

By Representative Brown

1 A bill to be entitled
2 An act relating to the State Group Insurance
3 Program; amending s. 20.22, F.S.; clarifying
4 provisions relating to operation of the
5 Division of State Group Insurance; deleting a
6 prohibition that the Florida State Group
7 Insurance Council may not participate in
8 granting or denying a license or permit issued
9 by the division; amending s. 110.123, F.S.;
10 revising and adding definitions; providing for
11 Career Service exemptions in the Division of
12 State Group Insurance; clarifying and
13 correcting references; clarifying requirements
14 for contracting with health maintenance
15 organizations; updating provisions relating to
16 agency payment of premiums for certain
17 employees injured or killed in the line of
18 duty, to conform to existing law; providing
19 conditions under which confidential medical
20 records of state employees, former state
21 employees, and their dependents may be
22 released; providing the division with a right
23 of reimbursement; amending s. 110.12315, F.S.;
24 revising, clarifying, and reorganizing
25 provisions relating to the state employees'
26 prescription drug program; increasing
27 copayments; amending s. 110.1232, F.S.,
28 relating to health insurance coverage for
29 certain state retirees; conforming references;
30 amending s. 110.1234, F.S., relating to
31 Medicare supplement coverage for state

1 retirees; conforming a reference; creating s.
2 110.1239, F.S.; providing for protection of
3 state employee health insurance benefits;
4 amending s. 110.161, F.S., relating to the
5 State Employees Pretax Benefits Program Act;
6 correcting references and updating provisions;
7 amending s. 110.205, F.S.; conforming
8 provisions to changes made by the act;
9 providing for the designation of Senior
10 Management Service positions; amending s.
11 768.76, F.S.; providing that benefits received
12 under the state group health self-insurance
13 plan are not a collateral source of indemnity;
14 providing that certain HMO's are not considered
15 a collateral source of indemnity; providing an
16 effective date.

17

18 Be It Enacted by the Legislature of the State of Florida:

19

20 Section 1. Paragraphs (a) and (e) of subsection (5) of
21 section 20.22, Florida Statutes, are amended to read:

22 20.22 Department of Management Services.--There is
23 created a Department of Management Services.

24 (5)(a) The Florida State Group Insurance Council is
25 created within the Division of State Group Insurance for the
26 purpose of providing joint and coordinated oversight of the
27 operation and administration of the state group insurance
28 program. The council shall consist of the state budget
29 director; an individual from the private sector with an
30 extensive health administration background, appointed by the
31 Governor; a member of the Florida Senate, appointed by the

1 President of the Senate; a member of the Florida House of
2 Representatives, appointed by the Speaker of the House of
3 Representatives; a representative of the State University
4 System, appointed by the Board of Regents; the State Insurance
5 Commissioner or his designee; the director of the Division of
6 Retirement; and two representatives of employees and retirees,
7 appointed by the Governor. Members of the council appointed by
8 the Governor shall be appointed to serve terms of 4 years
9 each. Each member of the council shall serve until a
10 successor is appointed. ~~Additionally,~~The director of the
11 Division of State Group ~~Employee~~ Insurance shall be a
12 nonvoting member of the council.

13 (e) The council or a member thereof may not enter into
14 the day-to-day operation of the Division of State Group
15 Insurance and is specifically prohibited from taking part in:

16 1. The awarding or termination of contracts.
17 2. The selection of a consultant or contractor or the
18 prequalification of any individual consultant or contractor.
19 However, the council may recommend to the director standards
20 and policies governing the procedure for selection and
21 prequalification of consultants and contractors.

22 3. The employment, promotion, demotion, suspension,
23 transfer, or discharge of any division personnel.

24 ~~4. The granting, denial, suspension, or revocation of~~
25 ~~any license or permit issued by the division.~~

26 Section 2. Subsection (2), paragraphs (a), (e), and
27 (h) of subsection (3), paragraphs (a) and (e) of subsection
28 (4), and subsections (5) and (9) of section 110.123, Florida
29 Statutes, 1998 Supplement, are amended, and subsection (12) is
30 added to that section, to read:

31 110.123 State group insurance program.--

1 (2) DEFINITIONS.--As used in this section, unless the
2 context otherwise requires,the term:

3 (a) "Department" means the Department of Management
4 Services.

5 (b) "Division" means the Division of State Group
6 Insurance in the department.

7 (c) "Enrollee" means all state officers and employees,
8 retired state officers and employees, ~~and~~ surviving spouses of
9 deceased state officers and employees, and terminated
10 employees or individuals with continuation coverage who are
11 enrolled in an insurance plan offered by the state group
12 insurance program.

13 (d) "Full-time state employees" includes all full-time
14 employees of all branches or agencies of state government
15 holding salaried positions and paid by state warrant or from
16 agency funds, and employees paid from regular salary
17 appropriations for 8 months' employment, including university
18 personnel on academic contracts, but in no case shall "state
19 employee" or "salaried position" include persons paid from
20 other-personal-services (OPS) funds.

21 (e) "Health maintenance organization" or "HMO" means
22 an entity certified under part I of chapter 641.

23 (f) "Health plan member" means any person
24 participating in the state group health insurance plan or in a
25 health maintenance organization plan under the state group
26 insurance program, including enrollees and covered dependents
27 thereof.

28 ~~(g)~~(f) "Part-time state employee" means any employee
29 of any branch or agency of state government paid by state
30 warrant from salary appropriations or from agency funds, and
31 who is employed for less than the normal full-time workweek

1 established by the department or, if on academic contract or
2 seasonal or other type of employment which is less than
3 year-round, is employed for less than 8 months during any
4 12-month period, but in no case shall "part-time" employee
5 include a person paid from other-personal-services (OPS)
6 funds.

7 (h)~~(g)~~ "Retired state officer or employee" or
8 "retiree" means any state officer or state employee who
9 retires under a state retirement system or a state optional
10 annuity or retirement program or is placed on disability
11 retirement, and who was insured under the state group
12 insurance program at the time of retirement, and who begins
13 receiving retirement benefits immediately after retirement
14 from state office or employment.

15 (i)~~(h)~~ "State agency" or "agency" means any branch,
16 department, or agency of state government.

17 (j) "State-contracted HMO" means any health
18 maintenance organization under contract with the division to
19 participate in the state group insurance program.

20 (k)~~(i)~~ "State group health insurance plan" or "state
21 plan" means the state self-insured health insurance plan
22 offered to state officers and employees, retired state
23 officers and employees, and surviving spouses of deceased
24 state officers and employees pursuant to this section.

25 (l)~~(j)~~ "State group insurance program" or "programs"
26 means the package of insurance plans offered to state officers
27 and employees, retired state officers and employees, and
28 surviving spouses of deceased state officers and employees
29 pursuant to this section, including the state group health
30 insurance plan, health maintenance organization plans, and
31 other plans required or authorized by this section.

1 ~~(m)(k)~~ "State officer" means any constitutional state
2 officer, any elected state officer paid by state warrant, or
3 any appointed state officer who is commissioned by the
4 Governor and who is paid by state warrant.

5 ~~(n)(l)~~ "Surviving spouse" means the widow or widower
6 of a deceased state officer, full-time state employee,
7 part-time state employee, or retiree if such widow or widower
8 was covered as a dependent under the state group health
9 insurance plan or a health maintenance organization plan
10 established pursuant to this section at the time of the death
11 of the deceased officer, employee, or retiree. "Surviving
12 spouse" also means any widow or widower who is receiving or
13 eligible to receive a monthly state warrant from a state
14 retirement system as the beneficiary of a state officer,
15 full-time state employee, or retiree who died prior to July 1,
16 1979. For the purposes of this section, any such widow or
17 widower shall cease to be a surviving spouse upon his or her
18 remarriage.

19 (3) STATE GROUP INSURANCE PROGRAM.--

20 (a) The Division of State Group Insurance is created
21 within the Department of Management Services, to be headed by
22 a director who shall be appointed by the Governor and
23 confirmed by the Senate. The division shall be a separate
24 budget entity, and the director shall be its agency head for
25 all purposes.

26 1. The director and assistant director are exempt from
27 the Career Service System as provided under s. 110.205(2)(i).
28 In addition to the 20 policymaking positions allocated to the
29 Department of Management Services, under s. 110.205(2)(m), the
30 director, as agency head, may designate as being exempt from
31 the Career Service System a maximum of 10 positions determined

1 by the director to have policymaking or managerial
2 responsibilities comparable to such positions.

3 2. The Department of Management Services shall provide
4 administrative support and service to the division to the
5 extent requested by the director. The division shall not be
6 subject to control, supervision, or direction by the
7 Department of Management Services in any manner, including,
8 but not limited to, personnel, purchasing, transactions
9 involving real or personal property, and budgetary matters,
10 except to the extent as provided in this chapter and chapters
11 216, 255, 282, and 287 for agencies of the executive branch.

12 (e)1. Notwithstanding the provisions of chapter 287
13 and the authority of the department, for the purpose of
14 protecting the health of, and providing medical services to,
15 state employees participating in the state group insurance
16 program ~~Employees' Health Self-Insurance Plan~~, the Division of
17 State Group Insurance may contract to retain the services of
18 professional administrators for the state group insurance
19 program ~~Employees' Health Self-Insurance Plan~~. The division
20 agency shall follow good purchasing practices of state
21 procurement to the extent practicable under the circumstances.

22 2. Each vendor in a major procurement, and any other
23 vendor if the division deems it necessary to protect the
24 state's financial interests, shall, at the time of executing
25 any contract with the division, post an appropriate bond with
26 the division in an amount determined by the division to be
27 adequate to protect the state's interests but not higher than
28 the full amount estimated to be paid annually to the vendor
29 under the contract.

30 3. Each major contract entered into by the division
31 pursuant to this section shall contain a provision for payment

1 of liquidated damages to the division for material
2 noncompliance by a vendor with a contract provision. The
3 division may require a liquidated damages provision in any
4 contract if the division deems it necessary to protect the
5 state's financial interests.

6 4. The provisions of s. 120.57(3) apply to the
7 division's contracting process, except:

8 a. A formal written protest of any decision, intended
9 decision, or other action subject to protest shall be filed
10 within 72 hours after receipt of notice of the decision,
11 intended decision, or other action.

12 b. As an alternative to any provision of s. 120.57(3),
13 the division may proceed with the bid selection or contract
14 award process if the director of the division ~~department~~ sets
15 forth, in writing, particular facts and circumstances which
16 demonstrate the necessity of continuing the procurement
17 process or the contract award process in order to avoid a
18 substantial disruption to the provision of any scheduled
19 insurance services.

20 (h)1. A person eligible to participate in the state
21 group ~~health~~ insurance program plan may be authorized by rules
22 adopted by the division, in lieu of participating in the state
23 group health insurance plan, to exercise an option to elect
24 membership in a health maintenance organization plan which is
25 under contract with the state in accordance with criteria
26 established by this section and by said rules. The offer of
27 optional membership in a health maintenance organization plan
28 permitted by this paragraph may be limited or conditioned by
29 rule as may be necessary to meet the requirements of state and
30 federal laws.

31

1 2. The division shall contract with health maintenance
2 organizations seeking to participate in the state group
3 insurance program through issuance of a request for proposal
4 or by contract negotiation based upon a premium and a minimum
5 benefit package as follows:

6 a. A minimum benefit package to be provided by a
7 participating HMO shall include: physician services; inpatient
8 and outpatient hospital services; emergency medical services,
9 including out-of-area emergency coverage; diagnostic
10 laboratory and diagnostic and therapeutic radiologic services;
11 mental health, alcohol, and chemical dependency treatment
12 services meeting the minimum requirements of state and federal
13 law; skilled nursing facilities and services; prescription
14 drugs; and other benefits as may be required by the division.
15 Additional services may be provided subject to the contract
16 between the division and the HMO.

17 b. A uniform schedule for deductibles and copayments
18 may be established for all participating HMOs.

19 c. Based upon the minimum benefit package and
20 copayments and deductibles contained in sub-subparagraphs a.
21 and b., the division shall issue a request for proposal for,
22 or enter into contract negotiations with, any or all HMOs
23 which are interested in participating in the state group
24 insurance program. Upon receipt of ~~all~~ proposals, the division
25 may, as it deems appropriate, enter into contract negotiations
26 with HMOs submitting bids. ~~As part of the request for proposal~~
27 ~~process,~~The division may require detailed financial data from
28 each HMO which participates in the bidding or contract
29 negotiation process for the purpose of determining the
30 financial stability of the HMO.

31

1 d. In determining which HMOs to contract with, the
2 division shall, at a minimum, consider: each proposed
3 contractor's previous experience and expertise in providing
4 prepaid health benefits; each proposed contractor's historical
5 experience in enrolling and providing health care services to
6 participants in the state group insurance program; the cost of
7 the premiums; the plan's ability to adequately provide service
8 coverage and administrative support services as determined by
9 the division; plan benefits in addition to the minimum benefit
10 package; accessibility to providers; and the financial
11 solvency of the plan. Nothing shall preclude the division from
12 negotiating regional or statewide contracts with one or more
13 health maintenance organization plans ~~when this is~~
14 ~~cost-effective and~~ when the division determines that this
15 approach is cost-effective and that the plan or plans have ~~has~~
16 the best overall benefit package for the service areas
17 involved. However, no HMO shall be eligible for a contract if
18 the HMO's retiree Medicare premium exceeds the retiree rate as
19 set by the division for the state group health insurance plan.
20 e. The division may limit the number of HMOs that it
21 contracts with in each service area based on the nature of the
22 bids the division receives, the number of state employees in
23 the service area, or ~~and~~ any unique geographical
24 characteristics of the service area. The division shall
25 establish by rule service areas throughout the state.
26 f. All persons participating in the state group
27 insurance program who are required to contribute towards a
28 total state group health premium shall be subject to the same
29 dollar contribution regardless of whether the enrollee enrolls
30 in the state group health insurance plan or in an HMO plan.
31

1 3. The division is authorized to negotiate and to
2 contract with specialty psychiatric hospitals for mental
3 health benefits, on a regional basis, for alcohol, drug abuse,
4 and mental and nervous disorders. The division may establish,
5 subject to the approval of the Legislature pursuant to
6 subsection (5), any such regional plan upon completion of an
7 actuarial study to determine any impact on plan benefits and
8 premiums.

9 4. In addition to contracting pursuant to subparagraph
10 2., the division shall enter into contract with any HMO to
11 participate in the state group insurance program which:

12 a. Serves greater than 5,000 recipients on a prepaid
13 basis under the Medicaid program;

14 b. Does not currently meet the 25 percent
15 non-Medicare/non-Medicaid enrollment composition requirement
16 established by the Department of Health and Human Services
17 excluding participants enrolled in the state group insurance
18 program;

19 c. Meets the minimum benefit package and copayments
20 and deductibles contained in sub-subparagraphs 2.a. and b.;

21 d. Is willing to participate in the state group
22 insurance program at a cost of premiums that is not greater
23 than 95 percent of the cost of HMO premiums accepted by the
24 division in each service area; and

25 e. Meets the minimum surplus requirements of s.
26 641.225.

27
28 The division is authorized to contract with HMOs that meet the
29 requirements of sub-subparagraphs a. through d. prior to the
30 open enrollment period for state employees. The division is
31 not required to renew the contract with the HMOs as set forth

1 in this paragraph more than twice. Thereafter, the HMOs shall
2 be eligible to participate in the state group insurance
3 program only through the request for proposal process
4 described in subparagraph 2.

5 5. All enrollees in the state group health insurance
6 plan or any health maintenance organization plan shall have
7 the option of changing to any other health plan which is
8 offered by the state within any open enrollment period
9 designated by the division. Open enrollment shall be held at
10 least once each calendar year.

11 6. Any HMO participating in the state group insurance
12 program shall, upon the request of the division, submit to the
13 division standardized data for the purpose of comparison of
14 the appropriateness, quality, and efficiency of care provided
15 by the HMO. Such standardized data shall include: membership
16 profiles; inpatient and outpatient utilization by age and sex,
17 type of service, provider type, and facility; and emergency
18 care experience. Requirements and timetables for submission of
19 such standardized data and such other data as the division
20 deems necessary to evaluate the performance of participating
21 HMOs shall be adopted by rule.

22 7. The division shall, after consultation with
23 representatives from each of the unions representing state and
24 university employees, establish a comprehensive package of
25 insurance benefits including, but not limited to, supplemental
26 health and life coverage, dental care, long-term care, and
27 vision care to allow state employees the option to choose the
28 benefit plans which best suit their individual needs.

29 a. Based upon a desired benefit package, the division
30 shall issue a request for proposal for health insurance
31 providers interested in participating in the state group

1 insurance program, and the division shall issue a request for
2 proposal for insurance providers interested in participating
3 in the non-health-related components of the state group
4 insurance program. Upon receipt of all proposals, the
5 division may enter into contract negotiations with insurance
6 providers submitting bids or negotiate a specially designed
7 benefit package. Insurance providers offering or providing
8 supplemental coverage as of May 30, 1991, which qualify for
9 pretax benefit treatment pursuant to s. 125 of the Internal
10 Revenue Code of 1986, with 5,500 or more state employees
11 currently enrolled may be included by the division in the
12 supplemental insurance benefit plan established by the
13 division without participating in a request for proposal,
14 submitting bids, negotiating contracts, or negotiating a
15 specially designed benefit package. These contracts shall
16 provide state employees with the most cost-effective and
17 comprehensive coverage available; however, no state or agency
18 funds shall be contributed toward the cost of any part of the
19 premium of such supplemental benefit plans.

20 b. Pursuant to the applicable provisions of s.
21 110.161, and s. 125 of the Internal Revenue Code of 1986, the
22 division shall enroll in the pretax benefit program those
23 state employees who voluntarily elect coverage in any of the
24 supplemental insurance benefit plans as provided by
25 sub-subparagraph a.

26 c. Nothing herein contained shall be construed to
27 prohibit insurance providers from continuing to provide or
28 offer supplemental benefit coverage to state employees as
29 provided under existing agency plans.

30 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;
31 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

1 (a) Except as provided in paragraph (e) with respect
2 to law enforcement officers, ~~correctional~~ and ~~correctional~~
3 ~~probation officers, and firefighters, legislative~~
4 authorization through the appropriations act is required for
5 payment by a state agency of any part of the premium cost of
6 participation in any group insurance plan. However, the state
7 contribution for full-time employees or part-time permanent
8 employees shall continue in the respective proportions for up
9 to 6 months for any such officer or employee who has been
10 granted an approved parental or medical leave of absence
11 without pay.

12 (e) No state contribution for the cost of any part of
13 the premium shall be made for retirees or surviving spouses
14 for any type of coverage under the state group insurance
15 program. However, any state agency that employs a full-time
16 law enforcement officer, correctional officer, or correctional
17 probation officer who is killed or suffers catastrophic injury
18 in the line of duty as provided in s. 112.19, or a full-time
19 firefighter who is killed or suffers catastrophic injury in
20 the line of duty as provided in s. 112.191, on or after July
21 ~~1, 1980, as a result of an act of violence inflicted by~~
22 ~~another person while the officer is engaged in the performance~~
23 ~~of law enforcement duties or as a result of an assault against~~
24 ~~the officer under riot conditions~~ shall pay the entire premium
25 of the state group health insurance plan for the employee's
26 surviving spouse until remarried, and for each dependent child
27 of the employee, subject to the conditions and limitations set
28 forth in s. 112.19 or s. 112.191, as applicable ~~until the~~
29 ~~child reaches the age of majority or until the end of the~~
30 ~~calendar year in which the child reaches the age of 25 if:~~
31

1 ~~1. At the time of the employee's death, the child is~~
2 ~~dependent upon the employee for support; and~~

3 ~~2. The surviving child continues to be a dependent for~~
4 ~~support, or the surviving child is a full-time or part-time~~
5 ~~student and is dependent for support.~~

6 (5) DIVISION OF STATE GROUP INSURANCE; POWERS AND
7 DUTIES.--The division is responsible for the administration of
8 the state group insurance program. The division shall
9 initiate and supervise the program as established by this
10 section and shall adopt such rules as are necessary to perform
11 its responsibilities. To implement this program, the division
12 shall, with prior approval by the Legislature:

13 (a) Determine the benefits to be provided and the
14 contributions to be required for the state group insurance
15 program. Such determinations, whether for a contracted plan or
16 a self-insurance plan pursuant to paragraph (c), do not
17 constitute rules within the meaning of s. 120.52 or final
18 orders within the meaning of s. 120.52. Any physician's fee
19 schedule used in the health and accident plan shall not be
20 available for inspection or copying by medical providers or
21 other persons not involved in the administration of the
22 program. However, in the determination of the design of the
23 program, the division shall consider existing and
24 complementary benefits provided by the Florida Retirement
25 System and the Social Security System.

26 (b) Prepare, in cooperation with the Department of
27 Insurance, the specifications necessary to implement the
28 program.

29 (c) Contract on a competitive proposal basis with an
30 insurance carrier or carriers, or professional administrator,
31 determined by the Department of Insurance to be fully

1 qualified, financially sound, and capable of meeting all
2 servicing requirements. Alternatively, the division may
3 self-insure any plan or plans contained in the state group
4 insurance program subject to approval based on actuarial
5 soundness by the Department of Insurance. The division may
6 contract with an insurance company or professional
7 administrator qualified and approved by the Department of
8 Insurance to administer such plan. Before entering into any
9 contract, the division shall advertise for competitive
10 proposals, and such contract shall be let upon the
11 consideration of the benefits provided in relationship to the
12 cost of such benefits. In determining which entity to contract
13 with, the division shall, at a minimum, consider: the
14 entity's previous experience and expertise in administering
15 group insurance programs of the type it proposes to
16 administer; the entity's ability to specifically perform its
17 contractual obligations in this state and other governmental
18 jurisdictions; the entity's anticipated administrative costs
19 and claims experience; the entity's capability to adequately
20 provide service coverage and sufficient number of experienced
21 and qualified personnel in the areas of claims processing,
22 recordkeeping, and underwriting, as determined by the
23 division; the entity's accessibility to state employees and
24 providers; the financial solvency of the entity, using
25 accepted business sector measures of financial performance.
26 The division may contract for medical services which will
27 improve the health or reduce medical costs for employees who
28 participate in the state group insurance plan.

29 (d) With respect to the state group health insurance
30 plan, be authorized to require copayments with respect to all
31 providers under the plan.

1 (e) Have authority to establish a voluntary program
2 for comprehensive health maintenance, which may include health
3 educational components and health appraisals.

4 (f) With respect to any contract with an insurance
5 carrier or carriers or professional administrator entered into
6 by the division, require that the state and the enrollees be
7 held harmless and indemnified for any financial loss caused by
8 the failure of the insurance carrier or professional
9 administrator to comply with the terms of the contract.

10 (g) With respect to any contract with an insurance
11 carrier or carriers, or professional administrator entered
12 into by the division, require that the carrier or professional
13 administrator provide written notice to individual enrollees
14 if any payment due to any health care provider of the enrollee
15 remains unpaid beyond a period of time as specified in the
16 contract.

17 (h) Have authority to establish a voluntary group
18 long-term care program or other programs to be funded on a
19 pretax contribution basis or on a posttax contribution basis,
20 as the division determines.

21 (i) Beginning November 1, 1998, and for the 1998-1999
22 fiscal year only, continue to process health insurance claims
23 for the 1996 and 1997 calendar years, subject to the review
24 and approval process provided in s. 216.177. This paragraph is
25 repealed on July 1, 1999.

26
27 Final decisions concerning enrollment, the existence of
28 coverage, or covered benefits under the state group ~~health~~
29 insurance program plan shall not be delegated or deemed to
30 have been delegated by the division.

31

1 (9) PUBLIC RECORDS LAW; EXEMPTION.--Patient medical
2 records and medical claims records of state employees, former
3 state employees, and their eligible covered dependents in the
4 custody or control of the state group insurance program are
5 confidential and exempt from the provisions of s. 119.07(1).
6 Such records shall not be furnished to any person other than
7 the affected state employee or former state employee or his or
8 her ~~the employee's~~ legal representative, except that such
9 records may be released under the following circumstances:
10 (a)1. Records may be furnished to any person upon
11 written authorization of the affected state employee or former
12 state employee., but
13 2. Records may be furnished in any civil or criminal
14 action, unless otherwise prohibited by law, upon the issuance
15 of a subpoena from a court of competent jurisdiction and
16 proper notice to the state employee, former state employee, or
17 his or her the employee's legal representative by the party
18 seeking such records.
19 3. Upon the issuance of a subpoena from a court of
20 competent jurisdiction, relevant records may be furnished
21 without prior written authorization or notice as provided for
22 under subparagraphs 1. and 2., under the following
23 circumstances:
24 a. Patient records may be released to the court, or to
25 the legal representative of any affected party, when an
26 affected health care provider is named as a defendant in a
27 medical negligence action or there is reasonable expectation
28 that such health care provider will be so named. However, the
29 names and other identifying information relative to affected
30 patients or employees or former employees must be redacted
31 prior to such release.

1 b. Patient records may be released to the Department
2 of Business and Professional Regulation or the Agency for
3 Health Care Administration, or to a probable cause panel of
4 the appropriate regulatory board, in disciplinary proceedings
5 involving health care practitioners, or investigations,
6 prosecutions, or appeals related thereto, when it is alleged
7 that a practitioner has excessively or inappropriately
8 prescribed any controlled substance specified under chapter
9 893 or that a practitioner has practiced his or her profession
10 below that level of care, skill, and treatment required, in
11 violation of any professional practice act.

12 (b) Subject to the provisions and requirements of s.
13 626.989, patient records may be released to the Department of
14 Insurance, Division of Insurance Fraud, to assist the
15 department or its division in investigating the suspected
16 commission of any fraudulent insurance act or any other act or
17 practice that, upon conviction, would constitute a felony or a
18 misdemeanor under the Florida Insurance Code or under s.
19 817.234.

20 (c) Patient records may be released to a law
21 enforcement agency investigating the suspected commission of
22 an illegal act by a person other than the affected patient, or
23 conducting any prosecution or appeal related thereto, if such
24 act would, upon conviction, constitute a felony under state
25 law.

26 (d) In the event that the affected state employee or
27 former state employee dies,

28 1. His or her patient records may be released to the
29 administrator, executor, curator, or personal representative
30 of his or her estate, upon written request thereof.

31

1 2. The patient records of a covered eligible dependent
2 who is the adult subject of such records may be released to
3 such covered eligible dependent, upon written request thereof.

4 3. The patient records of a covered eligible dependent
5 who is the minor subject of such records maybe released to the
6 parent or legal guardian of such covered eligible dependent,
7 or to his or her legal representative, upon written request
8 thereof.

9 (e) Records may be released for statistical purposes,
10 and for purposes of research and study, provided that names
11 and other identifying information relative to affected
12 patients or employees or former employees have been redacted
13 prior to release.

14 (f) Information in patient records may be disclosed to
15 appropriate medical authorities in a medical emergency, but
16 only to the extent necessary to protect the health or life of
17 a named person or group of persons.

18 (g) The prohibition against release of confidential
19 and exempt information as provided in this subsection does not
20 apply to the use of such information for purposes directly
21 connected with the administration of the state group insurance
22 program.

23
24 Except as otherwise expressly provided by written
25 authorization of the affected state employee or former state
26 employee under subparagraph (a)1., information used, released,
27 or disclosed under this subsection remains confidential and
28 exempt from the provisions of s. 119.07(1). Patient records
29 obtained under this subsection for use in investigations,
30 disciplinary proceedings, administrative hearings, or civil or
31 criminal actions and appeals related thereto, or for use in

1 any other legal proceedings, must not be made available to the
2 public as a part of the record of such proceedings, but must
3 remain confidential and exempt from the provisions of s.
4 119.07(1). Violators are subject to the penalties set forth in
5 s. 119.10.

6 (12) THIRD-PARTY BENEFITS; REIMBURSEMENT RIGHTS.--If
7 any health plan member accepts payment for medical services or
8 supplies from the state plan or a state-contracted HMO, it is
9 the intent of the Legislature that the division shall have a
10 right of reimbursement, in accordance with s. 768.76, from any
11 judgment or settlement proceeds recovered from a third party
12 liable to the health plan member in regard to such medical
13 services or supplies. In seeking recovery of payments for
14 covered services and supplies in accordance with the
15 reimbursement rights provided in this subsection, the division
16 may, in its discretion, agree to settlements that reduce the
17 recovery amount.

18 ~~(c) Not later than October 1, 1992, the Department of~~
19 ~~Management Services shall implement a prescription utilization~~
20 ~~review program.~~All pharmacies dispensing medicines to members
21 of the State Group Health Insurance Plan and their dependents
22 shall be required to make records available for prescription
23 utilization ~~this~~ review by the Division of State Group
24 Insurance as a condition of participation in the State Group
25 Health Insurance Plan.

26 Section 3. Subsection (1) and paragraphs (a) and (c)
27 of subsection (2) of section 110.12315, Florida Statutes, are
28 amended to read:

29 110.12315 Prescription drug program.--

30 (1) Under the state employees' prescription drug
31 program, copayments must be made as follows:

- 1 (a) Seventeen-dollar ~~Fifteen-dollar~~ copayment for
2 brand name drug with card;
3 (b) Six-dollar ~~Five-dollar~~ copayment for generic drug
4 with card;
5 (c) Fifteen-dollar ~~Five-dollar~~ copayment for generic
6 mail order drug;
7 (d) Forty-dollar ~~Fifteen-dollar~~ copayment for brand
8 name mail order drug.

9
10 There shall be a 30-day supply limit for prescription card
11 purchases; there shall be a 90-day supply limit for mail order
12 or mail order prescription drug purchases.

13 (2)(a) Notwithstanding provisions of statute or agency
14 administrative rules that may have been enacted or adopted
15 prior to April 8, 1992, the Division of State Group Insurance,
16 in making provision for reimbursement for prescription
17 medicines dispensed to members of the State Group Health
18 Insurance Plan and their dependents, shall allow prescriptions
19 written by health care providers under the plan to be filled
20 by any licensed pharmacy pursuant to contractual
21 claims-processing provisions. Retail pharmacies participating
22 in this program shall be reimbursed at a uniform rate and
23 subject to uniform conditions, according to the terms and
24 conditions of the plan established by the Division of State
25 Group Insurance and relevant provisions of the annual General
26 Appropriations Act and implementing legislation. For drugs
27 purchased at retail pharmacies not participating in this
28 program, claimants shall be reimbursed at a uniform rate and
29 subject to uniform conditions, according to the terms and
30 conditions of the plan established by the Division of State
31 Group Insurance and relevant provisions of the annual General

1 Appropriations Act and implementing legislation. Nothing in
2 this section shall be construed as prohibiting a mail order
3 prescription drug program distinct from the service provided
4 by retail pharmacies.

5 Section 4. Section 110.1232, Florida Statutes, is
6 amended to read:

7 110.1232 Health insurance coverage for persons retired
8 under state-administered retirement systems before January 1,
9 1976, and for spouses.--Notwithstanding any provisions of law
10 to the contrary, the Division of State Group Insurance shall
11 provide health insurance coverage under ~~in~~ the state group
12 ~~Health insurance program Plan~~ for persons who retired before
13 ~~prior to~~ January 1, 1976, under any of the state-administered
14 retirement systems and who are not covered by social security
15 and for the spouses and surviving spouses of such retirees who
16 are also not covered by social security. Such health
17 insurance coverage shall provide the same benefits as provided
18 to other retirees who are entitled to participate under s.
19 110.123. The claims experience of this group shall be
20 commingled with the claims experience of other members covered
21 under s. 110.123.

22 Section 5. Subsection (1) of section 110.1234, Florida
23 Statutes, is amended to read:

24 110.1234 Health insurance for retirees under the
25 Florida Retirement System; Medicare supplement and fully
26 insured coverage.--

27 (1) The Division of State Group Insurance shall
28 solicit competitive bids from state-licensed insurance
29 companies to provide and administer a fully insured Medicare
30 supplement policy for all eligible retirees of a state or
31 local public employer. Such Medicare supplement policy shall

1 meet the provisions of ss. 627.671-627.675. For the purpose
2 of this subsection, "eligible retiree" means any public
3 employee who retired from a state or local public employer who
4 is covered by Medicare, Parts A and B. The ~~division~~ ~~department~~
5 shall authorize one company to offer the Medicare supplement
6 coverage to all eligible retirees. All premiums shall be paid
7 by the retiree.

8 Section 6. Section 110.1239, Florida Statutes, is
9 created to read:

10 110.1239 State Group Health Insurance Plan; protection
11 of benefits.--

12 (1) SHORT TITLE.--This section may be cited as the
13 "Florida Protection of State Employee Health Insurance
14 Benefits Act."

15 (2) INTENT.--It is the intent of the Legislature that
16 the State Group Health Insurance Plan be managed,
17 administered, operated, and funded in such a manner as to
18 maximize the protection of state employee health insurance
19 benefits. Inherent in this intent is the recognition that the
20 health insurance liabilities attributable to the benefits
21 promised state employees should be fairly, orderly, and
22 equitably funded. Accordingly, this act establishes minimum
23 standards for the operation and funding of the State Group
24 Health Insurance Plan.

25 (3) DEFINITIONS.--As used in this section, the term:

26 (a) "Division" means the Division of State Group
27 Insurance of the Department of Management Services.

28 (b) "State plan" means the State Group Health
29 Insurance Plan, the state self-insured health insurance plan
30 created pursuant to s. 110.123.

31 (4) ACTUARIAL SOUNDNESS.--

1 (a) The state plan shall be funded on a sound
2 actuarial basis.

3 (b) The division shall annually submit to the Governor
4 and Legislature a report that includes a statement prepared by
5 an actuary who is a member of the Society of Actuaries or the
6 American Academy of Actuaries as to the actuarial soundness of
7 the plan. The report is due no later than January 1 following
8 the close of the plan year and shall consist of, but not be
9 limited to:

10 1. A statement as to the adequacy of employer and
11 employee contribution rates in meeting levels of employee
12 benefits provided under the plan and changes, if any, needed
13 in such rates to achieve or preserve a level of funding deemed
14 adequate to enable payment through the indefinite future of
15 the benefit amounts prescribed by the state plan, which shall
16 include a valuation of present assets, based on statement
17 value, and prospective assets and liabilities of the system
18 and the extent of unfunded accrued liabilities, if any.

19 2. A plan to amortize any unfunded liability and a
20 description of actions taken to reduce the unfunded liability.

21 3. A description and explanation of actuarial
22 assumptions.

23 4. A schedule illustrating the amortization of
24 unfunded liabilities, if any.

25 5. A comparative review illustrating the level of
26 funds available to the state plan from rates, investment
27 income, and other sources realized over the period covered by
28 the report with the assumptions used.

29 6. A statement by the actuary that the report is
30 complete and accurate and that in the actuary's opinion the
31

1 techniques and assumptions used are reasonable and meet the
2 requirements and intent of this subsection.

3 7. Other factors or statements as may be required in
4 order to determine the actuarial soundness of the state plan.

5
6 All assumptions used in the report shall be based on sound
7 recognized actuarial principles.

8 (5) STATEMENTS OF ACTUARIAL IMPACT.--No proposed
9 change in health insurance benefits provided under the state
10 plan may be implemented unless the division, prior to adoption
11 of the change by the Legislature, has issued a statement of
12 the actuarial impact of the proposed change, consistent with
13 the actuarial review, and has furnished a copy of such
14 statement to the Governor and the Legislature. Such statement
15 shall also indicate whether the proposed changes are in
16 compliance with this act.

17 (6) RULES.--The Division of State Group Insurance is
18 authorized to adopt rules to carry out the provisions of this
19 section.

20 Section 7. Subsections (5), (6), and (7) of section
21 110.161, Florida Statutes, are amended to read:

22 110.161 State employees; pretax benefits program.--

23 (5) The Division of State Group Insurance shall
24 develop rules for the pretax benefits program, which shall
25 specify the benefits to be offered under the program, the
26 continuing tax-exempt status of the program, and any other
27 matters deemed necessary by the division ~~department~~ to
28 implement this section. The rules must be approved by a
29 majority vote of the Administration Commission.

30 (6) The Division of State Group Insurance is
31 authorized to administer the ~~establish a~~ pretax benefits

1 program established for all employees so that ~~whereby~~
2 employees may ~~would~~ receive benefits that ~~which~~ are not
3 includable in gross income under the Internal Revenue Code of
4 1986. The pretax benefits program: ~~shall be implemented in~~
5 ~~phases.~~

6 (a) ~~Phase one~~ Shall allow employee contributions to
7 premiums for the state health program and state life insurance
8 to be paid on a pretax basis unless an employee elects not to
9 participate.

10 (b) ~~Phase two~~ Shall allow employees to voluntarily
11 establish expense reimbursement plans from their salaries on a
12 pretax basis to pay for qualified medical and dependent care
13 expenses, including premiums paid by employees for qualified
14 supplemental insurance.

15 (c) ~~Phase two~~ May ~~also~~ provide for the payment of such
16 premiums through a pretax payroll procedure ~~as used in phase~~
17 ~~one~~. The Administration Commission and the Division of State
18 Group Insurance are directed to take all actions necessary to
19 preserve the tax-exempt status of the program.

20 (7) The Legislature recognizes that a substantial
21 amount of the employer savings realized by the implementation
22 of a pretax benefits program will be the result of diminutions
23 in the state's employer contribution to the Federal Insurance
24 Contributions Act tax. There is hereby created the Pretax
25 Benefits Trust Fund in the Division of State Group Insurance.
26 Each agency shall transfer to the Pretax Benefits Trust Fund
27 the employer FICA contributions saved by the state as a result
28 of the implementation of the pretax benefits program
29 authorized pursuant to this section. Any moneys forfeited
30 pursuant to employees' salary reduction agreements to
31 participate in ~~phase one or phase two~~ of the program must also

1 be deposited in the Pretax Benefits Trust Fund. Moneys in the
2 Pretax Benefits Trust Fund shall be used for the pretax
3 benefits program, including its administration by the Division
4 of State Group Insurance ~~Department of Management Services~~ or
5 a third-party administrator.

6 Section 8. Paragraph (i) of subsection (2) of section
7 110.205, Florida Statutes, is amended to read:

8 110.205 Career service; exemptions.--

9 (2) EXEMPT POSITIONS.--The exempt positions which are
10 not covered by this part include the following, provided that
11 no position, except for positions established for a limited
12 period of time pursuant to paragraph (h), shall be exempted if
13 the position reports to a position in the career service:

14 (i) The appointed secretaries, assistant secretaries,
15 deputy secretaries, and deputy assistant secretaries of all
16 departments; the executive directors, assistant executive
17 directors, deputy executive directors, and deputy assistant
18 executive directors of all departments; and the directors of
19 all divisions and those positions determined by the department
20 to have managerial responsibilities comparable to such
21 positions, which positions include, but are not limited to,
22 program directors, assistant program directors, district
23 administrators, deputy district administrators, the Director
24 of Central Operations Services of the Department of Children
25 Health and Family Rehabilitative Services, the assistant
26 director of the Division of State Group Insurance of the
27 Department of Management Services, and the State
28 Transportation Planner, State Highway Engineer, State Public
29 Transportation Administrator, district secretaries, district
30 directors of planning and programming, production, and
31 operations, and the managers of the offices specified in s.

1 20.23(3)(d)2., of the Department of Transportation. Unless
2 otherwise fixed by law, the department shall set the salary
3 and benefits of these positions in accordance with the rules
4 of the Senior Management Service.

5 Section 9. Subsection (2) of section 768.76, Florida
6 Statutes, is amended to read:

7 768.76 Collateral sources of indemnity.--

8 (2) For purposes of this section:

9 (a) "Collateral sources" means any payments made to
10 the claimant, or made on the claimant's behalf, by or pursuant
11 to:

12 1. The United States Social Security Act, except Title
13 XVIII and Title XIX; any federal, state, or local income
14 disability act; or any other public programs providing medical
15 expenses, disability payments, or other similar benefits,
16 except those prohibited by federal law and those expressly
17 excluded by law as collateral sources.

18 2. Any health, sickness, or income disability
19 insurance; automobile accident insurance that provides health
20 benefits or income disability coverage; and any other similar
21 insurance benefits, except life insurance benefits available
22 to the claimant, whether purchased by her or him or provided
23 by others.

24 3. Any contract or agreement of any group,
25 organization, partnership, or corporation to provide, pay for,
26 or reimburse the costs of hospital, medical, dental, or other
27 health care services.

28 4. Any contractual or voluntary wage continuation plan
29 provided by employers or by any other system intended to
30 provide wages during a period of disability.

31

1 (b) Notwithstanding any other provision of this
2 section, benefits received under Medicare, or any other
3 federal program providing for a Federal Government lien on or
4 right of reimbursement from the plaintiff's recovery, the
5 Workers' Compensation Law, the Medicaid program of Title XIX
6 of the Social Security Act, the state group health
7 self-insurance plan administered under s. 110.123, or from any
8 medical services program administered by the Department of
9 Health and Rehabilitative Services shall not be considered a
10 collateral source. In addition, a health maintenance
11 organization participating in the state group insurance
12 program pursuant to state contract is not considered a
13 collateral source for benefits received by any claimant who,
14 with respect to such benefits, was covered by the health
15 maintenance organization plan as a participant under the state
16 group insurance program as defined in s. 110.123.

17 Section 10. This act shall take effect July 1, 1999.

18 *****

19
20 SENATE SUMMARY

21 Revises various provisions relating to the State Group
22 Insurance Program. Clarifies, updates, revises, and
23 reorganizes references and provisions relating to that
24 program. Provides for Career Service exemptions in the
25 division. Conforms to existing law provisions relating to
26 payment of premiums for certain employees injured or
27 killed in the line of duty. Provides for the designation
28 of Senior Management Service positions. Revises and
29 clarifies the state employees' prescription drug program.
30 Increases copayments. Provides conditions under which
31 confidential records of state employees, former state
employees, and their dependents may be released. Provides
the division with a right of reimbursement under certain
circumstances. Provides for the protection of state
employee health insurance benefits. Provides that
benefits received under the state group health
self-insurance plan and HMOs are not a collateral source
of indemnity. (See bill for details.)