

By Representative Andrews

1                                   A bill to be entitled  
2           An act relating to personal injury protection  
3           insurance; amending s. 627.736, F.S.; requiring  
4           the Department of Insurance to establish a  
5           physician examination panel for purposes of  
6           selecting physicians to conduct mental or  
7           physical examinations for certain purposes;  
8           providing criteria; providing requirements;  
9           providing procedures; providing for reports;  
10          providing for removal of a physician from the  
11          panel under certain circumstances; providing an  
12          effective date.

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

15  
16           Section 1. Paragraph (c) is added to subsection (7) of  
17           section 627.736, Florida Statutes, 1996 Supplement, to read:

18           627.736 Required personal injury protection benefits;  
19           exclusions; priority.--

20           (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;  
21           REPORTS.--

22           (c)1. The department shall establish a personal injury  
23           protection physician examination panel and appoint to the  
24           panel physicians licensed for at least 5 years pursuant to  
25           chapter 458, chapter 459, chapter 460, chapter 461, chapter  
26           462, or chapter 466 and practicing in this state. Physicians  
27           performing examinations or writing reports of the examination  
28           pursuant to paragraph (a) must be selected from among  
29           physicians appointed to the panel. Any physician with an  
30           active unrestricted license may request and shall be appointed  
31           to the panel. A physician participating on the panel shall not

1 be entitled to compensation or remuneration from the  
2 department for such participation or for performing any  
3 examinations or writing any reports on behalf of an insurer or  
4 insured. A physician participating on the panel shall be  
5 actively involved in the clinical management in the practice  
6 of the profession of the chapter under which the physician is  
7 licensed and, except for a physician who is physically  
8 disabled, a majority of such practice and income from that  
9 practice shall not derive from witness fees and examination of  
10 persons or writing of reports about persons not under the  
11 physician's care and treatment.

12 2. An insurer seeking an examination or report of the  
13 examination pursuant to paragraph (a) shall request from the  
14 department a list of five names from the panel from the  
15 geographical region of the municipality of residence of the  
16 insured. If there is no physician on the panel available from  
17 such region, a physician on the panel from the geographical  
18 region of a municipality of closest proximity to such region  
19 may be selected. The department shall submit the list to both  
20 the insurer and the insured. The insurer shall strike two  
21 names from the list and the insured shall strike two names  
22 from the list. The remaining physician shall be the physician  
23 who will perform the examination or write the report of the  
24 examination. The insurer and the insured may mutually agree  
25 to use a physician who is not on the panel without following  
26 the selection process set forth in this subparagraph.

27 3. A person examined pursuant to paragraph (a) shall  
28 not be a patient or subsequently become a patient of the  
29 physician performing the examination or writing the report.  
30 An examination of, or report of the examination written about,  
31

1 a person pursuant to paragraph (a) does not create a physician  
2 patient relationship.

3 4. All examinations performed or reports of  
4 examinations written pursuant to paragraph (a) shall be  
5 performed in accordance with generally accepted professional  
6 standards of practice or care required by the chapter under  
7 which the physician is licensed. A physician performing an  
8 examination or writing a report of an examination pursuant to  
9 paragraph (a) shall have no financial or economic interest in  
10 the type or duration of treatment or the results of the  
11 examination or report of the examination. No insurer,  
12 employer, employee, patient, or agent, or representative of an  
13 insurer, employer, employee, patient, or agent, shall attempt  
14 to dictate to any physician performing an examination or  
15 writing a report of the examination pursuant to paragraph (a)  
16 the type or duration of treatment or the results of the  
17 examination or report of the examination.

18 5. Each report of an examination written pursuant to  
19 paragraph (a) must identify the physician by name and license  
20 number and be signed by the physician preparing the report of  
21 the examination. A physician shall not make to the person  
22 examined any disparaging remark about the treating physician  
23 during the examination requested by the insurer pursuant to  
24 paragraph (a).

25 6. The department shall remove a physician from the  
26 panel upon a confirmation that the physician has issued at  
27 least three reports, each of which:

28 a. Does not identify the physician by name and license  
29 number;

30 b. Is not signed by the physician;

31

1           c. Concludes that the treatment was not reasonable,  
2 related or necessary when there is evidence in the medical  
3 records of the person covered by the personal injury  
4 protection that the treatment was necessary, related, or  
5 necessary;

6           d. Contains disparaging comments or remarks about the  
7 treating physician; or

8           e. Contains subjective statements unrelated to the  
9 injuries or treatment at issue.

10           Section 2. This act shall take effect October 1, 1997.

11  
12           \*\*\*\*\*

13           HOUSE SUMMARY

14           Provides for a personal injury protection physician  
15 examination panel from which physicians must be selected  
16 to conduct mental and physical examinations of injured  
17 persons for determination of medical benefits for  
18 purposes of personal injury protection coverage. See bill  
19 for details.  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31