

By Representatives Wiles and Cosgrove

1                                   A bill to be entitled  
2           An act relating to insurance fraud; amending s.  
3           624.418, F.S.; providing an additional ground  
4           for suspension or revocation of an insurer's  
5           certificate of authority; amending s. 626.989,  
6           F.S.; including health maintenance  
7           organizations and contracts within the  
8           jurisdiction of the Division of Insurance Fraud  
9           of the Department of Insurance; authorizing the  
10          department or division to investigate  
11          violations of the insurance code; providing for  
12          reports of insurance fraud to the division;  
13          amending s. 626.9891, F.S.; requiring insurers  
14          to provide for investigation of fraudulent  
15          claims; requiring insurers to adopt an  
16          anti-fraud plan; providing criteria and  
17          procedures; providing for amending anti-fraud  
18          plans; authorizing the department to adopt  
19          rules; providing for submission of information  
20          electronically; creating s. 626.9892, F.S.;  
21          establishing the Anti-Fraud Reward Program in  
22          the department; providing for awarding rewards  
23          under certain circumstances; requiring the  
24          department to implement and administer the  
25          program; exempting certain department actions  
26          from Florida Administrative Code requirements;  
27          amending s. 627.411, F.S.; providing an  
28          additional consideration for the department in  
29          determining reasonableness of benefits to  
30          premium; creating s. 641.3915, F.S.; requiring  
31          certain health maintenance organizations to

1           comply with insurer anti-fraud requirements;  
2           amending s. 775.15, F.S.; providing a statute  
3           of limitations for certain insurance fraud  
4           violations; amending s. 817.234, F.S.;  
5           specifying a schedule of criminal penalties for  
6           committing insurance fraud; providing  
7           definitions; providing application to health  
8           maintenance organizations and contracts;  
9           creating s. 817.2341, F.S.; specifying certain  
10          activities as crimes by or affecting persons  
11          engaged in the business of insurance; providing  
12          criminal penalties; creating s. 817.2342, F.S.;  
13          authorizing certain persons to bring civil  
14          actions for certain activities; providing civil  
15          penalties; providing for injunctions for  
16          certain violations; creating s. 817.2343, F.S.;  
17          specifying activities which constitute  
18          obstruction of justice; providing penalties;  
19          creating s. 817.2344, F.S.; providing  
20          definitions; providing construction; amending  
21          s. 817.505, F.S.; revising a penalty for  
22          patient brokering; reenacting s. 455.657(3),  
23          F.S., relating to kickbacks, to incorporate  
24          changes; reenacting ss. 464.018(1)(d),  
25          772.102(1), and 895.02(1), F.S., relating to  
26          fraudulent practices, to incorporate changes to  
27          ch. 817, F.S.; providing an appropriation;  
28          providing an effective date.

29  
30   Be It Enacted by the Legislature of the State of Florida:  
31

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

3           624.418 Suspension, revocation of certificate of  
4 authority for violations and special grounds.--

5           (1) The department shall suspend or revoke an  
6 insurer's certificate of authority if it finds that the  
7 insurer:

8           (a) Is in unsound financial condition.

9           (b) Is using such methods and practices in the conduct  
10 of its business as to render its further transaction of  
11 insurance in this state hazardous or injurious to its  
12 policyholders or to the public.

13           (c) Has failed to pay any final judgment rendered  
14 against it in this state within 60 days after the judgment  
15 became final.

16           (d) Has failed to comply with the requirements of ss.  
17 626.989(6) and 626.9891.

18           ~~(e)~~ No longer meets the requirements for the  
19 authority originally granted.

20           Section 2. Subsections (1), (2), and (6) of section  
21 626.989, Florida Statutes, 1998 Supplement, are amended to  
22 read:

23           626.989 Division of Insurance Fraud; definition;  
24 investigative, subpoena powers; protection from civil  
25 liability; reports to division; division investigator's power  
26 to execute warrants and make arrests.--

27           (1) For the purposes of this section, a person commits  
28 a "fraudulent insurance act" if the person knowingly and with  
29 intent to defraud presents, causes to be presented, or  
30 prepares with knowledge or belief that it will be presented,  
31 to or by an insurer, self-insurer, self-insurance fund,

1 servicing corporation, purported insurer, broker, or any agent  
2 thereof, any written statement as part of, or in support of,  
3 an application for the issuance of, or the rating of, any  
4 insurance policy, or a claim for payment or other benefit  
5 pursuant to any insurance policy, which the person knows to  
6 contain materially false information concerning any fact  
7 material thereto or if the person conceals, for the purpose of  
8 misleading another, information concerning any fact material  
9 thereto. For the purposes of this section, the term "insurer"  
10 also includes any health maintenance organization, and the  
11 term "insurance policy" also includes a health maintenance  
12 organization subscriber contract.

13 (2) If, by its own inquiries or as a result of  
14 complaints, the department or its Division of Insurance Fraud  
15 has reason to believe that a person has engaged in, or is  
16 engaging in, a fraudulent insurance act, an act in violation  
17 of the insurance code, an act or practice that violates s.  
18 626.9541, ~~or~~ s. 817.234, s. 817.2341, s. 817.2343, ~~or~~ an act  
19 or practice punishable under s. 624.15, or an act or practice  
20 arising from such acts or practices, it may administer oaths  
21 and affirmations, request the attendance of witnesses or  
22 proffering of matter, and collect evidence. The department  
23 shall not compel the attendance of any person or matter in any  
24 such investigation except pursuant to subsection (4).

25 (6) Any person, other than an insurer, agent, or other  
26 person licensed under the code, or an employee thereof, having  
27 knowledge or who believes that a fraudulent insurance act or  
28 any other act or practice which, upon conviction, constitutes  
29 a felony or a misdemeanor under the code, under s. 440.105, ~~or~~  
30 under s. 817.234, s. 817.2341, or s. 817.2342, is being or has  
31 been committed may send to the Division of Insurance Fraud a

1 report or information pertinent to such knowledge or belief,  
2 including the loss claimed from such act or practice,and such  
3 additional information relative thereto as the department may  
4 request. Any professional practitioner licensed or regulated  
5 by the Department of Business and Professional Regulation,  
6 except as otherwise provided by law, any medical review  
7 committee as defined in s. 766.101, any private medical review  
8 committee, and any insurer, agent, or other person licensed  
9 under the code, or an employee thereof, having knowledge or  
10 who believes that a fraudulent insurance act or any other act  
11 or practice which, upon conviction, constitutes a felony or a  
12 misdemeanor under the code, under s. 440.105,or under s.  
13 817.234 or s. 817.2341, is being or has been committed shall  
14 send to the Division of Insurance Fraud a report or  
15 information pertinent to such knowledge or belief, including  
16 the loss claimed from such act or practice,and such  
17 additional information relative thereto as the department may  
18 require. The Division of Insurance Fraud shall review such  
19 information or reports and select such information or reports  
20 as, in its judgment, may require further investigation. It  
21 shall then cause an independent examination of the facts  
22 surrounding such information or report to be made to determine  
23 the extent, if any, to which a fraudulent insurance act or any  
24 other act or practice which, upon conviction, constitutes a  
25 felony or a misdemeanor under the code, under s. 440.105,or  
26 under s. 817.234 or s. 817.2341, is being committed. The  
27 Division of Insurance Fraud shall report any alleged  
28 violations of law which its investigations disclose to the  
29 appropriate licensing agency and state attorney or other  
30 prosecuting agency having jurisdiction with respect to any  
31 such violation, as provided in s. 624.310. If prosecution by

1 the state attorney or other prosecuting agency having  
2 jurisdiction with respect to such violation is not begun  
3 within 60 days of the division's report, the state attorney or  
4 other prosecuting agency having jurisdiction with respect to  
5 such violation shall inform the division of the reasons for  
6 the lack of prosecution.

7 Section 3. Section 626.9891, Florida Statutes, is  
8 amended to read:

9 (Substantial rewording of section. See  
10 s. 626.9891, F.S., for present text.)  
11 626.9891 Insurer anti-fraud plans and investigative  
12 units.--

13 (1) Each authorized insurer that had \$10 million or  
14 more in direct premiums written during the previous calendar  
15 year shall:

16 (a) Establish and maintain a unit or division within  
17 the company to investigate possible fraudulent claims by  
18 insureds or by persons making claims for services or repairs  
19 against policies held by insureds; or

20 (b) Contract with others to investigate possible  
21 fraudulent claims for services or repairs against policies  
22 held by insureds.

23  
24 For purposes of this section, the term "unit or division"  
25 includes the assignment of fraud investigation to employees  
26 whose principal responsibilities are the investigation and  
27 disposition of claims. If an insurer creates a distinct unit  
28 or division, hires additional employees, or contracts with  
29 another entity to fulfill the requirements of this section,  
30 the additional cost incurred must be included as an  
31 administrative expense for ratemaking purposes.

1       (2)(a) Each authorized insurer, writing direct  
2 insurance, shall adopt an anti-fraud plan, which shall be  
3 filed with the department prior to July 1, 2000.

4       (b) Any insurer that previously filed an anti-fraud  
5 plan with the department shall amend the plan to comply with  
6 the requirements of subsection (3) and shall file all plan  
7 amendments with the department prior to July 1, 2000.

8       (c) Any insurer that files an application for a  
9 certificate of authority with the department prior to July 1,  
10 2000, shall, if the certificate is not issued as of that date,  
11 comply with the requirements of this section within 90 days  
12 after the issuance of a certificate of authority.

13       (d) Any insurer that files an application for a  
14 certificate of authority with the department on or after July  
15 1, 2000, shall comply with the requirements of this section  
16 when the application is filed.

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

18       (a) A description of the unit or division established,  
19 or a copy of the contract and related documents, as required  
20 under subsection (1), if applicable.

21       (b) A description of the insurer's policies and  
22 procedures that facilitate the detection and investigation of  
23 possible fraudulent insurance acts, including specific policy  
24 provisions and investigative procedures intended to combat  
25 complex instances of fraud with respect to each of the  
26 following coverages: health, property, life, casualty, and  
27 workers' compensation and employer's liability.

28       (c) A description of the insurer's procedures for the  
29 mandatory reporting of possible fraudulent insurance acts to  
30 the department.

31

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

5           (e) A description of the insurer's anti-fraud  
6 education and training program, by line of business, for  
7 anti-fraud designated personnel.

8           (f) A description or chart that includes the  
9 organizational arrangement of the insurer's anti-fraud  
10 personnel and the education, training, and claims adjusting,  
11 law enforcement, or other investigative experience of such  
12 personnel responsible for the investigation of possible  
13 fraudulent insurance acts.

14           (4) The department may recommend changes or amendments  
15 to an insurer's anti-fraud plan which implement generally  
16 recognized law enforcement or claims adjusting practices.

17           (5) Every authorized insurer shall describe through  
18 its anti-fraud plan required in subsection (3) the resources  
19 allocated to identify and combat fraud.

20           (6) An insurer that amends an anti-fraud plan shall  
21 file the amended plan with the department within 30 days after  
22 such amendment.

23           (7) The department may adopt rules necessary to  
24 implement the provisions of this section and may require that  
25 material submitted be on a form prescribed by the department.  
26 The department may require that material submitted be in an  
27 electronic format compatible with the department's electronic  
28 data system.

29           Section 4. Section 626.9892, Florida Statutes, is  
30 created to read:

31



1           626.9892 Anti-Fraud Reward Program; reporting of  
2 insurance fraud.--

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

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

12           (3) Only a single reward amount may be awarded,  
13 regardless of the number of persons arrested and convicted in  
14 connection with the Division of Insurance Fraud's  
15 investigation and regardless of how many persons submit claims  
16 for the reward. The reward may be distributed to more than  
17 one person in amounts determined by the department.

18           (4) The department shall establish procedures to  
19 implement and administer the Anti-Fraud Reward Program.  
20 Applications for rewards authorized by this section must be  
21 made pursuant to the procedures established by the department.

22           (5) All procedures, determinations, and other actions  
23 of the department pursuant to this section are exempt from the  
24 provisions of chapter 120.

25           Section 5. Paragraph (e) is added to subsection (2) of  
26 section 627.411, Florida Statutes, to read:

27           627.411 Grounds for disapproval.--

28           (2) In determining whether the benefits are reasonable  
29 in relation to the premium charged, the department, in  
30 accordance with reasonable actuarial techniques, shall  
31 consider:

1           (e) All other relevant factors which impact upon the  
2 frequency or severity of claims or upon expenses.

3           Section 6. Section 641.3915, Florida Statutes, is  
4 created to read:

5           641.3915 Health maintenance organization anti-fraud  
6 plans and investigative units.--Each authorized health  
7 maintenance organization and applicant for a certificate of  
8 authority shall comply with the provisions of s. 626.9891 as  
9 though such organization or applicant were an authorized  
10 insurer.

11           Section 7. Paragraph (h) of subsection (2) of section  
12 775.15, Florida Statutes, 1998 Supplement, is amended to read:

13           775.15 Time limitations.--

14           (2) Except as otherwise provided in this section,  
15 prosecutions for other offenses are subject to the following  
16 periods of limitation:

17           (h) A prosecution for a felony violation of s.  
18 440.105, s. 817.234, s. 817.2341, or s. 817.2343 must be  
19 commenced within 5 years after the violation is committed.

20           Section 8. Subsections (1), (2), (3), (4), and (10) of  
21 section 817.234, Florida Statutes, 1998 Supplement, are  
22 amended, and subsections (11) and (12) are added to said  
23 section, to read:

24           817.234 False and fraudulent insurance claims.--

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

27           1. Presents or causes to be presented any written or  
28 oral statement as part of, or in support of, a claim for  
29 payment or other benefit pursuant to an insurance policy,  
30 knowing that such statement contains any false, incomplete, or  
31

1 misleading information concerning any fact or thing material  
2 to such claim;

3           2. Prepares or makes any written or oral statement  
4 that is intended to be presented to any insurer in connection  
5 with, or in support of, any claim for payment or other benefit  
6 pursuant to an insurance policy, knowing that such statement  
7 contains any false, incomplete, or misleading information  
8 concerning any fact or thing material to such claim; or

9           3. Knowingly presents, causes to be presented, or  
10 prepares or makes with knowledge or belief that it will be  
11 presented to any insurer, purported insurer, servicing  
12 corporation, insurance broker, or insurance agent, or any  
13 employee or agent thereof, any false, incomplete, or  
14 misleading information or written or oral statement as part  
15 of, or in support of, an application for the issuance of, or  
16 the rating of, any insurance policy, or who conceals  
17 information concerning any fact material to such application,

18  
19 commits insurance fraud ~~a felony of the third degree,~~  
20 punishable as provided in subsection (11)s. 775.082, s.  
21 775.083, or s. 775.084.

22           (b) All claims and application forms shall contain a  
23 statement that is approved by the Department of Insurance that  
24 clearly states in substance the following: "Any person who  
25 knowingly and with intent to injure, defraud, or deceive any  
26 insurer files a statement of claim or an application  
27 containing any false, incomplete, or misleading information is  
28 guilty of a felony of the third degree." This paragraph shall  
29 not apply to reinsurance contracts, reinsurance agreements, or  
30 reinsurance claims transactions. ~~The changes in this paragraph~~  
31 ~~relating to applications shall take effect on March 1, 1996.~~

1           (2) Any physician licensed under chapter 458,  
2 osteopathic physician licensed under chapter 459, chiropractic  
3 physician licensed under chapter 460, or other practitioner  
4 licensed under the laws of this state who knowingly and  
5 willfully assists, conspires with, or urges any insured party  
6 to fraudulently violate any of the provisions of this section  
7 or part XI of chapter 627, or any person who, due to such  
8 assistance, conspiracy, or urging by said physician,  
9 osteopathic physician, chiropractic physician, or  
10 practitioner, knowingly and willfully benefits from the  
11 proceeds derived from the use of such fraud, commits insurance  
12 fraud ~~is guilty of a felony of the third degree~~, punishable as  
13 provided in subsection (11) ~~s. 775.082, s. 775.083, or s.~~  
14 ~~775.084~~. In the event that a physician, osteopathic physician,  
15 chiropractic physician, or practitioner is adjudicated guilty  
16 of a violation of this section, the Board of Medicine as set  
17 forth in chapter 458, the Board of Osteopathic Medicine as set  
18 forth in chapter 459, the Board of Chiropractic Medicine as  
19 set forth in chapter 460, or other appropriate licensing  
20 authority shall hold an administrative hearing to consider the  
21 imposition of administrative sanctions as provided by law  
22 against said physician, osteopathic physician, chiropractic  
23 physician, or practitioner.

24           (3) Any attorney who knowingly and willfully assists,  
25 conspires with, or urges any claimant to fraudulently violate  
26 any of the provisions of this section or part XI of chapter  
27 627, or any person who, due to such assistance, conspiracy, or  
28 urging on such attorney's part, knowingly and willfully  
29 benefits from the proceeds derived from the use of such fraud,  
30 commits insurance fraud ~~a felony of the third degree~~,  
31

1 punishable as provided in subsection (11)~~s. 775.082, s.~~  
2 ~~775.083, or s. 775.084.~~

3 (4) Any ~~No~~ person or governmental unit licensed under  
4 chapter 395 to maintain or operate a hospital, and any ~~no~~  
5 administrator or employee of any such hospital, who shall  
6 knowingly and willfully allows ~~allow~~ the use of the facilities  
7 of said hospital by an insured party in a scheme or conspiracy  
8 to fraudulently violate any of the provisions of this section  
9 or part XI of chapter 627. ~~Any hospital administrator or~~  
10 ~~employee who violates this subsection~~ commits insurance fraud  
11 ~~a felony of the third degree~~, punishable as provided in  
12 subsection (11)~~s. 775.082, s. 775.083, or s. 775.084.~~ Any  
13 adjudication of guilt for a violation of this subsection, or  
14 the use of business practices demonstrating a pattern  
15 indicating that the spirit of the law set forth in this  
16 section or part XI of chapter 627 is not being followed, shall  
17 be grounds for suspension or revocation of the license to  
18 operate the hospital or the imposition of an administrative  
19 penalty of up to \$5,000 by the licensing agency, as set forth  
20 in chapter 395.

21 (10) As used in this section, the term "insurer" means  
22 any insurer, health maintenance organization, self-insurer,  
23 self-insurance fund, or other similar entity or person  
24 regulated under chapter 440 or by the Department of Insurance  
25 under the Florida Insurance Code, and the term "insurance  
26 policy" includes a health maintenance organization subscriber  
27 contract.

28 (11) If the value of any property involved in a  
29 violation of this section:  
30  
31

1           (a) Is less than \$20,000, the offender commits a  
2 felony of the third degree, punishable as provided in s.  
3 775.082, s. 775.083, or s. 775.084.  
4           (b) Is \$20,000 or more, but less than \$100,000, the  
5 offender commits a felony of the second degree, punishable as  
6 provided in s. 775.082, s. 775.083, or s. 775.084.  
7           (c) Is \$100,000 or more, the offender commits a felony  
8 of the first degree, punishable as provided in s. 775.082, s.  
9 775.083, or s. 775.084.  
10           (12) As used in this section:  
11           (a) "Property" means property as defined in s.  
12 812.012.  
13           (b) "Value" means value as defined in s. 812.012.  
14           Section 9. Section 817.2341, Florida Statutes, is  
15 created to read:  
16           817.2341 Crimes by or affecting persons engaged in the  
17 business of insurance.--  
18           (1)(a) Any person engaged in the business of insurance  
19 who knowingly, with the intent to deceive, makes any false  
20 material statement or report or willfully and materially  
21 overvalues any land, property, or security, in connection with  
22 any financial reports or documents presented to any insurance  
23 regulatory official or agency or an agent or examiner  
24 appointed by such official or agency to examine the affairs of  
25 such person, commits insurance fraud, as follows:  
26           1. As to any false material statement or report or  
27 willful and material overvaluation of any land, property, or  
28 security which is less than \$20,000, a felony of the third  
29 degree, punishable as provided in s. 775.082, s. 775.083, or  
30 s. 775.084.  
31

1           2. As to any false material statement or report or  
2 willful and material overvaluation of any land, property, or  
3 security which is \$20,000 or more, but less than \$100,000, a  
4 felony of the second degree, punishable as provided in s.  
5 775.082, s. 775.083, or s. 775.084.

6           3. As to any false material statement or report or  
7 willful and material overvaluation of any land, property, or  
8 security which is \$100,000 or more, a felony of the first  
9 degree, punishable as provided in s. 775.082, s. 775.083, or  
10 s. 775.084.

11           (b) If the actions described in paragraph (a)  
12 jeopardized the safety and soundness of an insurer or was a  
13 significant cause of such insurer being placed in  
14 conservation, rehabilitation, or liquidation by an appropriate  
15 court, the offense is a felony of the first degree, punishable  
16 as provided in s. 775.082, s. 775.083, or s. 775.084.

17           (2)(a) Whoever acts as or is an officer, director,  
18 agent, or employee of any person engaged in the business of  
19 insurance or is engaged in the business of insurance or is  
20 involved, other than as an insured or beneficiary under a  
21 policy of insurance, in a transaction relating to the conduct  
22 of affairs of such a business and knowingly obtains or uses,  
23 as defined in s. 812.012, or endeavors to obtain or use, the  
24 property of another with intent to temporarily or permanently  
25 deprive such person of any moneys, funds, premiums, credits,  
26 or other property of such person, or appropriate such property  
27 to his or her own use or to the use of any other person not  
28 entitled to the use of such property, commits a fraudulent  
29 insurance act which, if the value of the property obtained or  
30 used:

1           1. Is less than \$20,000, is a felony of the third  
2 degree, punishable as provided in s. 775.082, s. 775.083, or  
3 s. 775.084;

4           2. Is \$20,000 or more, but less than \$100,000, is a  
5 felony of the second degree, punishable as provided in s.  
6 775.082, s. 775.083, or s. 775.084; or

7           3. Is \$100,000 or more, is a felony of the first  
8 degree, punishable as provided in s. 775.082, s. 775.083, or  
9 s. 775.084.

10           (b) If the actions or transactions described in  
11 paragraph (a) jeopardized the safety and soundness of an  
12 insurer or was a significant cause of such insurer being  
13 placed in conservation, rehabilitation, or liquidation by an  
14 appropriate court, the offense is a felony of the first  
15 degree, punishable as provided in s. 775.082, s. 775.083, or  
16 s. 775.084.

17           (3)(a) Any person engaged in the business of insurance  
18 or involved, other than as an insured or beneficiary under a  
19 policy of insurance, in a transaction relating to the conduct  
20 of affairs of such a business, including any officer,  
21 employee, or agent of such person engaged in the business of  
22 insurance, who knowingly makes any false entry of material  
23 fact in any book, report, or statement of such person engaged  
24 in the business of insurance with intent to deceive any  
25 person, including, but not limited to, any insurance  
26 regulatory official or agency or any agent or examiner  
27 appointed by such official or agency to examine the affairs of  
28 such person, about the financial condition or solvency of such  
29 business commits:

30           1. If the amount of any false entry of material fact  
31 in any book, report, or statement is less than \$20,000, a



1 felony of the third degree, punishable as provided in s.  
2 775.082, s. 775.083, or s. 775.084.

3 2. If the amount of any false entry of material fact  
4 in any book, report, or statement is \$20,000 or more, but less  
5 than \$100,000, a felony of the second degree, punishable as  
6 provided in s. 775.082, s. 775.083, or s. 775.084.

7 3. If the amount of any false entry of material fact  
8 in any book, report, or statement is \$100,000 or more, a  
9 felony of the first degree, punishable as provided in s.  
10 775.082, s. 775.083, or s. 775.084.

11 (b) If any actions or transactions described in  
12 paragraph (a) jeopardized the safety and soundness of an  
13 insurer or was a significant cause of such insurer being  
14 placed in conservation, rehabilitation, or liquidation by an  
15 appropriate court, the offense is a felony of the first  
16 degree, punishable as provided in s. 775.082, s. 775.083, or  
17 s. 775.084.

18 (4) Whoever, by threats of force or by any threatening  
19 letter or communication, corruptly influences, obstructs, or  
20 impedes or endeavors to corruptly influence, obstruct, or  
21 impede the due and proper administration of the law, under  
22 which any proceeding involving the business of insurance  
23 before any insurance regulatory official or agency or any  
24 agent or examiner appointed by such official or agency to  
25 examine the affairs of a person engaged in the business of  
26 insurance, shall be fined as provided in s. 817.2342 and  
27 commits a felony of the second degree, punishable as provided  
28 in s. 775.082, s. 775.083, or s. 775.084.

29 Section 10. Section 817.2342, Florida Statutes, is  
30 created to read:  
31

1           817.2342 Civil penalties and injunctions for  
2 violations.--

3           (1) The Attorney General, a state attorney, or the  
4 Department of Insurance may bring a civil action in the  
5 appropriate circuit court against any person who engages in  
6 conduct constituting an offense under s. 817.2341 and, upon  
7 proof of such conduct by a preponderance of the evidence, such  
8 person shall be subject to a civil penalty of not more than  
9 \$50,000 for each violation or the amount of compensation which  
10 the person received or offered for the prohibited conduct,  
11 whichever amount is greater. If the offense has contributed  
12 to the decision of a court of appropriate jurisdiction to  
13 issue an order directing the conservation, rehabilitation, or  
14 liquidation of an insurer, such penalty shall be remitted to  
15 the appropriate regulatory official for the benefit of the  
16 policyholders, claimants, and creditors of such insurer. The  
17 imposition of a civil penalty under this subsection does not  
18 preclude any other criminal or civil statutory, common law, or  
19 administrative remedy which is available by law to the state  
20 or to any other person.

21           (2) If the Attorney General, a state attorney, or the  
22 Department of Insurance has reason to believe that a person is  
23 engaged in conduct constituting an offense under s. 817.2341,  
24 the Attorney General, a state attorney, or the Department of  
25 Insurance may petition an appropriate circuit court for an  
26 order prohibiting that person from engaging in such conduct.  
27 The court may issue an order prohibiting that person from  
28 engaging in such conduct if the court finds that the conduct  
29 constitutes such an offense. The filing of a petition under  
30 this section does not preclude any other remedy which is  
31 available by law to the state or to any other person.

1           Section 11. Section 817.2343, Florida Statutes, is  
2 created to read:

3           817.2343 Obstruction of justice.--Whoever acts as or  
4 is an officer, director, agent or employee of a person engaged  
5 in the business of insurance; or is engaged in the business of  
6 insurance or is involved, other than as an insured or  
7 beneficiary under a policy of insurance, in a transaction  
8 relating to the conduct of affairs of such a business; and  
9 with intent to obstruct a judicial proceeding or criminal  
10 investigation, directly or indirectly notifies any other  
11 person about the existence or contents of a subpoena for  
12 records of that person engaged in such business, or  
13 information that has been furnished to the Attorney General,  
14 the statewide prosecutor, a state attorney, the Department of  
15 Insurance, or a grand jury in response to that subpoena,  
16 commits a felony of the second degree, punishable as provided  
17 in s. 775.082, s. 775.083, or s. 775.084.

18           Section 12. Section 817.2344, Florida Statutes, is  
19 created to read:

20           817.2344 Definitions; construction.--

21           (1) As used in ss. 817.2341-817.2344:

22           (a) "Business of insurance" means:

23           1. The writing of insurance, including, but not  
24 limited to, activities regulated by the Florida Insurance  
25 Code; or

26           2. The reinsuring of risks by an insurer, including  
27 all acts necessary or incidental to such writing or  
28 reinsuring, including, but not limited to, those acts defined  
29 in s. 624.10 and the activities of persons who act as, or are,  
30 officers, directors, agents, or employees of insurers or who  
31 are other persons authorized to act on behalf of such person.

1           (b) "Insurer" means any person, the business activity  
2 of whom is the writing of insurance or the reinsuring of  
3 risks, including, but not limited to, any person as defined in  
4 ss. 1.01 and 624.04, and elsewhere in the insurance code,  
5 whether domestic, foreign, or alien as defined in s. 624.06  
6 and including any person who acts as, or is, an officer,  
7 director, agent, or employee of that business.

8           (c) "Obtains or uses" has the same meaning as provided  
9 in s. 812.012.

10           (d) "Property" has the same meaning as provided in s.  
11 812.012.

12           (e) "Subpoena for records" means a subpoena by the  
13 Attorney General, the statewide prosecutor, a state attorney,  
14 the Department of Insurance, or a grand jury for records which  
15 subpoena has been served relating to a violation of, or a  
16 conspiracy to violate, s. 817.2341.

17           (f) "Value" has the same meaning as provided in s.  
18 812.012.

19           (2) The provisions of ss. 817.2341, 817.2342,  
20 817.2343, and this section shall not be construed to preclude  
21 the applicability of any other provision of the criminal laws  
22 of this state which presently applies or may in the future  
23 apply to any act or transaction which violates such sections,  
24 unless such provision is inconsistent with the terms of such  
25 sections.

26           Section 13. Subsection (4) of section 817.505, Florida  
27 Statutes, 1998 Supplement, is amended to read:

28           817.505 Patient brokering prohibited; exceptions;  
29 penalties.--

30           (4) Any person, including an officer, partner, agent,  
31 attorney, or other representative of a firm, joint venture,

1 partnership, business trust, syndicate, corporation, or other  
2 business entity, who violates any provision of this section  
3 commits:

4 ~~(a) A misdemeanor of the first degree for a first~~  
5 ~~violation, punishable as provided in s. 775.082 or by a fine~~  
6 ~~not to exceed \$5,000, or both.~~

7 ~~(b) a felony of the third degree for a second or~~  
8 ~~subsequent violation, punishable as provided in s. 775.082, s.~~  
9 ~~775.083, or s. 775.084 or by a fine not to exceed \$10,000, or~~  
10 ~~both.~~

11 Section 14. For the purpose of incorporating the  
12 amendment to subsection (4) of section 817.505, Florida  
13 Statutes, 1998 Supplement, in a reference thereto, subsection  
14 (3) of section 455.657, Florida Statutes, is reenacted to  
15 read:

16 455.657 Kickbacks prohibited.--

17 (3) Violations of this section shall be considered  
18 patient brokering and shall be punishable as provided in s.  
19 817.505.

20 Section 15. For the purpose of incorporating the  
21 creation of ss. 817.2341 and 817.2342, Florida Statutes, into  
22 chapter 817, Florida Statutes, and references thereto,  
23 paragraph (d) of subsection (1) of section 464.018, Florida  
24 Statutes, 1998 Supplement, subsection (1) of section 772.102,  
25 Florida Statutes, and subsection (1) of section 895.02,  
26 Florida Statutes, are reenacted to read:

27 464.018 Disciplinary actions.--

28 (1) The following acts shall be grounds for  
29 disciplinary action set forth in this section:

30 (d) Being found guilty, regardless of adjudication, of  
31 any of the following offenses:

- 1           1. A forcible felony as defined in chapter 776.
- 2           2. A violation of chapter 812, relating to theft,
- 3 robbery, and related crimes.
- 4           3. A violation of chapter 817, relating to fraudulent
- 5 practices.
- 6           4. A violation of chapter 800, relating to lewdness
- 7 and indecent exposure.
- 8           5. A violation of chapter 784, relating to assault,
- 9 battery, and culpable negligence.
- 10          6. A violation of chapter 827, relating to child
- 11 abuse.
- 12          7. A violation of chapter 415, relating to protection
- 13 from abuse, neglect, and exploitation.
- 14          8. A violation of chapter 39, relating to child abuse,
- 15 abandonment, and neglect.
- 16          772.102 Definitions.--As used in this chapter, the
- 17 term:
- 18           (1) "Criminal activity" means to commit, to attempt to
- 19 commit, to conspire to commit, or to solicit, coerce, or
- 20 intimidate another person to commit:
- 21           (a) Any crime which is chargeable by indictment or
- 22 information under the following provisions:
- 23           1. Section 210.18, relating to evasion of payment of
- 24 cigarette taxes.
- 25           2. Section 414.39, relating to public assistance
- 26 fraud.
- 27           3. Section 440.105 or s. 440.106, relating to workers'
- 28 compensation.
- 29           4. Part IV of chapter 501, relating to telemarketing.
- 30           5. Chapter 517, relating to securities transactions.
- 31

- 1           6. Section 550.235, s. 550.3551, or s. 550.3605,
- 2 relating to dogracing and horseracing.
- 3           7. Chapter 550, relating to jai alai frontons.
- 4           8. Chapter 552, relating to the manufacture,
- 5 distribution, and use of explosives.
- 6           9. Chapter 562, relating to beverage law enforcement.
- 7           10. Section 624.401, relating to transacting insurance
- 8 without a certificate of authority, s. 624.437(4)(c)1.,
- 9 relating to operating an unauthorized multiple-employer
- 10 welfare arrangement, or s. 626.902(1)(b), relating to
- 11 representing or aiding an unauthorized insurer.
- 12           11. Chapter 687, relating to interest and usurious
- 13 practices.
- 14           12. Section 721.08, s. 721.09, or s. 721.13, relating
- 15 to real estate timeshare plans.
- 16           13. Chapter 782, relating to homicide.
- 17           14. Chapter 784, relating to assault and battery.
- 18           15. Chapter 787, relating to kidnapping.
- 19           16. Chapter 790, relating to weapons and firearms.
- 20           17. Section 796.01, s. 796.03, s. 796.04, s. 796.05,
- 21 or s. 796.07, relating to prostitution.
- 22           18. Chapter 806, relating to arson.
- 23           19. Section 810.02(2)(c), relating to specified
- 24 burglary of a dwelling or structure.
- 25           20. Chapter 812, relating to theft, robbery, and
- 26 related crimes.
- 27           21. Chapter 815, relating to computer-related crimes.
- 28           22. Chapter 817, relating to fraudulent practices,
- 29 false pretenses, fraud generally, and credit card crimes.
- 30           23. Section 827.071, relating to commercial sexual
- 31 exploitation of children.

- 1           24. Chapter 831, relating to forgery and  
2 counterfeiting.
- 3           25. Chapter 832, relating to issuance of worthless  
4 checks and drafts.
- 5           26. Section 836.05, relating to extortion.
- 6           27. Chapter 837, relating to perjury.
- 7           28. Chapter 838, relating to bribery and misuse of  
8 public office.
- 9           29. Chapter 843, relating to obstruction of justice.
- 10          30. Section 847.011, s. 847.012, s. 847.013, s.  
11 847.06, or s. 847.07, relating to obscene literature and  
12 profanity.
- 13          31. Section 849.09, s. 849.14, s. 849.15, s. 849.23,  
14 or s. 849.25, relating to gambling.
- 15          32. Chapter 893, relating to drug abuse prevention and  
16 control.
- 17          33. Section 914.22 or s. 914.23, relating to  
18 witnesses, victims, or informants.
- 19          34. Section 918.12 or s. 918.13, relating to tampering  
20 with jurors and evidence.
- 21           (b) Any conduct which is subject to indictment or  
22 information as a criminal offense and listed in 18 U.S.C. s.  
23 1961(1) (A), (B), (C), or (D).
- 24           895.02 Definitions.--As used in ss. 895.01-895.08, the  
25 term:
- 26           (1) "Racketeering activity" means to commit, to  
27 attempt to commit, to conspire to commit, or to solicit,  
28 coerce, or intimidate another person to commit:
- 29           (a) Any crime which is chargeable by indictment or  
30 information under the following provisions of the Florida  
31 Statutes:



- 1           1. Section 210.18, relating to evasion of payment of  
2 cigarette taxes.
- 3           2. Section 403.727(3)(b), relating to environmental  
4 control.
- 5           3. Section 414.39, relating to public assistance  
6 fraud.
- 7           4. Section 409.920, relating to Medicaid provider  
8 fraud.
- 9           5. Section 440.105 or s. 440.106, relating to workers'  
10 compensation.
- 11          6. Part IV of chapter 501, relating to telemarketing.
- 12          7. Chapter 517, relating to sale of securities and  
13 investor protection.
- 14          8. Section 550.235, s. 550.3551, or s. 550.3605,  
15 relating to dogracing and horseracing.
- 16          9. Chapter 550, relating to jai alai frontons.
- 17          10. Chapter 552, relating to the manufacture,  
18 distribution, and use of explosives.
- 19          11. Chapter 562, relating to beverage law enforcement.
- 20          12. Section 624.401, relating to transacting insurance  
21 without a certificate of authority, s. 624.437(4)(c)1.,  
22 relating to operating an unauthorized multiple-employer  
23 welfare arrangement, or s. 626.902(1)(b), relating to  
24 representing or aiding an unauthorized insurer.
- 25          13. Section 655.50, relating to reports of currency  
26 transactions, when such violation is punishable as a felony.
- 27          14. Chapter 687, relating to interest and usurious  
28 practices.
- 29          15. Section 721.08, s. 721.09, or s. 721.13, relating  
30 to real estate timeshare plans.
- 31          16. Chapter 782, relating to homicide.

- 1 17. Chapter 784, relating to assault and battery.
- 2 18. Chapter 787, relating to kidnapping.
- 3 19. Chapter 790, relating to weapons and firearms.
- 4 20. Section 796.03, s. 796.04, s. 796.05, or s.
- 5 796.07, relating to prostitution.
- 6 21. Chapter 806, relating to arson.
- 7 22. Section 810.02(2)(c), relating to specified
- 8 burglary of a dwelling or structure.
- 9 23. Chapter 812, relating to theft, robbery, and
- 10 related crimes.
- 11 24. Chapter 815, relating to computer-related crimes.
- 12 25. Chapter 817, relating to fraudulent practices,
- 13 false pretenses, fraud generally, and credit card crimes.
- 14 26. Chapter 825, relating to abuse, neglect, or
- 15 exploitation of an elderly person or disabled adult.
- 16 27. Section 827.071, relating to commercial sexual
- 17 exploitation of children.
- 18 28. Chapter 831, relating to forgery and
- 19 counterfeiting.
- 20 29. Chapter 832, relating to issuance of worthless
- 21 checks and drafts.
- 22 30. Section 836.05, relating to extortion.
- 23 31. Chapter 837, relating to perjury.
- 24 32. Chapter 838, relating to bribery and misuse of
- 25 public office.
- 26 33. Chapter 843, relating to obstruction of justice.
- 27 34. Section 847.011, s. 847.012, s. 847.013, s.
- 28 847.06, or s. 847.07, relating to obscene literature and
- 29 profanity.
- 30 35. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
- 31 or s. 849.25, relating to gambling.

1           36. Chapter 874, relating to criminal street gangs.  
2           37. Chapter 893, relating to drug abuse prevention and  
3 control.

4           38. Chapter 896, relating to offenses related to  
5 financial transactions.

6           39. Sections 914.22 and 914.23, relating to tampering  
7 with a witness, victim, or informant, and retaliation against  
8 a witness, victim, or informant.

9           40. Sections 918.12 and 918.13, relating to tampering  
10 with jurors and evidence.

11           (b) Any conduct defined as "racketeering activity"  
12 under 18 U.S.C. s. 1961(1).

13           Section 16. The sum of \$250,000 is hereby appropriated  
14 from the Insurance Commissioner's Regulatory Trust Fund in a  
15 nonoperating category for state fiscal year 1999-2000 for the  
16 purpose of implementing the reward program under s. 626.9892,  
17 Florida Statutes, as created by this act.

18           Section 17. This act shall take effect July 1, 1999.

19

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21           HOUSE SUMMARY

22

23           Requires insurers and health maintenance organizations  
24 provide for investigating insurance fraud and to submit  
25 an anti-fraud plan to the division. Establishes penalty  
26 levels and prescribes time limitations for prosecution of  
27 prohibited insurance fraud. Establishes the Anti-Fraud  
28 Reward Program in the Department of Insurance and  
29 provides for awarding rewards. Specifies activities as  
30 crimes by or affecting persons engaged in the business of  
31 insurance and provides criminal and civil penalties.  
          Specifies activities which constitute obstruction of  
          justice.

29

30

31