

20092252er

1  
2 An act relating to professional liability claims;  
3 amending s. 624.424, F.S.; clarifying a provision  
4 requiring that the Financial Services Commission adopt  
5 rules; amending s. 627.912, F.S.; revising  
6 requirements for reporting professional liability  
7 claims and actions; providing definitions; specifying  
8 events for which certain reports are required;  
9 requiring certain absence of claims submission reports  
10 to be filed under certain circumstances; providing  
11 requirements for treatment of reopened claims;  
12 providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:  
15

16 Section 1. Paragraph (e) of subsection (8) of section  
17 624.424, Florida Statutes, is amended to read:

18 624.424 Annual statement and other information.-

19 (8)

20 (e) The commission shall adopt rules to implement this  
21 subsection, which rules must be in substantial conformity with  
22 the 1998 Model Rule Requiring Annual Audited Financial Reports  
23 adopted by the National Association of Insurance Commissioners  
24 or subsequent amendments, except where inconsistent with the  
25 requirements of this subsection. Any exception to, waiver of, or  
26 interpretation of accounting requirements of the commission must  
27 be in writing and signed by an authorized representative of the  
28 office. No insurer may raise as a defense in any action, any  
29 exception to, waiver of, or interpretation of accounting

20092252er

30 requirements, unless previously issued in writing by an  
31 authorized representative of the office.

32 Section 2. Subsection (1) of section 627.912, Florida  
33 Statutes, is amended to read:

34 627.912 Professional liability claims and actions; reports  
35 by insurers and health care providers; annual report by office.—

36 (1) (a) Each self-insurer authorized under s. 627.357 and  
37 each commercial self-insurance fund authorized under s. 624.462,  
38 authorized insurer, surplus lines insurer, risk retention group,  
39 and joint underwriting association providing professional  
40 liability insurance to a practitioner of medicine licensed under  
41 chapter 458, to a practitioner of osteopathic medicine licensed  
42 under chapter 459, to a podiatric physician licensed under  
43 chapter 461, to a dentist licensed under chapter 466, to a  
44 hospital licensed under chapter 395, to a crisis stabilization  
45 unit licensed under part IV of chapter 394, to a health  
46 maintenance organization certificated under part I of chapter  
47 641, to clinics included in chapter 390, or to an ambulatory  
48 surgical center as defined in s. 395.002, and each insurer  
49 providing professional liability insurance to a member of The  
50 Florida Bar shall report to the office as set forth in paragraph  
51 (c) any written claim or action for damages for personal  
52 injuries claimed to have been caused by error, omission, or  
53 negligence in the performance of such insured's professional  
54 services or based on a claimed performance of professional  
55 services without consent, ~~if the claim resulted in:~~

56 ~~1. A final judgment in any amount.~~

57 ~~2. A settlement in any amount.~~

58 ~~3. A final disposition of a medical malpractice claim~~

20092252er

59 ~~resulting in no indemnity payment on behalf of the insured.~~

60 (b) For purposes of this section, the term "claim" means  
61 the receipt of a notice of intent to initiate litigation, a  
62 summons and complaint, or a written demand from a person or his  
63 or her legal representative stating an intention to pursue an  
64 action for damages against a person described in paragraph (a).

65 (c) The duty to report specified in paragraph (a) arises  
66 upon the occurrence of the first of:

67 1. The entry of any judgment against any provider  
68 identified in paragraph (a) for which all appeals as a matter of  
69 right have been exhausted or for which the time period for  
70 filing such an appeal has expired;

71 2. The execution of an agreement between a provider  
72 identified in paragraph (a) or an entity required to report  
73 under that paragraph and a claimant to settle damages purported  
74 to arise from the provision of professional services, which  
75 agreement includes the indemnity payment of at least \$1;  
76 however, if any applicable law requires any such agreement to be  
77 approved by the court, the duty arises when the agreement is  
78 approved;

79 3. The final payment of any indemnity money by any of the  
80 entities required to report under paragraph (a) on behalf of any  
81 provider identified in that paragraph for damages purported to  
82 arise from professional services rendered; or

83 4. The final disposition of a claim for which no indemnity  
84 payment was made on behalf of the insured but for which loss  
85 adjustment expenses were paid in excess of \$5,000. As used in  
86 this subparagraph, the term "final disposition" means the  
87 insurer has brought down all reserves and closed its file.

20092252er

88        (d) After any calendar year in which no claim or action for  
89 damages was closed, the entity shall file a no claim submission  
90 report. Such report shall be filed with the office no later than  
91 April 1 of each calendar year for the immediately preceding  
92 calendar year. If a reporting entity submits such a report for a  
93 particular calendar year and subsequently discovers that its  
94 report was submitted in error, the reporting entity shall  
95 promptly notify the office of the error and take steps as  
96 directed by the office to make the needed corrections.

97        (e) If a claim is initially opened and then closed, and is  
98 subsequently reopened, the reopened claim shall be treated as a  
99 new claim and reported after the occurrence of the first of any  
100 event listed in paragraph (c).

101        (f) ~~(b)~~ Each health care practitioner and health care  
102 facility listed in paragraph (a) must report any claim or action  
103 for damages as described in paragraph (a), if the claim is not  
104 otherwise required to be reported by an insurer or other  
105 insuring entity.

106        (g) Reports under this subsection shall be filed with the  
107 office no later than 30 days following the occurrence of the  
108 first of any event listed in paragraph (c) ~~(a)~~. An insurer is  
109 not required to file a new or amended report on a claim more  
110 than 1 year after submitting an initial report.

111        Section 3. This act shall take effect July 1, 2009.