

By Representatives Goode and Crist

1 A bill to be entitled
2 An act relating to insurance fraud; amending s.
3 440.09, F.S.; conforming references to judges
4 of compensation claims and administrative law
5 judges; amending s. 440.105, F.S.; specifying a
6 schedule of criminal penalties for certain
7 prohibited activities; providing definitions;
8 providing a period of limitations for
9 undertaking certain proceedings; amending s.
10 624.416, F.S.; providing additional criteria
11 for the Department of Insurance to consider in
12 issuing certain certificates of authority;
13 amending s. 624.418, F.S.; providing an
14 additional criterion for suspending or revoking
15 certain certificates of authority; amending s.
16 626.989, F.S.; providing for reports of
17 insurance fraud to the Division of Insurance
18 Fraud of the Department of Insurance; amending
19 s. 626.9891, F.S.; requiring insurers to
20 provide for investigation of fraudulent claims;
21 requiring insurers to adopt an anti-fraud plan;
22 providing criteria and procedures; requiring
23 insurers to file an anti-fraud report with the
24 department; specifying contents; authorizing
25 the department to adopt rules; creating s.
26 626.9892, F.S.; establishing the Anti-Fraud
27 Reward Program in the department; providing for
28 awarding rewards under certain circumstances;
29 exempting certain department actions from
30 Florida Administrative Code requirements;
31 amending s. 627.062, F.S.; requiring the

1 department to consider certain additional
2 factors in reviewing rate filings; amending s.
3 627.072, F.S.; requiring consideration of
4 certain additional factors in making and using
5 rates; amending s. 627.411, F.S.; requiring the
6 department to consider certain additional
7 factors in determining the reasonableness of
8 benefits in relation to premiums charges;
9 creating s. 641.3915, F.S.; requiring certain
10 health maintenance organizations to provide for
11 investigation of fraudulent claims; requiring
12 health maintenance organizations to adopt an
13 anti-fraud plan; providing criteria and
14 procedures; requiring health maintenance
15 organizations to file an anti-fraud report with
16 the department; specifying contents;
17 authorizing the department to adopt rules;
18 amending s. 817.234, F.S.; specifying a
19 schedule of criminal penalties for committing
20 insurance fraud or insurance solicitation;
21 providing definitions; providing a period of
22 limitations for undertaking certain
23 proceedings; providing an appropriation;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsection (4) of section 440.09, Florida
29 Statutes, is amended to read:

30 440.09 Coverage.--
31

1 (4) An employee shall not be entitled to compensation
2 or benefits under this chapter if any judge of compensation
3 claims, administrative law judge ~~hearing officer~~, court, or
4 jury convened in this state determines that the employee has
5 knowingly or intentionally engaged in any of the acts
6 described in s. 440.105 for the purpose of securing workers'
7 compensation benefits.

8 Section 2. Subsections (4) and (6) of section 440.105,
9 Florida Statutes, are amended, and subsection (8) is added to
10 said section, to read:

11 440.105 Prohibited activities; penalties;
12 limitations.--

13 (4)(a) Whoever violates any provision of this
14 subsection commits insurance fraud. If the value of any
15 property involved in violation of this subsection:

16 1. Is less than \$20,000, the offender commits a felony
17 of the third degree, punishable as provided in s. 775.082, s.
18 775.083, or s. 775.084.

19 2. Is \$20,000 or more, but less than \$100,000, the
20 offender commits a felony of the second degree, punishable as
21 provided in s. 775.082, s. 775.083, or s. 775.084.

22 3. Is \$100,000 or more, the offender commits a felony
23 of the first degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

25 ~~(b)(a)~~ It shall be unlawful for any employer to
26 knowingly:

27 1. Present or cause to be presented any false,
28 fraudulent, or misleading oral or written statement to any
29 person as evidence of compliance with s. 440.38.

30 2. Make a deduction from the pay of any employee
31 entitled to the benefits of this chapter for the purpose of

1 requiring the employee to pay any portion of premium paid by
2 the employer to a carrier or to contribute to a benefit fund
3 or department maintained by such employer for the purpose of
4 providing compensation or medical services and supplies as
5 required by this chapter.

6 3. Fail to secure payment of compensation if required
7 to do so by this chapter.

8 (c)~~(b)~~ It shall be unlawful for any person:

9 1. To knowingly make, or cause to be made, any false,
10 fraudulent, or misleading oral or written statement for the
11 purpose of obtaining or denying any benefit or payment under
12 this chapter.

13 2. To present or cause to be presented any written or
14 oral statement as part of, or in support of, a claim for
15 payment or ~~of~~ other benefit pursuant to any provision of this
16 chapter, knowing that such statement contains any false,
17 incomplete, or misleading information concerning any fact or
18 thing material to such claim.

19 3. To prepare or cause to be prepared any written or
20 oral statement that is intended to be presented to any
21 employer, insurance company, or self-insured program in
22 connection with, or in support of, any claim for payment or
23 other benefit pursuant to any provision of this chapter,
24 knowing that such statement contains any false, incomplete, or
25 misleading information concerning any fact or thing material
26 to such claim.

27 4. To knowingly assist, conspire with, or urge any
28 person to engage in activity prohibited by this section.

29 5. To knowingly make any false, fraudulent, or
30 misleading oral or written statement, or to knowingly omit or
31 conceal material information, required by s. 440.185 or s.

1 440.381, for the purpose of obtaining workers' compensation
2 coverage or for the purpose of avoiding, delaying, or
3 diminishing the amount of payment of any workers' compensation
4 premiums.

5 6. To knowingly misrepresent or conceal payroll,
6 classification of workers, or information regarding an
7 employer's loss history which would be material to the
8 computation and application of an experience rating
9 modification factor for the purpose of avoiding or diminishing
10 the amount of payment of any workers' compensation premiums.

11 7. To knowingly present or cause to be presented any
12 false, fraudulent, or misleading oral or written statement to
13 any person as evidence of compliance with s. 440.38.

14 (d)~~(c)~~ It shall be unlawful for any physician licensed
15 under chapter 458, osteopathic physician licensed under
16 chapter 459, chiropractic physician licensed under chapter
17 460, podiatric physician licensed under chapter 461,
18 optometric physician licensed under chapter 463, or any other
19 practitioner licensed under the laws of this state to
20 knowingly and willfully assist, conspire with, or urge any
21 person to fraudulently violate any of the provisions of this
22 chapter.

23 (e)~~(d)~~ It shall be unlawful for any person or
24 governmental entity licensed under chapter 395 to maintain or
25 operate a hospital in such a manner so that such person or
26 governmental entity knowingly and willfully allows the use of
27 the facilities of such hospital by any person, in a scheme or
28 conspiracy to fraudulently violate any of the provisions of
29 this chapter.

30 (f)~~(e)~~ It shall be unlawful for any attorney or other
31 person, in his or her individual capacity or in his or her

1 capacity as a public or private employee, or any firm,
2 corporation, partnership, or association, to knowingly assist,
3 conspire with, or urge any person to fraudulently violate any
4 of the provisions of this chapter.

5 (g)~~(f)~~ It shall be unlawful for any attorney or other
6 person, in his or her individual capacity or in his or her
7 capacity as a public or private employee or for any firm,
8 corporation, partnership, or association, to unlawfully
9 solicit any business in and about city or county hospitals,
10 courts, or any public institution or public place; in and
11 about private hospitals or sanitariums; in and about any
12 private institution; or upon private property of any character
13 whatsoever for the purpose of making workers' compensation
14 claims.

15 (6) For the purpose of the section: ~~the term~~

16 (a) "Statement" includes, but is not limited to, any
17 notice, representation, statement, proof of injury, bill for
18 services, diagnosis, prescription, hospital or doctor records,
19 X ray, test result, or other evidence of loss, injury, or
20 expense.

21 (b) "Property" means property as defined in s.
22 812.012.

23 (c) "Value" means value as defined in s. 812.012.

24 (8) Notwithstanding any other provision of law, a
25 proceeding under subsection (4) may be commenced at any time
26 within 5 years after the cause of action accrues; however, in
27 such proceeding, the period of limitation is tolled whenever
28 the defendant is continuously absent from this state or is
29 without a reasonably ascertainable place of residence or work
30 within this state, but not to extend such period of limitation
31 by more than 1 year. If a criminal prosecution, action, or

1 other proceeding is brought, or intervened in, to punish,
2 prevent, or restrain any violation of subsection (4), the
3 running of the period of limitation prescribed by this
4 section, which is based in whole or in part upon any matter
5 complained of in any such prosecution, action, or proceeding,
6 shall be tolled during the pendency of the prosecution,
7 action, or proceeding and for 2 years following the
8 termination of such prosecution, action, or proceeding.

9 Section 3. Subsection (4) of section 624.416, Florida
10 Statutes, is amended to read:

11 624.416 Continuance, expiration, reinstatement, and
12 amendment of certificate of authority.--

13 (4) The department may amend a certificate of
14 authority at any time to accord with changes in the insurer's
15 charter or insuring powers. Prior to amending an existing
16 certificate of authority to authorize an insurer to transact a
17 new line of business, the department shall require the
18 applicant to demonstrate compliance with the provisions of s.
19 626.9891 and to allocate sufficient resources to identify and
20 eliminate fraud. The department shall consider the extent of
21 such resources in determining whether to authorize an insurer
22 to transact a new line of business.

23 Section 4. Subsection (1) of section 624.418, Florida
24 Statutes, is amended to read:

25 624.418 Suspension, revocation of certificate of
26 authority for violations and special grounds.--

27 (1) The department shall suspend or revoke an
28 insurer's certificate of authority if it finds that the
29 insurer:

30 (a) Is in unsound financial condition.

31

1 (b) Is using such methods and practices in the conduct
2 of its business as to render its further transaction of
3 insurance in this state hazardous or injurious to its
4 policyholders or to the public.

5 (c) Has failed to pay any final judgment rendered
6 against it in this state within 60 days after the judgment
7 became final.

8 (d) Has failed to comply with the requirements of s.
9 626.9891 or has failed to allocate sufficient resources to
10 identify and eliminate fraud.

11 (e)~~(d)~~ No longer meets the requirements for the
12 authority originally granted.

13 Section 5. Subsection (6) of section 626.989, Florida
14 Statutes, is amended to read:

15 626.989 Division of Insurance Fraud; definition;
16 investigative, subpoena powers; protection from civil
17 liability; reports to division; division investigator's power
18 to execute warrants and make arrests.--

19 (6) Any person, other than an insurer, agent, or other
20 person licensed under the code, or an employee thereof, having
21 knowledge or who believes that a fraudulent insurance act or
22 any other act or practice which, upon conviction, constitutes
23 a felony or a misdemeanor under the code, under s. 440.105, or
24 under s. 817.234, is being or has been committed may send to
25 the Division of Insurance Fraud a report or information
26 pertinent to such knowledge or belief and such additional
27 information relative thereto as the department may request.
28 Any professional practitioner licensed or regulated by the
29 Department of Business and Professional Regulation, except as
30 otherwise provided by law, any medical review committee as
31 defined in s. 766.101, any private medical review committee,

1 and any insurer, agent, or other person licensed under the
2 code, or an employee thereof, having knowledge or who believes
3 that a fraudulent insurance act or any other act or practice
4 which, upon conviction, constitutes a felony or a misdemeanor
5 under the code, under s. 440.105, or under s. 817.234, is
6 being or has been committed shall send to the Division of
7 Insurance Fraud a report or information pertinent to such
8 knowledge or belief and such additional information relative
9 thereto as the department may require. The Division of
10 Insurance Fraud shall review such information or reports and
11 select such information or reports as, in its judgment, may
12 require further investigation. It shall then cause an
13 independent examination of the facts surrounding such
14 information or report to be made to determine the extent, if
15 any, to which a fraudulent insurance act or any other act or
16 practice which, upon conviction, constitutes a felony or a
17 misdemeanor under the code, under s. 440.105, or under s.
18 817.234, is being committed. The Division of Insurance Fraud
19 shall report any alleged violations of law which its
20 investigations disclose to the appropriate licensing agency
21 and state attorney or other prosecuting agency having
22 jurisdiction with respect to any such violation, as provided
23 in s. 624.310. If prosecution by the state attorney or other
24 prosecuting agency having jurisdiction with respect to such
25 violation is not begun within 60 days of the division's
26 report, the state attorney or other prosecuting agency having
27 jurisdiction with respect to such violation shall inform the
28 division of the reasons for the lack of prosecution.

29 Section 6. Section 626.9891, Florida Statutes, is
30 amended to read:

31 (Substantial rewording of section. See

1 s. 626.9891, F.S., for present text.)
2 626.9891 Insurer anti-fraud plans, reports, and
3 investigative units.
4 (1) Each authorized insurer that had \$10 million or
5 more in direct premiums written during the previous calendar
6 year shall:
7 (a) Establish and maintain a unit or division within
8 the company to investigate possible fraudulent claims by
9 insureds or by persons making claims for services or repairs
10 against policies held by insureds; or
11 (b) Contract with others to investigate possible
12 fraudulent claims for services or repairs against policies
13 held by insureds.
14
15 For purposes of this section, the term "unit or division"
16 includes employees to whom fraud investigations are assigned
17 and whose principal responsibilities are the investigation and
18 disposition of claims. If an insurer creates a distinct unit
19 or division, hires additional employees, or contracts with
20 another entity to fulfill the requirements of this section,
21 the additional cost incurred must be included as an
22 administrative expense for ratemaking purposes.
23 (2)(a) Each authorized insurer shall adopt an
24 anti-fraud plan, which shall be filed with the department
25 prior to January 1, 1999.
26 (b) Any insurer that previously filed an anti-fraud
27 plan with the department shall amend the plan to comply with
28 the requirements of subsection (3) and shall file all plan
29 amendments with the department prior to January 1, 1999.
30 (c) Any insurer that files an application for a
31 certificate of authority with the department prior to January

1 1, 1999, and the certificate is not issued as of that date,
2 shall comply with the requirements of this section within 90
3 days after the issuance of a certificate of authority.

4 (d) Any insurer that files an application for a
5 certificate of authority with the department on or after
6 January 1, 1999, shall comply with the requirements of this
7 section when the application is filed.

8 (3) Each insurer's anti-fraud plan shall include:

9 (a) A description of the unit or division established,
10 or a copy of the contract and related documents required under
11 subsection (1), if applicable.

12 (b) A description of the insurer's policies and
13 procedures which facilitate the detection and investigation of
14 possible fraudulent insurance acts, including specific policy
15 provisions and investigative procedures intended to combat
16 complex instances of fraud with respect to each of the
17 following coverages: health, property, casualty, and workers'
18 compensation and employer's liability.

19 (c) A description of the insurer's procedures for the
20 mandatory reporting of possible fraudulent insurance acts to
21 the department.

22 (d) A description of the insurer's procedures for
23 auditing workers' compensation insureds to verify covered
24 employees and to ensure proper classification, loss experience
25 reporting, and premium collection practices.

26 (e) A description of the insurer's anti-fraud
27 education and training program for claims adjusters or other
28 personnel.

29 (f) A description or chart which includes the
30 organizational arrangement of the insurer's anti-fraud
31 personnel and the education, training, and claims adjusting,

1 law enforcement, or other investigative experience of such
2 personnel responsible for the investigation of possible
3 fraudulent insurance acts.

4 (4) Each insurer shall file an anti-fraud report with
5 the department prior to March 1, 2000, and annually
6 thereafter, which shall include, for the previous calendar
7 year:

8 (a) Material changes or amendments to personnel,
9 policies, or procedures in the insurer's anti-fraud plan.

10 (b) A summary of significant actions taken by the
11 insurer to combat or prosecute cases of insurance fraud and
12 cases of workers' compensation insurance premium fraud.

13 (c) A statement of the insurer's actual or estimated
14 losses in this state due to fraudulent insurance claims, by
15 line of coverage, and the increase or decrease in such losses
16 compared to previous calendar years.

17 (d) The amount of direct premiums written, by line of
18 coverage, in the previous calendar year and the number of
19 fraud referrals, by line of coverage, made by the insurer to
20 the department during the reporting period.

21 (5) The department may recommend changes or amendments
22 to an insurer's anti-fraud plan.

23 (6) The department may adopt any rules necessary to
24 implement the provisions of this section.

25 Section 7. Section 626.9892, Florida Statutes, is
26 created to read:

27 626.9892 Anti-Fraud Reward Program; reporting of
28 insurance fraud.--

29 (1) The Anti-Fraud Reward Program is hereby
30 established within the department, to be funded from the
31 Insurance Commissioner's Regulatory Trust Fund.

1 (2) The department may, at its discretion, pay rewards
2 of up to \$25,000 to persons responsible for providing
3 information leading to the arrest and conviction of persons
4 committing complex and organized crimes, investigated by the
5 Division of Insurance Fraud, arising from violations of the
6 insurance code, s. 440.105, or s. 817.234.

7 (3) Only a single reward amount may be awarded for
8 each case, regardless of the number of persons arrested and
9 convicted in connection with the case and regardless of how
10 many persons submit claims for the reward.

11 (4) The department shall establish procedures to
12 implement and administer the Anti-Fraud Reward Program.
13 Applications for rewards authorized by this section must be
14 made pursuant to the procedures established by the department.

15 (5) All determinations and other actions of the
16 department pursuant to this section are exempt from the
17 provisions of chapter 120.

18 Section 8. Paragraph (b) of subsection (2) of section
19 627.062, Florida Statutes, is amended to read:

20 627.062 Rate standards.--

21 (2) As to all such classes of insurance:

22 (b) Upon receiving a rate filing, the department shall
23 review the rate filing to determine if a rate is excessive,
24 inadequate, or unfairly discriminatory. In making that
25 determination, the department shall, in accordance with
26 generally accepted and reasonable actuarial techniques,
27 consider the following factors:

28 1. Past and prospective loss experience within and
29 without this state.

30 2. Past and prospective expenses.
31

- 1 3. The degree of competition among insurers for the
2 risk insured.
- 3 4. Investment income reasonably expected by the
4 insurer, consistent with the insurer's investment practices,
5 from investable premiums anticipated in the filing, plus any
6 other expected income from currently invested assets
7 representing the amount expected on unearned premium reserves
8 and loss reserves. The department may promulgate rules
9 utilizing reasonable techniques of actuarial science and
10 economics to specify the manner in which insurers shall
11 calculate investment income attributable to such classes of
12 insurance written in this state and the manner in which such
13 investment income shall be used in the calculation of
14 insurance rates. Such manner shall contemplate allowances for
15 an underwriting profit factor and full consideration of
16 investment income which produce a reasonable rate of return;
17 however, investment income from invested surplus shall not be
18 considered. The profit and contingency factor as specified in
19 the filing shall be utilized in computing excess profits in
20 conjunction with s. 627.0625.
- 21 5. The reasonableness of the judgment reflected in the
22 filing.
- 23 6. Dividends, savings, or unabsorbed premium deposits
24 allowed or returned to Florida policyholders, members, or
25 subscribers.
- 26 7. The adequacy of loss reserves.
- 27 8. The cost of reinsurance.
- 28 9. Trend factors, including trends in actual losses
29 per insured unit for the insurer making the filing.
- 30 10. Conflagration and catastrophe hazards, if
31 applicable.

1 11. A reasonable margin for underwriting profit and
2 contingencies.

3 12. The cost of medical services, if applicable.

4 13. Compliance with the requirements of s. 626.9891
5 and the allocation of sufficient resources to identify and
6 eliminate fraud.

7 ~~14.13.~~ Other relevant factors which impact upon the
8 frequency or severity of claims or upon expenses.

9
10 The provisions of this subsection shall not apply to workers'
11 compensation and employer's liability insurance and to motor
12 vehicle insurance.

13 Section 9. Subsection (1) of section 627.072, Florida
14 Statutes, is amended to read:

15 627.072 Making and use of rates.--

16 (1) As to workers' compensation and employer's
17 liability insurance, the following factors shall be used in
18 the determination and fixing of rates:

19 (a) The past loss experience and prospective loss
20 experience within and outside this state;

21 (b) The conflagration and catastrophe hazards;

22 (c) A reasonable margin for underwriting profit and
23 contingencies;

24 (d) Dividends, savings, or unabsorbed premium deposits
25 allowed or returned by insurers to their policyholders,
26 members, or subscribers;

27 (e) Investment income on unearned premium reserves and
28 loss reserves;

29 (f) Past expenses and prospective expenses, both those
30 countrywide and those specifically applicable to this state;

31 ~~and~~

1 (g) Compliance with the requirements of s. 626.9891
2 and the allocation of sufficient resources to identify and
3 eliminate fraud; and

4 ~~(h)(g)~~ All other relevant factors, including judgment
5 factors, within and outside this state.

6 Section 10. Paragraph (e) is added to subsection (2)
7 of section 627.411, Florida Statutes, to read:

8 627.411 Grounds for disapproval.--

9 (2) In determining whether the benefits are reasonable
10 in relation to the premium charged, the department, in
11 accordance with reasonable actuarial techniques, shall
12 consider:

13 (e) Compliance with the requirements of s. 626.9891
14 and the allocation of sufficient resources to identify and
15 eliminate fraud.

16 Section 11. Section 641.3915, Florida Statutes, is
17 created to read:

18 641.3915 Health maintenance organization anti-fraud
19 plans, reports, and investigative units.--

20 (1) Each authorized health maintenance organization
21 that had \$10 million or more in revenues during the previous
22 calendar year shall:

23 (a) Establish and maintain a unit or division within
24 the company to investigate possible fraudulent claims by
25 insureds or by persons making claims for services against
26 policies held by insureds; or

27 (b) Contract with others to investigate possible
28 fraudulent claims for services against policies held by
29 insureds.

30
31

1 For purposes of this section, the term "unit or division"
2 includes employees to whom have been assigned fraud
3 investigations and whose principal responsibilities are the
4 investigation and disposition of claims. If a health
5 maintenance organization creates a distinct unit or division,
6 hires additional employees, or contracts with another entity
7 to fulfill the requirements of this section, the additional
8 cost incurred shall be included as an administrative expense
9 for ratemaking purposes.

10 (2)(a) Each authorized health maintenance organization
11 must adopt an anti-fraud plan, which shall be filed with the
12 department prior to January 1, 1999.

13 (b) Any health maintenance organization that has filed
14 an application for a certificate of authority with the
15 department prior to January 1, 1999, and the certificate is
16 not issued as of that date, shall comply with the requirements
17 of this section within 90 days after the issuance of the
18 certificate of authority.

19 (c) Any health maintenance organization that files an
20 application for a certificate of authority with the department
21 on or after January 1, 1999, shall comply with the
22 requirements of this section when the application is filed.

23 (3) Each health maintenance organization's anti-fraud
24 plan shall include:

25 (a) A description of the unit or division established,
26 or a copy of the contract and related documents required under
27 subsection (1), if applicable.

28 (b) A description of the health maintenance
29 organization's policies and procedures which facilitate the
30 detection and investigation of possible fraudulent insurance
31 acts.

1 (c) A description of the health maintenance
2 organization's procedures for the mandatory reporting of
3 possible fraudulent insurance acts to the department.

4 (d) A description of the health maintenance
5 organization's anti-fraud education and training program for
6 claims adjusters or other personnel.

7 (e) A description or chart which includes the
8 organizational arrangement of the health maintenance
9 organization's anti-fraud personnel and the education,
10 training, and claims adjusting, law enforcement, or other
11 investigative experience of such personnel responsible for the
12 investigation of fraudulent insurance acts.

13 (4) Each health maintenance organization shall file an
14 anti-fraud report with the department prior to March 1, 2000,
15 and annually thereafter, which shall include, for the previous
16 calendar year:

17 (a) Material changes or amendments to personnel,
18 policies, or procedures in the health maintenance
19 organization's anti-fraud plan.

20 (b) A summary of significant actions taken by the
21 health maintenance organization to combat or prosecute cases
22 of insurance fraud.

23 (c) A statement of the health maintenance
24 organization's actual or estimated losses in this state due to
25 fraudulent claims and the increase or decrease in such losses
26 compared to previous calendar years.

27 (d) The number of fraud referrals made by the health
28 maintenance organization to the department during the
29 reporting period.

30 (5) The department may recommend changes or amendments
31 to a health maintenance organization's anti-fraud plan.

1 (6) The department may adopt any rules necessary to
2 implement the provisions of this section.

3 Section 12. Subsections (1), (2), (3), (4), (8), and
4 (9) of section 817.234, Florida Statutes, are amended, and
5 subsections (11), (12), and (13) are added to said section, to
6 read:

7 817.234 False and fraudulent insurance claims and
8 applications; prohibited insurance related solicitations;
9 limitations on criminal actions.--

10 (1)(a) Any person who, with the intent to injure,
11 defraud, or deceive any insurer:

12 1. Presents or causes to be presented any written or
13 oral statement as part of, or in support of, a claim for
14 payment or other benefit pursuant to an insurance policy,
15 knowing that such statement contains any false, incomplete, or
16 misleading information concerning any fact or thing material
17 to such claim;

18 2. Prepares or makes any written or oral statement
19 that is intended to be presented to any insurer in connection
20 with, or in support of, any claim for payment or other benefit
21 pursuant to an insurance policy, knowing that such statement
22 contains any false, incomplete, or misleading information
23 concerning any fact or thing material to such claim; or

24 3. Knowingly presents, causes to be presented, or
25 prepares or makes with knowledge or belief that it will be
26 presented to any insurer, purported insurer, servicing
27 corporation, insurance broker, or insurance agent, or any
28 employee or agent thereof, any false, incomplete, or
29 misleading information or written or oral statement as part
30 of, or in support of, an application for the issuance of, or
31

1 the rating of, any insurance policy, or who conceals
2 information concerning any fact material to such application,
3
4 commits insurance fraud ~~a felony of the third degree~~,
5 punishable as provided in subsection (11)~~s. 775.082, s.~~
6 ~~775.083, or s. 775.084.~~

7 (b) All claims and application forms shall contain a
8 statement that is approved by the Department of Insurance that
9 clearly states in substance the following: "Any person who
10 knowingly and with intent to injure, defraud, or deceive any
11 insurer files a statement of claim or an application
12 containing any false, incomplete, or misleading information is
13 guilty of a felony of the third degree." The changes in this
14 paragraph relating to applications shall take effect on March
15 1, 1996.

16 (2) Any physician licensed under chapter 458,
17 osteopathic physician licensed under chapter 459, chiropractor
18 licensed under chapter 460, or other practitioner licensed
19 under the laws of this state who knowingly and willfully
20 assists, conspires with, or urges any insured party to
21 fraudulently violate any of the provisions of this section or
22 part XI of chapter 627, or any person who, due to such
23 assistance, conspiracy, or urging by said physician,
24 osteopathic physician, chiropractor, or practitioner,
25 knowingly and willfully benefits from the proceeds derived
26 from the use of such fraud, commits insurance fraud ~~is guilty~~
27 ~~of a felony of the third degree~~, punishable as provided in
28 subsection (11)~~s. 775.082, s. 775.083, or s. 775.084.~~ In the
29 event that a physician, osteopathic physician, chiropractor,
30 or practitioner is adjudicated guilty of a violation of this
31 section, the Board of Medicine as set forth in chapter 458,

1 the Board of Osteopathic Medicine as set forth in chapter 459,
2 the Board of Chiropractic as set forth in chapter 460, or
3 other appropriate licensing authority shall hold an
4 administrative hearing to consider the imposition of
5 administrative sanctions as provided by law against said
6 physician, osteopathic physician, chiropractor, or
7 practitioner.

8 (3) Any attorney who knowingly and willfully assists,
9 conspires with, or urges any claimant to fraudulently violate
10 any of the provisions of this section or part XI of chapter
11 627, or any person who, due to such assistance, conspiracy, or
12 urging on such attorney's part, knowingly and willfully
13 benefits from the proceeds derived from the use of such fraud,
14 commits insurance fraud ~~a felony of the third degree,~~
15 punishable as provided in subsection (11)~~s. 775.082, s.~~
16 ~~775.083, or s. 775.084.~~

17 (4) Any ~~No~~ person or governmental unit licensed under
18 chapter 395 to maintain or operate a hospital, and any ~~no~~
19 administrator or employee of any such hospital, who shall
20 knowingly and willfully allows ~~allow~~ the use of the facilities
21 of said hospital by an insured party in a scheme or conspiracy
22 to fraudulently violate any of the provisions of this section
23 or part XI of chapter 627. ~~Any hospital administrator or~~
24 ~~employee who violates this subsection~~ commits insurance fraud
25 ~~a felony of the third degree,~~ punishable as provided in
26 subsection (11)~~s. 775.082, s. 775.083, or s. 775.084.~~ Any
27 adjudication of guilt for a violation of this subsection, or
28 the use of business practices demonstrating a pattern
29 indicating that the spirit of the law set forth in this
30 section or part XI of chapter 627 is not being followed, shall
31 be grounds for suspension or revocation of the license to

1 operate the hospital or the imposition of an administrative
2 penalty of up to \$5,000 by the licensing agency, as set forth
3 in chapter 395.

4 (8) It is unlawful for any person, in his or her
5 individual capacity or in his or her capacity as a public or
6 private employee, or for any firm, corporation, partnership,
7 or association, to solicit any business in or about city
8 receiving hospitals, city and county receiving hospitals,
9 county hospitals, justice courts, or municipal courts; in any
10 public institution; in any public place; upon any public
11 street or highway; in or about private hospitals, sanitariums,
12 or any private institution; or upon private property of any
13 character whatsoever for the purpose of making motor vehicle
14 tort claims or claims for personal injury protection benefits
15 required by s. 627.736. Any person who violates the
16 provisions of this subsection commits insurance solicitation a
17 ~~felony of the third degree~~, punishable as provided in
18 subsection (11)~~s. 775.082, s. 775.083, or s. 775.084.~~

19 (9) It is unlawful for any attorney to solicit any
20 business relating to the representation of persons injured in
21 a motor vehicle accident for the purpose of filing a motor
22 vehicle tort claim or a claim for personal injury protection
23 benefits required by s. 627.736. The solicitation by
24 advertising of any business by an attorney relating to the
25 representation of a person injured in a specific motor vehicle
26 accident is prohibited by this section. Any attorney who
27 violates the provisions of this subsection commits insurance
28 solicitation a ~~felony of the third degree~~, punishable as
29 provided in subsection (11)~~s. 775.082, s. 775.083, or s.~~
30 ~~775.084.~~ Whenever any circuit or special grievance committee
31 acting under the jurisdiction of the Supreme Court finds

1 probable cause to believe that an attorney is guilty of a
2 violation of this section, such committee shall forward to the
3 appropriate state attorney a copy of the finding of probable
4 cause and the report being filed in the matter. This section
5 shall not be interpreted to prohibit advertising by attorneys
6 which does not entail a solicitation as described in this
7 subsection and which is permitted by the rules regulating The
8 Florida Bar as promulgated by the Florida Supreme Court.

9 (11) If the value of any property involved in
10 violation of this section:

11 (a) Is less than \$20,000, the offender commits a
12 felony of the third degree, punishable as provided in s.
13 775.082, s. 775.083, or s. 775.084.

14 (b) Is \$20,000 or more, but less than \$100,000, the
15 offender commits a felony of the second degree, punishable as
16 provided in s. 775.082, s. 775.083, or s. 775.084.

17 (c) Is \$100,000 or more, the offender commits a felony
18 of the first degree, punishable as provided in s. 775.082, s.
19 775.083, or s. 775.084.

20 (12) As used in this section:

21 (a) "Property" means property as defined in s.
22 812.012.

23 (b) "Value" means value as defined in s. 812.012.

24 (13) Notwithstanding any other provision of law, a
25 proceeding under this section may be commenced at any time
26 within 5 years after the cause of action accrues; however, in
27 such proceeding, the period of limitation is tolled whenever
28 the defendant is continuously absent from this state or is
29 without a reasonably ascertainable place of residence or work
30 within this state, but not to extend such period of limitation
31 by more than 1 year. If a criminal prosecution, action, or

