

APPENDIX B – Legislations and Statutes

1. Florida Medical Practice Act

The Florida Medical Practice Act (F.S. 458), the Legislature, Department of Professional Regulation, Board of Medicine and medical profession affirm their commitment to public safety by continuing to authorize the Florida Impaired Practitioners Program. The impaired practitioner program also governs the professionals of osteopathic medicine, pharmacy, podiatry, and nursing. The legislation provides in some cases therapeutic alternatives to disciplinary action; in other cases, the legislation allows therapeutic intervention and treatment concurrent with disciplinary action. Recognition that illness and recovery are mitigating factors in Board disciplinary proceedings gives a licensee an opportunity to reenter practice after satisfactorily completing treatment and progressing satisfactorily in recovery and provides increased incentive for early interventions and treatment. Information on the Physicians Recovery Network and its program can be obtained by calling 1-800-888-8PRN (8776) or by writing to Physicians Recovery Network, PO Box 1881, Fernandina Beach, FL 32034.

2. Professional Liability Protection (Florida Statutes 768.28)

Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.

1. In accordance with s. 13, Art. X, State Constitution, the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act. Actions at law against the state or any or its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant, in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act. Any such action may be brought in the county where the property in litigation is located or, if the affected agency or subdivision has an office in such county for the transaction of its customary business, where the cause of action accrued.
2. As used in this act, "state agencies or subdivisions" include the executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties or municipalities, including the Spaceport Florida Authority.
3. Except for a municipality and the Spaceport Florida Authority, the affected agency or subdivision may, at its discretion, request the assistance of the Department of Insurance in the consideration, adjustment, and settlement of any claim under this act.
4. Subject to the provisions of this section, any state agency or subdivision shall have the right to appeal any award, compromise, settlement, or determination to the court of appropriate jurisdiction.
5. The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of \$100,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments

paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$200,000. However, a judgment or judgments may be claimed and rendered in excess of these amounts and may be settled and paid pursuant to this act up to \$100,000 or \$200,000, as the case may be, and that portion of the judgment that exceeds these amounts may be reported to the Legislature, but may be paid in part or in whole only by further act of the Legislature. Notwithstanding the limited waiver of sovereign immunity provided herein, the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it without further action by the Legislature, but the state or agency or subdivision thereof shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortuous acts in excess of the \$100,000 or \$200,000 waiver provided above. The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

6. **6.a.** An action may not be instituted...(continued)

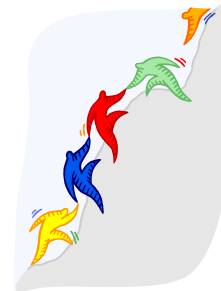
6.b. As used in this subsection, the term:

- “Employee” includes any volunteer firefighter.
- “Officer, employee, or agent” includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115, any member of the Florida Health Services Corps, as defined in s. 381.0302, who provides uncompensated care to medically indigent persons referred by the Department of Health and Rehabilitative Services, and any public defender or her or his employee or agent, including, among others, an assistant public defender and an investigator.

3. Good Samaritan Act (Florida Statutes 768.13)

1. This act shall be known and cited as the “Good Samaritan Act.

2. **2 A.** Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a state of emergency which has been declared pursuant to 252.36 or at the scene of an emergency outside of a hospital, doctor’s office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as



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a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent individual would have acted under the same or similar circumstances.

2 B. 1. Any hospital licensed under chapter 395, any employee of such hospital working in a clinical area within the facility and providing patient care, and any person licensed to practice medicine who in good faith renders medical care or treatment necessitated by a sudden, unexpected situation or occurrence resulting in serious medical condition demanding immediate medical attention, for which the patient enters the hospital through its emergency room 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 a reckless disregard for the consequences so as to affect the life or health of another.

2B. 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 non-emergency patient, unless surgery is required as a result of the emergency within a
- b. reasonable time 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; or
- c. unrelated to the original medical emergency.

2B. 3. For purposes of this paragraph, “reckless disregard” as it applies to a given health care provider rendering emergency medical services shall be such conduct which a health care provider knew or should have known, at the time such services were rendered, would be likely to result in injury so as to affect the life or health of another, taking into account the following to the extent they may be present:

- a. The extent or serious nature of the circumstances prevailing.
- b. The lack of time or ability to obtain appropriate consultation.
- c. The lack of a prior patient-physician relationship.
- d. The inability to obtain an appropriate medical history of the patient.
- e. The time constraints imposed by coexisting emergencies.

2B. 4. Every emergency care facility granted immunity under this paragraph shall accept and treat all emergency care patients within the operational capacity of such facility without regard to ability to pay, including patients transferred from another emergency care facility or other health care provider pursuant to Pub. L. No. 99-272, s. 9121. The failure of an emergency care facility to comply with this subparagraph constitutes grounds for the department to initiate disciplinary action against the facility pursuant to chapter 395.

2.C. Any person who is licensed to practice medicine, while acting as a staff member or with professional clinical privileges at a nonprofit medical facility, (other than a hospital licensed under chapter 395) or as a result of any act or failure to act in such capacity in providing or arranging further medical treatment or while performing health screening services, shall not be held liable for any civil damages as a result of care or treatment provided gratuitously in such capacity as a result of any act or failure to act in such capacity in providing or arranging further medical treatment, if such person acts as a reasonably prudent person licensed to practice medicine would have acted under the same or similar circumstances.

- 3. Any person, including those licensed to practice veterinary medicine, who gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency on or adjacent to a roadway shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonable prudent person would have acted under the same or similar circumstances.
- 4. Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment by the use of or provision of an automatic external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonable prudent person would have acted under the same or similar circumstances.

4. Family and Medical Leave Act

The purpose of the Family and Medical Leave Act of 1993 is:

- 1. To balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

2. To entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;
3. To accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;
4. To accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and
5. To promote the goal of equal employment opportunity for women and men, pursuant to such clause. A total of 12 weeks of uncompensated Family and Medical Leave may be allowed for House Officers upon prior written request and approval by Program Director and GME Office. As prescribed by the FMLA, when both spouses are employed by the same employer, they are entitled to a combined total of 12 weeks parental leave.