 768.67, F.S.; prohibiting settlement agreements from denying parties thereto the right to discuss with or report to the Division of Medical Quality Assurance the events giving rise to the claim; providing positions for and an appropriation to the Department of Professional Regulation; authorizing the Board of Medicine and Board of Osteopathic Medical Examiners to make a fee assessment; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Scott, by two-thirds vote SB 4-E was rereferred to the Committee on Appropriations.

On motion by Senator Myers, by two-thirds vote SB 9-E was withdrawn from the Committee on Economic, Community and Consumer Affairs.

Motion

On motion by Senator Barron, by two-thirds vote CS for SB 6-E was established as the special order calendar for this day.

SPECIAL ORDER

On motion by Senator Jennings, by two-thirds vote—

CS for SB 6-E—A bill to be entitled An act relating to medical incidents; providing legislative findings and intent regarding regulatory reform; amending s. 20.30, F.S.; creating the Division of Medical Quality Assurance within the Department of Professional Regulation and creating the Bureau of Medical Regulation within said division; providing duties of the division and bureau; requiring a report; placing the licensing boards for various health care professions within the division; amending s. 395.0115, F.S.; providing antitrust immunity through establishment of a state-mandated peer review process; requiring licensed facilities to provide for peer review of physicians who provide health care services at such facilities and providing procedures therefor; requiring report of final disciplinary actions to the Division of Medical Quality Assurance for further investigation; providing for peer review panel immunity and for confidentiality of records; amending s. 395.017, F.S.; providing maximum charge for copying records; providing access to confidential patient records for certain proceedings of the Department of Professional Regulation; limiting public access thereto; amending s. 395.041, F.S.; expanding internal risk management education and training requirements; requiring certain incident reports relating to surgical procedures; requiring report of certain incidents to the department; limiting public access; providing for department review and investigation of incidents which may involve conduct subject to discipline; providing administrative fines for violation of reporting requirements; providing for annual review of risk management programs; protecting risk managers from liability for implementation of risk management programs; requiring a report to the Legislature; amending s. 395.504, F.S., to correct a cross-reference; amending s. 455.225, F.S.; providing civil immunity and prohibition from discharge to persons reporting with respect to incompetence, impairment, or unprofessional conduct of specified health care providers; providing penalties; amending s. 455.241, F.S.; providing for reports of patient records; creating s. 455.2415, F.S.; providing for disclosure of patient communications under certain circumstances; amending s. 455.242, F.S.; providing for disposition of records of physicians who terminate practice or relocate; amending s. 455.245, F.S.; providing conditions for considering emergency suspension or restriction of a license; creating s. 455.247, F.S.; requiring physicians, osteopathic physicians, podiatrists, and dentists to report professional liability claims and actions to the department; specifying contents; creating s. 455.28, F.S.; requiring reporting of certain physicians for violation of grounds for disciplinary action; providing a penalty; requiring investigation of probable disciplinary violations; amending s. 458.303, F.S.; revising exemption of certain commissioned medical officers from specified medical practice provisions; amending s. 458.307, F.S.; modifying membership of the Board of Medicine; specifying composition of probable cause panels; providing for a training program; providing for completion of a panel's work; amending s. 458.311, F.S.; relating to requirements for licensure of physicians by examination; providing for an investigative process; providing for restricted licenses; amending s. 458.313, F.S.; providing for an investigative process for licensure by endorsement; requiring certain active practice; providing for restricted licenses; amending s. 458.315, F.S.; prohibiting issuance of temporary certificates for practice in areas of critical need to certain persons by endorsement; amending s. 458.3165, F.S.; providing for biennial renewal of public psychiatry certificates; amending s. 458.319, F.S.; increasing the maximum fee for renewal of a license to practice medicine; requiring evi-

dence of active practice for license renewal; providing for supervised practice; amending ss. 458.320 and 459.0085, F.S.; authorizing physicians and osteopathic physicians to use risk retention groups to meet financial responsibility requirements; amending s. 458.327, F.S.; providing a penalty for leading the public to believe that one is licensed as a medical doctor, or is engaged in the licensed practice of medicine, without a license; amending ss. 458.331 and 459.015, F.S.; providing additional grounds for disciplinary action against physicians and osteopathic physicians; providing penalties and providing priorities for application thereof; establishing the burden of proof for administrative actions against physicians; providing for injunctive relief; providing for department review and investigation of claims; amending ss. 458.3315, 459.0155, F.S.; providing that a physician or osteopathic physician who is believed to be impaired must execute a release of his medical records to a consultant retained by the Department of Professional Regulation and limiting the use which the consultant may make of such records; amending s. 458.337, F.S.; specifying requirements for reports by medical organizations and hospitals when the physician has resigned; amending s. 458.345, F.S.; establishing requirements for registration of resident physicians and interns; providing a fee; restricting renewal or extension; prohibiting registration of certain persons; increasing a penalty; amending ss. 458.347 and 459.022, F.S.; allowing extended temporary certification of physician assistants and osteopathic physician assistants; amending s. 459.0055, F.S.; providing for an investigative process for licensure of osteopathic physicians; amending s. 459.008, F.S.; requiring evidence of active practice for license renewal; providing for supervised practice; amending s. 459.0092, F.S.; increasing the maximum fee for renewal of a license to practice osteopathic medicine; amending ss. 460.413, 461.013, 464.018, 465.016, and 466.028, F.S.; providing additional grounds for disciplinary action against chiropractic physicians, podiatrists, nurses, pharmacists, and dentists; amending s. 627.912, F.S.; requiring insurers to report certain claims against dentists; providing for department review and investigation; providing for an annual report; amending s. 641.55, F.S.; providing for department review and investigation of certain incidents reported by health maintenance organization internal risk management programs; limiting public access; requiring report of certain incidents relating to surgical procedures; amending s. 768.13, F.S.; providing immunity from civil liability to physicians, hospitals, and certain hospital employees rendering medical care or treatment in response to an emergency within a hospital or trauma center; providing exceptions to such immunity; providing definitions; amending s. 768.40, F.S.; providing for professional society review of certain physicians; providing specified immunity with respect thereto; providing for nonbinding arbitration of civil cases involving claims for medical negligence; providing for selection of arbitration panels; providing for referral of cases to arbitration and procedures for referral; providing procedures for hearings; providing for arbitration awards and judgments; providing for trial de novo; providing for assessment of attorney's fees and costs in certain circumstances; providing a cap on noneconomic damages; creating s. 768.67, F.S.; prohibiting settlement agreements from denying parties thereto the right to discuss with or report to the Division of Medical Quality Assurance the events giving rise to the claim; providing positions for and an appropriation to the Department of Professional Regulation; authorizing the Board of Medicine and Board of Osteopathic Medical Examiners to make a fee assessment; providing an effective date.

—was read the second time by title.

Senators Jennings, Vogt, Myers, Kirkpatrick, Barron, Thomas, Deratany, Hill, Crawford, Brown, Beard and Peterson offered the following amendment which was moved by Senator Jennings:

Amendment 1—On pages 74-81, strike all of sections 44 and 45 and insert:

Section 44. Section 768.57, Florida Statutes, is amended to read:

768.57 Notice before filing action for medical malpractice; pre-suit screening period; offers for admission of liability and for arbitration; *informal discovery*; review.—

(1) As used in this section:

(a) "Claim for medical malpractice" means a claim arising out of the rendering of, or the failure to render, medical care or services.

(b) "Self-insurer" means any self-insurer authorized under s. 627.357 or any uninsured prospective defendant.

(c) "Insurer" includes the Joint Underwriting Association.

(2) Prior to filing a claim for medical malpractice, a claimant shall notify each prospective defendant *and, if any prospective defendant is a health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466, the Department of Professional Regulation* by certified mail, return receipt requested, of intent to initiate litigation for medical malpractice. *Such notice may not be sent until the claimant or his attorney conducts an investigation to determine whether reasonable grounds exist to believe that the health care provider was negligent in the care or treatment of the claimant and that such negligence resulted in injury to the claimant. The notice shall include a written opinion, by a qualified expert, which corroborates the negligence claim. Notice to the Department of Professional Regulation shall include the full name and address of the claimant, the full name and any known address of any health care providers licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who are prospective defendants identified at the time, the date and a summary of the occurrence giving rise to the claim, and a description of the injury to the claimant. This requirement for notice to the Department of Professional Regulation shall not impair the claimant's legal rights or ability to seek relief for his claim and shall not be discoverable or admissible in any civil or administrative action. The Department of Professional Regulation shall review each incident and determine whether it involves conduct by a licensee that is potentially subject to disciplinary action, in which case the provisions of s. 455.225 shall apply.*

(3)(a) No suit may be filed for a period of 90 days after notice is mailed to the prospective defendant, except that this period shall be 180 days if controlled by s. 768.28(6)(a). Reference to the 90-day period includes such extended period. During the 90-day period, the prospective defendant's insurer or self-insurer shall conduct a review to determine *whether reasonable grounds exist to believe that there has been no evidence of negligence or that any negligence that did occur did not contribute to the claimant's injuries* ~~the liability of the defendant~~. Each insurer or self-insurer shall have a procedure for the prompt investigation, review, and evaluation of claims during the 90-day period. This procedure shall include one or more of the following:

1. Internal review by a duly qualified claims adjuster;

2. Creation of a panel comprised of an attorney knowledgeable in the prosecution or defense of medical malpractice actions, a health care provider trained in the same or similar medical specialty as the prospective defendant, and a duly qualified claims adjuster;

3. A contractual agreement with a state or local professional society of health care providers, which maintains a medical review committee;

4. Any other similar procedure which fairly and promptly evaluates the pending claim.

Each insurer or self-insurer shall investigate the claim in good faith, and both the claimant and prospective defendant shall cooperate with the insurer in good faith. If the insurer requires, a claimant shall appear before a pretrial screening panel or before a medical review committee and shall submit to a physical examination, if required. Unreasonable failure of any party to comply with this section justifies dismissal of claims or defenses. There shall be no civil liability for participation in a pretrial screening procedure if done without intentional fraud.

(b) At or before the end of the 90 days, the insurer or self-insurer shall provide the claimant with a response:

1. Rejecting the claim, *accompanied by the written opinion of a qualified expert which substantiates a finding that the defendant was not negligent or that the claimant's injuries did not result from the defendant's negligence*;

2. Making a settlement offer; or

3. Making an offer of admission of liability and for arbitration on the issue of damages. ~~This offer may be made contingent upon a limit of general damages.~~

(c) The response shall be delivered to the claimant if not represented by counsel or to the claimant's attorney, by certified mail, return receipt requested. Failure of the prospective defendant or insurer or self-insurer to reply to the notice within 90 days after receipt shall be deemed a final rejection of the claim for purposes of this section.

(d) Within 30 days *after* of receipt of a response by a prospective defendant, insurer, or self-insurer to a claimant represented by an attor-

ney, the attorney shall advise the claimant in writing of the response, including:

1. The exact nature of the response under paragraph (b).
2. The exact terms of any settlement offer, or admission of liability and offer of arbitration on damages.
3. The legal and financial consequences of acceptance or rejection of any settlement offer, or admission of liability, including the provisions of this section.
4. An evaluation of the time and likelihood of ultimate success at trial on the merits of the claimant's action.
5. An estimation of the costs and attorney's fees of proceeding through trial.

(4) The notice of intent to initiate litigation shall be served within the time limits set forth in s. 95.11. However, during the 90-day period, the statute of limitations is tolled as to all potential defendants. Upon stipulation by the parties, the 90-day period may be extended and the statute of limitations is tolled during any such extension. Upon receiving notice of termination of negotiations in an extended period, the claimant shall have 60 days or the remainder of the period of the statute of limitations, whichever is greater, within which to file suit.

(5) No statement, discussion, written document, report, or other work product generated by the presuit screening process is discoverable or admissible in any civil action for any purpose by the opposing party. All participants, including, but not limited to, physicians, investigators, witnesses, and employees or associates of the defendant, are immune from civil liability arising from participation in the presuit screening process.

(6) Upon receipt by a prospective defendant of a notice of claim, the parties shall make discoverable information available without formal discovery. Failure to do so is grounds for dismissal of claims or defenses ultimately asserted.

(7)(a) *Informal discovery may be used by a party to obtain unsworn statements, the production of documents or things, and physical and mental examinations, as follows:*

1. *Any party may require other parties to appear for the taking of an unsworn statement. Such statements shall be used only for the purpose of presuit screening and are not discoverable or admissible in any civil action for any purpose by any party. A party desiring to take the unsworn statement of any party shall give reasonable notice in writing to all parties. The notice shall state the time and place for taking the statement and the name and address of the party to be examined. Unless otherwise impractical, the examination of any party shall be done at the same time by all other parties. Any party may be represented by counsel at the taking of an unsworn statement. An unsworn statement may be recorded electronically, stenographically, or on videotape. The taking of unsworn statements is subject to the provisions of the Rules of Civil Procedure and may be terminated for abuses.*

2. *Any party may request discovery of documents or things. Said documents or things shall be produced, at the expense of the requesting party, within 20 days of the date of receipt of the request. A party is required to produce discoverable documents or things within that party's possession or control.*

3. *A prospective defendant may require an injured prospective claimant to appear for examination by an appropriate health care provider. The defendant shall give reasonable notice in writing to all parties as to the time and place for examination. Unless otherwise impractical, a prospective claimant shall be required to submit to only one examination on behalf of all potential defendants. The practicality of a single examination shall be determined by the nature of the potential claimant's condition, as it relates to the liability of each potential defendant. The report of the examiner shall be made available to all parties upon payment of the reasonable cost of reproduction. Such report shall be provided only to other parties and their attorneys, and shall be used only for the purpose of presuit screening.*

(b) *All requests for and notices concerning informal presuit discovery pursuant to this section shall be in writing, and a copy thereof shall be sent to all parties. Such requests or notices shall bear a certificate of service identifying the name and address of the person to whom the request or notice is served, the date of the request or notice, and the manner of service thereof.*

(c) *Copies of any documents produced in response to the request of any party shall be served upon all other parties. The party serving the documents or his attorney shall identify, in a notice accompanying the documents, the name and address of the parties to whom the documents were served, the date of service, the manner of service, and the identity of the document served.*

(8) *After the completion of the presuit screening process by the parties, any party may file a motion in the circuit court requesting the court to determine whether the opposing party's claim or denial rests on a reasonable basis.*

(9) *If the notice of intent to initiate litigation does not comply with the reasonable investigation requirements of this section, the court shall dismiss the claim, and the claimant or the claimant's attorney, if the notice was filed by an attorney, shall be personally liable for attorney's fees and costs incurred in investigating and evaluating the claim.*

(10) *If a defendant's response which rejects the claim does not comply with the reasonable investigation requirements of this section, the court shall strike such response, and the person who filed such response, whether the defendant, the defendant's insurer, or the defendant's attorney, shall be personally liable for attorney's fees and costs incurred in investigating and evaluating the claim.*

(11)(a) *If an attorney files a notice of intent to initiate litigation without reasonable investigation, or files a medical negligence claim without timely filing a notice of intent which complies with the reasonable investigation requirements of this section, the court shall report him to The Florida Bar.*

(b) *If an attorney files a response rejecting a claim without reasonable investigation, the court shall report him to The Florida Bar.*

(c) *An attorney who has been reported pursuant to this subsection three or more times in a 5-year period shall be investigated for disciplinary action by The Florida Bar.*

(12) *If any corroborating written opinion of any physician filed under this section lacks reasonable investigation, the court shall report him to the Division of Medical Quality Assurance. A physician who has been reported pursuant to this subsection three or more times within a 5-year period shall be investigated for disciplinary action by the Division of Medical Quality Assurance.*

(13) *A claimant may file at any time a request for an admission of liability and arbitration of damages. The prospective defendant has 50 days from the date of receipt of the request to accept or reject it by responding in writing to the claimant by certified mail, return receipt requested. If the prospective defendant admits liability, the parties shall proceed to arbitration. If the prospective defendant rejects the request, the claimant may file suit with no limitation on damages and may recover reasonable attorney's fees and prejudgment interest from the date he requested arbitration.*

(14)(7) *If a prospective defendant makes an offer to admit liability and for arbitration on the issue of damages, the claimant has 50 days from the date of receipt of the offer to accept or reject it. The claimant shall respond in writing to the insurer or self-insurer by certified mail, return receipt requested. If the claimant rejects the offer, he may then file suit, and his noneconomic damages shall be limited to \$350,000. Acceptance of the offer of admission of liability and for arbitration waives recourse to any other remedy by the parties, and the claimant's written acceptance of the offer shall so state.*

(a) *If rejected, the offer or request to admit liability and for arbitration on damages is not admissible in any subsequent litigation. Upon rejection of the offer or request to admit liability and for arbitration, the claimant has 60 days or the remainder of the period of the statute of limitations, whichever period is greater, in which to file suit.*

(b) *If the offer or request to admit liability and for arbitration on damages is accepted, the parties have 30 days from the date of acceptance to settle the amount of damages. If the parties have not reached agreement after 30 days, they shall proceed to binding arbitration to determine the amount of damages as follows:*

1. *Each party shall identify his arbitrator to the opposing party not later than 35 days after the date of acceptance.*

2. *The two arbitrators shall, within 1 week after they are notified of their appointment, agree upon a third arbitrator. If they cannot agree on a third arbitrator, selection of the third arbitrator shall be in accordance with s. 44.304 chapter 682.*

3. Not later than 30 days after the selection of a third arbitrator, the parties shall file written arguments with each arbitrator and with each other indicating total damages.

4. Unless otherwise determined by the arbitration panel, within 10 days after the receipt of such arguments, unless the parties have agreed to a settlement, there shall be a 1-day hearing, at which formal rules of evidence and the rules of civil procedure shall not apply, during which each party shall present evidence as to damages. Each party shall identify the total dollar amount which he feels should be awarded. *The claimant shall be entitled to full economic damages, noneconomic damages to a maximum of \$250,000, interest, and reasonable attorney's fees and costs. Economic damages shall include past and future medical expenses and 80 percent of wage loss, less collateral payments. Noneconomic damages shall be calculated on a percentage basis. Interest shall be paid on all damages, accruing from a date 30 days after the filing of the claimant's original notice of intent. Reasonable attorney's fees shall be awarded, offset against any contingent fee the claimant has agreed to pay his attorney.*

5. *The arbitrators may provide for the payment of any award of future economic loss through periodic or other structured payments. Payments for future medical expenses shall terminate upon the death of the claimant. Payments for future wage loss to a claimant's dependents may be awarded to continue for a specific time following a claimant's death.*

6.5. No later than 2 weeks after the hearing, the arbitrators shall notify the parties of their determination of the total award. The court shall have jurisdiction to enforce any award or agreement for periodic payment of future damages.

(15)(8) If there is more than one prospective defendant, the claimant shall provide the notice of claim and follow the procedures in this section for each defendant. If an offer to admit liability and for arbitration is accepted, the procedures shall be initiated separately for each defendant, unless multiple offers are made by more than one prospective defendant and are accepted and the parties agree to consolidated arbitration. Any agreement for consolidated arbitration shall be filed with the court. No offer by any prospective defendant to admit liability and for arbitration is admissible in any civil action.

(16) *Following the determination of damages by the arbitration panel, multiple defendants who have agreed to voluntary binding arbitration shall submit any dispute among them regarding the apportionment of financial responsibility to a separate binding arbitration proceeding with a panel of three arbitrators agreed upon by the defendants, which panel shall include a physician and an attorney.*

(17) *Payment by any defendant of the damages awarded by the arbitration panel formed to allocate responsibility among multiple defendants shall extinguish that defendant's liability to the claimant and shall also extinguish that defendant's liability to a codefendant arising from any subsequent action for contribution.*

(18)(9) To the extent not inconsistent with this part, the provisions of s. 44.304, ~~chapter 682, the Florida Arbitration Code~~, shall be applicable to such proceedings.

(19)(10) This section ~~applies only~~ ~~shall apply~~ to causes ~~any cause~~ of action which accrue on or after the effective date of this act with respect to which suit has not been filed prior to October 1, 1985.

(Renumber subsequent sections.)

Amendment 1 was adopted. The vote was:

Yeas—25

Mr. President	Dudley	Kirkpatrick	Ros-Lehtinen
Barron	Girardeau	Lehtinen	Thomas
Beard	Grizzle	Margolis	Weinstock
Brown	Hill	McPherson	Woodson
Childers, W. D.	Hollingsworth	Myers	
Crawford	Jennings	Peterson	
Deratany	Johnson	Plummer	

Nays—14

Childers, D.	Grant	Langley	Thurman
Crenshaw	Hair	Malchon	Weinstein
Frank	Jenne	Meek	
Gordon	Kiser	Stuart	

Senator D. Childers moved the following amendment:

Amendment 2—On page 82, between lines 14 and 15, insert:

Section 49. Medical Negligence Liability Insurance Trust Fund.—

(1) DEFINITIONS.—The following definitions apply in the interpretation and enforcement of this section:

(a) "Committee" means a committee or board of trustees of a health care provider or group of health care providers established to make recommendations, policy, or decisions regarding patient institutional utilization, patient treatment, or institutional staff privileges or to perform other administrative or professional purposes or functions.

(b) "Fund" means the Medical Negligence Liability Insurance Trust Fund established pursuant to this section.

(c) "Health care provider" means a:

1. Hospital licensed under chapter 395, Florida Statutes;

2. Physician licensed under chapter 458, Florida Statutes;

3. Osteopathic physician licensed under chapter 459, Florida Statutes; or

4. Health maintenance organization certificated under part II of chapter 641, Florida Statutes.

(d) "Health maintenance organization" means a health maintenance organization certificated under part II of chapter 641, Florida Statutes.

(e) "Hospital" means a hospital licensed under chapter 395, Florida Statutes.

(f) "House physician" means any physician or osteopathic physician, except a physician or osteopathic physician having staff privileges at a hospital; a physician or osteopathic physician providing emergency room services; an anesthesiologist, pathologist, or radiologist; or a physician or osteopathic physician who performs a service for a fee.

(g) "Osteopathic physician" means an osteopathic physician licensed under chapter 459, Florida Statutes.

(h) "Per claim" means all claims per patient arising out of an occurrence.

(i) "Physician" means a physician licensed under chapter 458, Florida Statutes.

(2) COVERAGE.—

(a) Every health care provider shall pay the annual premium or, in a case in which a health care provider joins the fund after the fiscal year has begun, a prorated premium into the fund pursuant to subsection (3).

(b) Whenever a claim covered under subsection (3) results in a settlement or judgment against a health care provider, the fund shall pay to the extent of that health care provider's coverage if the health care provider has paid the premium required pursuant to subsection (3) for the year in which the claim is filed. The fund shall provide coverages for such claims, on the basis of claims made, independently for each fiscal year, such fiscal year running from April 1 through March 31. The fund may also provide coverages for portions of each fiscal year. The limit of the coverage afforded by the fund for each health care provider other than a hospital is \$2,000,000 per claim; and the limit of coverage afforded by the fund for each hospital is \$5,000,000 per claim. The health care provider member is responsible for the payment of any amount of a claim in excess of the applicable limit. The fund is not responsible for the payment of punitive damages awarded for actual or direct negligence of the health care provider member. The health care provider shall have the same responsibility for punitive damages it would have if it were not a member of the fund.

(c) The coverage afforded by the fund for a participating hospital applies to the officers; trustees; volunteer workers; trainees; committee

members; and employees of the hospital, other than employed physicians and osteopathic physicians. However, the coverage afforded by the fund for a participating hospital applies to house physicians, interns, employed physician residents in a resident training program, and physicians performing purely administrative duties for the hospital other than the treatment of patients. This coverage applies to the hospital and those persons included in this paragraph as one health care provider.

(d) A health care provider may not procure coverage within the limit that this section requires the provider to maintain from any source other than the fund. However, any health care provider may procure, from a private carrier, coverage in excess of the coverage that this section requires the provider to maintain.

(3) THE FUND.—

(a) Purposes.—Effective April 1, 1988, there is created the "Medical Negligence Liability Insurance Trust Fund" for the purpose of paying that portion of any claim arising out of the rendering of or failure to render medical care or services, or arising out of activities of committees, for health care providers or any claim for bodily injury or property damage to the person or property of any patient, including all patient injuries and deaths, arising out of the members' activities for those health care providers set forth in subparagraphs (1)(c)1. and 4. which is less than the limit specified under paragraph (2)(b). The fund is responsible only for payment of claims against health care providers who are in compliance with the provisions of paragraph (2)(b), of reasonable and necessary expenses incurred in the payment of claims, and of fund administrative expenses.

(b) Fund administration and operation.—

1. The fund is not a state agency, board, or commission.
2. The fund shall be administered by a board of governors, but the board of governors shall contract, on a cost-plus basis, with private carriers for administering the claims made against the fund.
3. The board of governors of the fund shall consist of eleven members appointed by the Governor, as follows:
 - a. One physician engaged in the private practice of medicine from among three such physicians nominated by the Florida Medical Association.
 - b. One osteopathic physician engaged in the private practice of osteopathic medicine from among three such osteopathic physicians nominated by the Florida Osteopathic Medical Association.
 - c. One hospital administrator from among three such administrators nominated by the Florida Hospital Association, Inc.
 - d. One manager of a health maintenance organization from among three such managers nominated by the Insurance Commissioner.
 - e. Four attorneys engaged in civil trial practice from among 12 such attorneys nominated by The Florida Bar.
 - f. Two persons engaged in the professional liability insurance industry from among six such persons nominated by the Insurance Commissioner.
 - g. One person who is not engaged, and has never been engaged, in the health care, legal, or insurance industry.

The members of the board of governors shall be appointed to serve terms of 4 years each, except that, with respect to the initial appointments to the board of governors, the hospital administrator member, the public member, and one of the attorney members shall be appointed for terms of 3 years each; the osteopathic physician member, one of the professional liability insurance members, and one of the attorney members shall be appointed for terms of 2 years each; and the health maintenance organization manager member and one of the attorney members shall be appointed for terms of 1 year each.

4. The board of governors shall, during its first meeting in each fiscal year, choose one of its members to serve as chairman of the board and another member to serve as vice chairman of the board, except that the initial chairman and vice chairman shall be designated by the Governor. The board of governors shall meet at the call of the chairman at least twice a year, but the board of governors may hold such additional meetings during the year as it considers necessary. Further, the chairman or

a quorum of the board of governors shall have the authority to call other meetings. Each member of the board of governors may designate in writing to the chairman of the board of governors an alternate to act in the member's absence or incapacity.

5. A member of the board of governors, or his alternate, may be reimbursed from the assets of the fund for expenses incurred by him as a member or alternate member of the board of governors and for committee work, but he may not otherwise be compensated by the fund for his service as a board member or alternate.

6. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the fund or its agents or employees, professional advisers or consultants, or members of the board of governors or their alternates for any action taken by them in the performance of their powers and duties pursuant to this section.

7. The fund has the same liability for refusing, in bad faith, to settle a claim within the coverage limits of the fund as exists with respect to private insurance carriers.

(c) Powers of the fund.—The fund has the power to:

1. Sue and be sued, and appear and defend, in all actions and proceedings in its name to the same extent as a natural person.
2. Adopt, change, amend, and repeal a plan of operation, not inconsistent with law, for the regulation and administration of the affairs of the fund. The plan and any changes thereto shall be filed with the Governor and are all subject to his approval before implementation by the fund. All fund members, board of governors members, and employees shall comply with the plan of operation.
3. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the fund is created.
4. Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section.
5. Employ or retain such persons, including a manager, as are necessary to perform the administrative and financial transactions and responsibilities of the fund and to perform other necessary or proper functions unless prohibited by law.
6. Take such legal action as may be necessary to avoid payment of improper claims.
7. Indemnify any employee, agent, member of the board of governors or his alternate, or person acting on behalf of the fund in an official capacity, for expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with any action, suit, or proceeding, including any appeal thereof, arising out of his capacity in acting on behalf of the fund, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the fund and, with respect to any criminal action or proceeding, he had reasonable cause to believe his conduct was lawful.

(d) Fees and assessments.—Each health care provider complying with paragraph (2)(b) for a given fiscal year shall pay the annual premium established under this section relative to such fiscal year, for deposit into the fund. A health care provider entering the fund after the fiscal year has begun shall pay a prorated share of the annual premium. Before the first day of each fiscal year, the fund shall establish actuarially sound annual premiums that are payable annually or in semiannual or quarterly installments. Each fiscal year of the fund operates independently of preceding fiscal years. Participants are only liable for premiums for claims from years during which they were members of the fund; in cases in which a participant is a member of the fund for less than the total fiscal year, a member is subject to the premium for that year on a pro rata basis determined by the percentage of participation for the year. No additional charges for coverage of prior acts or for entering the fund may be assessed to the member.

1. Each hospital member shall be provided coverage in the amount of \$2,000,000 per claim, with an annual aggregate of \$5,000,000 for all claims, for which coverage the hospital shall be charged an annual premium based on the number of beds in the hospital.

2. Each health care provider member other than a hospital shall be provided basic coverage in the amount of \$250,000 per claim, with an annual aggregate of \$750,000 for all claims, for which coverage the pro-

vider shall be charged an actuarially sound annual premium rated according to specialty, and excess coverage beyond the basic coverage in the amount of \$2,000,000 per claim, for which coverage the provider shall be charged an annual premium that is equal to that charged every other provider, excluding hospitals, for such excess coverage. However, the fund may separately rate or review the annual premium charged for basic coverage for any physician or osteopathic physician having had two claims paid on the fund in excess of \$125,000 each within the preceding 3-year period. For the first fiscal year of the fund, the annual premium charged for excess coverage shall be fixed in the amount of \$3,500.

3. Any member that has withdrawn from actively providing services shall be provided tail coverage to cover claims from prior years, for which coverage such retired member shall be charged an annual premium that is actuarially sound.

(e) Fund accounting and audit.—

1. Money may be withdrawn from the fund only upon a voucher as authorized by the board of governors.

2. All books, records, and audits of the fund must be open for reasonable inspection to the general public, except that a claim file in possession of the fund or a fund member is not available for review during processing of that claim. Any book, record, document, audit, or asset acquired by, prepared for, or paid for by the fund is subject to the authority of the board of governors, who shall be responsible therefor.

3. Persons authorized to receive deposits, issue vouchers, or withdraw or otherwise disburse any fund moneys shall post a blanket fidelity bond in an amount reasonably sufficient to protect fund assets. The cost of such bond shall be paid from the fund.

4. Annually, the fund shall furnish, upon request, audited financial reports to any fund participant and to the Department of Insurance and the Joint Legislative Auditing Committee. The reports shall be prepared in accordance with accepted accounting procedures and shall include income and such other information as may be required by the Department of Insurance or the Joint Legislative Auditing Committee.

5. Any money held in the fund shall be invested in interest-bearing investments by the board of governors. However, in no case may any such money be invested in the stock of any insurer participating in the Joint Underwriting Association authorized by section 627.351, Florida Statutes, or in the parent company of, or company owning a controlling interest in, such insurer. All income derived from such investments shall be credited to the fund.

6. Moneys of the fund may not be commingled with moneys of any other trust fund.

7. Any health care provider participating in the fund may withdraw from participation in the fund only at the end of a fiscal year and only on account of disability, death, retirement, or cessation of business operation.

(f) Claims procedures.—

1. Any person may file an action against a participating health care provider for damages covered under the fund, except that the person filing the claim may not recover against the fund unless the fund was notified in a timely manner by the defendant in the suit.

2. A person who has recovered a final judgment against the fund or against a health care provider who is covered by the fund may file a claim with the fund to recover that portion of such judgment which does not exceed the amount of the health care provider's coverage under the fund. The amount of liability of the fund under a judgment, including court costs, reasonable attorney's fees, and interest, must be paid in a lump sum, except that any claims for future special damages may be paid periodically as they are incurred by the claimant. If a claimant dies while receiving periodic payments, payment for future medical expenses shall cease, but payment for future wage loss, if any, shall continue at a rate of not more than \$100,000 per year, for that period considered the normal life expectancy of the claimant. The fund may pay a lump sum reflecting the present value of future wage losses in lieu of continuing the periodic payments.

3. Payment of settlements or judgments involving the fund shall be paid in the order received within 60 days after the date of settlement or judgment, unless appealed by the fund. If the account for a given year

does not have enough money to pay all of the settlements or judgments, those claims received after the funds are exhausted must be paid in the order in which they are received. However, no claimant has the right to execute against the fund to the extent that the judgment is for a claim covered in a membership year for which the fund has insufficient assets to pay the claim, as determined by premiums collected for that year and any investment income. When the fund has insufficient assets to pay claims for a fund year, the fund is not required to post a supersedeas bond in order to stay execution of a judgment pending appeal, but shall assess the members of the fund for any deficit. The fund shall retain a reasonable sum of money for payment of administrative and claims expense, which money is not subject to execution.

4. The manager of the fund or his assistant is the agent for service of process for the fund.

Section 50. Effective April 1, 1988, subsection (5) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(5) Upon the department's receipt from the Department of Insurance of the name of a physician having ~~two three~~ or more claims with indemnities exceeding ~~\$125,000 \$10,000~~ each within the ~~preceding 3 years previous 5-year period, including reports for the 3-year period preceding the effective date of this act,~~ the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the physician is warranted.

Section 51. Effective April 1, 1988, subsection (5) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action by the board.—

(5) Upon the department's receipt from the Department of Insurance of the name of an osteopathic physician having ~~two three~~ or more claims with indemnities exceeding ~~\$125,000 \$10,000~~ each within the ~~preceding 3 years previous 5-year period, including reports for the 3-year period preceding October 1, 1985,~~ the department shall investigate the occurrences upon which the claims were based and determine if action by the department against the osteopathic physician is warranted.

Section 52. Effective April 1, 1988, subsection (3) of section 627.912, Florida Statutes, is amended to read:

627.912 Professional liability claims and actions; reports by insurers.—

(3) The department shall screen the reports and send to the Department of Professional Regulation, and the appropriate regulatory board, and the *Medical Negligence Liability Insurance Trust Fund* copies of the reports of any ~~physician physicians or osteopath osteopaths~~ having ~~two three~~ or more claims with indemnities exceeding ~~\$125,000 \$10,000~~ each within the ~~preceding 3 years previous 5-year period, including screening reports for the 3-year period preceding October 1, 1985.~~ With respect to any such report, the Department of Professional Regulation ~~is shall be~~ authorized to obtain the name of the patient to whom the report applies directly from the *Medical Negligence Liability Insurance Trust Fund insurer or self-insurer filing the report*, and the ~~fund insurer or self-insurer~~ shall promptly furnish the name of the patient to the department when requested. For purposes of safety management, the department shall annually provide the Department of Health and Rehabilitative Services with copies of the reports in cases resulting in an indemnity being paid to the claimants.

(Renumber subsequent sections.)

Amendment 2 failed. The vote was:

Yeas—14

Childers, D.	Grizzle	Meek	Weinstock
Frank	Jenne	Ros-Lehtinen	Woodson
Girardeau	Langley	Stuart	
Gordon	Malchon	Weinstein	

Nays—23

Mr. President	Beard	Childers, W. D.	Crenshaw
Barron	Brown	Crawford	Deratany

Dudley	Hollingsworth	Lehtinen	Scott
Grant	Jennings	Margolis	Thomas
Hair	Johnson	Myers	Thurman
Hill	Kiser	Peterson	

Vote after roll call:

Nay—Kirkpatrick

Senator Lehtinen moved the following amendment which was adopted:

Amendment 3—On page 69, lines 18-30, and on page 70, lines 1-19, strike all of said lines and insert:

(b)1. Any hospital licensed under chapter 395, any employee of such hospital working in a clinical area and providing patient care, and any person licensed to practice medicine who gratuitously and in good faith renders medical emergency care or treatment necessitated by a sudden, unexpected situation or occurrence resulting in a serious medical condition demanding immediate medical attention, for which the patient enters the hospital through its emergency room in response to a "code blue" emergency within a hospital or trauma center, shall not be held liable for any civil damages as a result of such medical care or treatment, unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating conscious disregard, or reckless disregard whether conscious or not, for consequences so as to affect the life or health of another.

2 The immunity provided by this paragraph does not apply to damages as a result of any act or omission of providing medical care or treatment:

a. Which occurs after the patient is stabilized and is capable of receiving medical treatment as a nonemergency patient, unless surgery is required as a result of the emergency after the patient is stabilized, in which case the immunity provided by this paragraph applies to any act or omission of providing medical care or treatment which occurs prior to the stabilization of the patient following the surgery;

b. Unrelated to the original medical emergency; or

c. By a physician to a patient with whom the physician has a preexisting doctor-patient relationship. or

Senator Woodson moved the following amendment which was adopted:

Amendment 4—On page 82, between lines 14 and 15, insert:

Section 49. Subsection (6) is added to section 768.45, Florida Statutes, to read:

768.45 Medical negligence; standards of recovery.—

(6)(a) In any action for damages involving a claim of negligence against a physician licensed under chapter 458, osteopathic physician licensed under chapter 459, podiatrist licensed under chapter 461, or chiropractor licensed under chapter 460 providing emergency medical services in a hospital emergency department, the court shall admit expert medical testimony only from physicians, osteopathic physicians, podiatrists, and chiropractors who have had substantial professional experience within the preceding 5 years while assigned to provide emergency medical services in a hospital emergency department.

(b) For the purposes of this subsection:

1. The term "emergency medical services" means those medical services required for the immediate diagnosis and treatment of medical conditions which, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death.

2. "Substantial professional experience" shall be determined by the custom and practice of the manner in which emergency medical coverage is provided in hospital emergency departments in the same or similar localities where the alleged negligence occurred.

(Renumber subsequent sections.)

Senator Margolis moved the following amendment which failed:

Amendment 5—On page 74, line 13, insert:

Section 44. Subsection (6) of section 768.81, Florida Statutes, is created to read:

(6) Notwithstanding anything in law to the contrary, in an action for damages for personal injury or wrongful death arising out of medical malpractice, whether in contract or tort, when an apportionment of damages pursuant to this section is attributed to a teaching hospital as defined in section 395.502(22), the court shall enter judgment against each party liable on the basis of such party's percentage of fault and not on the basis of the doctrine of joint and several liability.

(Renumber subsequent subsections.)

Senator Frank moved the following amendments which were adopted:

Amendment 6—On page 82, between lines 14 and 15, insert:

Section 49. Notwithstanding the provisions of s. 627.0625, Florida Statutes, insurers issuing insurance in this state shall reflect in their filings for rates, rating schedules, or rating manuals for medical malpractice insurance any savings or other effects realized by the insurer as a result of this act.

Amendment 7—In title, on page 6, line 24, after the semicolon (;) insert: requiring medical malpractice insurers to reflect certain savings in rate filings and schedules;

Senator Woodson moved the following amendment which was adopted:

Amendment 8—In title, on page 6, line 1, following the first semicolon (;) insert: amending s. 768.45, F.S.; prescribing matters to be considered by the trier of fact in a claim of negligence for services provided in a hospital emergency room; limiting who may give expert medical testimony;

Senator Lehtinen moved the following amendment which was adopted:

Amendment 9—In title, on page 6, line 1, strike "providing definitions;"

Senator Jennings moved the following amendment which was adopted:

Amendment 10—In title, on page 6, strike all of lines 5-15, and insert: amending s. 768.57, F.S.; expanding notice requirements prior to filing a claim for medical malpractice; stipulating informal discovery provisions with respect to presuit screening of such claims; prescribing conditions under which attorney's fees and costs may be awarded; providing for motions with respect to claims and denials; providing for notice to The Florida Bar and the Division of Medical Quality Assurance in certain circumstances; providing for award and payment of damages; prescribing a limit on noneconomic damages; creating s. 768.67, F.S.; prohibiting

On motion by Senator Jennings, by two-thirds vote CS for SB 6-E as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Girardeau	Kiser	Ros-Lehtinen
Barron	Grant	Lehtinen	Scott
Beard	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Woodson
Crenshaw	Jennings	Myers	
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	

Nays—10

Brown	Gordon	Meek	Weinstock
Childers, D.	Jenne	Stuart	
Frank	Langlely	Weinstein	

Vote after roll call:

Yea—Hill

Motion

On motions by Senator McPherson, by two-thirds vote—

SB 10-E—A bill to be entitled An act relating to notes secured by mortgages; amending s. 697.06, F.S.; repealing certain restrictions on assessing certain charges, fees, or penalties for the prepayment of such a note when the obligee has accelerated the maturity date of such note; providing an effective date.

—was withdrawn from the Committee on Commerce and by unanimous consent taken up instant.

On motions by Senator McPherson, by two-thirds vote SB 10-E was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Girardeau

INTRODUCTION AND REFERENCE OF BILLS

On motion by Senator Beard, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senator Beard—

SB 11-E—A bill to be entitled An act relating to operation of commercial motor vehicles; amending s. 316.302, F.S.; revising provisions with respect to operation of a commercial motor vehicle solely within this state; limiting periods of time when a driver may be on duty; providing that certain commercial vehicle operators are exempt from described rules; providing that the amendments to s. 316.302, F.S., shall be invalid under certain circumstances; providing for severability of the provisions of the act; providing an effective date.

—which was referred to the Committee on Transportation.

Motion

On motions by Senator Beard, by two-thirds vote SB 11-E was withdrawn from the Committee on Transportation and by unanimous consent taken up instant.

On motions by Senator Beard, by two-thirds vote SB 11-E was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Langley	Scott
Barron	Grant	Lehtinen	Stuart
Beard	Grizzle	Malchon	Thomas
Brown	Hair	Margolis	Thurman
Childers, D.	Hill	McPherson	Weinstein
Childers, W. D.	Hollingsworth	Meek	Weinstock
Crawford	Jenne	Myers	Woodson
Crenshaw	Jennings	Peterson	
Deratany	Johnson	Plummer	
Dudley	Kirkpatrick	Ros-Lehtinen	

Nays—1

Frank

Vote after roll call:

Yea—Girardeau

Announcements

Senator Deratany announced cancellation of the meeting of the Committee on Finance, Taxation and Claims scheduled for this day.

Senator Scott announced cancellation of the meetings of the Appropriations Subcommittees scheduled for this day.

Conferees Appointed

The President appointed Senators Jennings, Barron, Hair, Kirkpatrick and Myers; and alternates, Senators Deratany, Kiser and Thomas; as conferees on CS for SB 6-E, subject to confirmation.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of February 2 was corrected and approved.

RECESS

On motion by Senator Barron, the Senate recessed at 4:03 p.m. to reconvene at 9:00 a.m., Thursday, February 4.