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2 An act relating to insurance; providing
3 legislative findings; amending s. 119.10, F.S.;
4 providing a criminal penalty for use of certain
5 report information for commercial solicitation;
6 creating s. 456.0375, F.S.; defining the term
7 "clinic"; imposing registration requirements
8 for certain clinics; providing for medical
9 directors or clinical directors; providing
10 duties and responsibilities of medical
11 directors or clinical directors; authorizing
12 the Department of Health to adopt rules for
13 certain purposes; providing for enforcement;
14 providing penalties; amending s. 626.989, F.S.;
15 clarifying immunity from civil actions
16 provisions; amending s. 627.732, F.S.; defining
17 the terms "broker" and "medically necessary";
18 amending s. 627.736, F.S.; revising provisions
19 relating to personal injury protection
20 benefits; revising provisions relating to
21 interest on overdue claims; revising provisions
22 for charges and payments for certain
23 treatments; removing provisions specifying the
24 use of medical payments insurance; making
25 certain charges by a broker noncompensable;
26 providing for a demand letter; providing demand
27 letter requirements; providing for civil
28 actions against certain persons; amending s.
29 817.234, F.S.; prohibiting solicitation of
30 specific persons involved in motor vehicle
31 crashes; specifying certain charges as unlawful

1 and unenforceable; amending s. 921.0022, F.S.;
2 ranking certain criminal offenses specified in
3 that section; amending s. 324.021, F.S.;
4 correcting a cross-reference; providing an
5 appropriation; providing effective dates.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Legislative findings.--The Legislature
10 finds that the Florida Motor Vehicle No-Fault Law is intended
11 to deliver medically necessary and appropriate medical care
12 quickly and without regard to fault, and without undue
13 litigation or other associated costs. The Legislature further
14 finds that this intent has been frustrated at significant cost
15 and harm to consumers by, among other things, fraud, medically
16 inappropriate over-utilization of treatments and diagnostic
17 services, inflated charges, and other practices on the part of
18 a small number of health care providers and unregulated health
19 care clinics, entrepreneurs, and attorneys. Many of these
20 practices are described in the second interim report of the
21 Fifteenth Statewide Grand Jury entitled "Report on Insurance
22 Fraud Related to Personal Injury Protection." The Legislature
23 hereby adopts and incorporates in this section by reference as
24 findings the entirety of this Grand Jury report. The
25 Legislature further finds insurance fraud related to personal
26 injury protection takes many forms, including, but not limited
27 to, illegal solicitation of accident victims; brokering
28 patients among doctors, lawyers, and diagnostic facilities;
29 unnecessary medical treatment of accident victims billed to
30 insurers by clinics; billing of insurers by clinics for
31 services not rendered; the intentional overuse or misuse of

1 legitimate diagnostic tests; inflated charges for diagnostic
2 tests or procedures arranged through brokers; and filing
3 fraudulent no-fault law tort lawsuits. As a result, the
4 Legislature declares it necessary, among other things, to
5 increase the punishment for certain offenses related to
6 solicitation of accident victims and use of police reports,
7 register certain clinics; subject certain diagnostic tests to
8 maximum reimbursement allowances; prohibit the brokering of
9 magnetic resonance imaging services; allow providers and
10 insurers additional time to bill and pay claims in certain
11 situations; require notification of insurers prior to
12 initiating litigation for an overdue claim for benefits; and
13 provide insurers with a civil cause of action for insurance
14 fraud. The Legislature further declares the problem of fraud
15 addressed in the Grand Jury report and in this act and matters
16 connected therewith are matters of great public interest and
17 importance to public health, safety, and welfare, and that the
18 specific provisions of this act are the least-restrictive
19 reasonable means by which to solve these problems.

20 Section 2. Subsection (3) is added to section 119.10,
21 Florida Statutes, to read:

22 119.10 Violation of chapter; penalties.--

23 (3) Any person who willfully and knowingly violates s.
24 119.105 commits a felony of the third degree, punishable as
25 provided in s. 775.082, s. 775.083, or s. 775.084.

26 Section 3. Effective October 1, 2001, section
27 456.0375, Florida Statutes, is created to read:

28 456.0375 Registration of certain clinics;
29 requirements; discipline; exemptions.--

30 (1)(a) As used in this section, the term "clinic"
31 means a business operating in a single structure or facility,

1 or in a group of adjacent structures or facilities operating
2 under the same business name or management, at which health
3 care services are provided to individuals and which tender
4 charges for reimbursement for such services.

5 (b) For purposes of this section, the term "clinic"
6 does not include and the registration requirements herein do
7 not apply to:

8 1. Entities licensed or registered by the state
9 pursuant to chapter 390, chapter 394, chapter 395, chapter
10 397, chapter 400, chapter 463, chapter 465, chapter 466,
11 chapter 478, chapter 480, or chapter 484.

12 2. Entities exempt from federal taxation under 26
13 U.S.C. s. 501(c)(3).

14 3. Sole proprietorships, group practices,
15 partnerships, or corporations that provide health care
16 services by licensed health care practitioners pursuant to
17 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484,
18 486, 490, 491, or parts I, III, X, XIII, or XIV of chapter
19 468, or s. 464.012, which are wholly owned by licensed health
20 care practitioners or the licensed health care practitioner
21 and the spouse, parent, or child of a licensed health care
22 practitioner, so long as one of the owners who is a licensed
23 health care practitioner is supervising the services performed
24 therein and is legally responsible for the entity's compliance
25 with all federal and state laws. However, no health care
26 practitioner may supervise services beyond the scope of the
27 practitioner's license.

28 (2)(a) Every clinic, as defined in paragraph (1)(a),
29 must register, and must at all times maintain a valid
30 registration, with the Department of Health. Each clinic
31 location shall be registered separately even though operated

1 under the same business name or management, and each clinic
2 shall appoint a medical director or clinical director.

3 (b) The department shall adopt rules necessary to
4 implement the registration program, including rules
5 establishing the specific registration procedures, forms, and
6 fees. Registration fees must be reasonably calculated to
7 cover the cost of registration and must be of such amount that
8 the total fees collected do not exceed the cost of
9 administering and enforcing compliance with this section.
10 Registration may be conducted electronically. The registration
11 program must require:

12 1. The clinic to file the registration form with the
13 department within 60 days after the effective date of this
14 section or prior to the inception of operation. The
15 registration expires automatically 2 years after its date of
16 issuance and must be renewed biennially.

17 2. The registration form to contain the name,
18 residence and business address, phone number, and license
19 number of the medical director or clinical director for the
20 clinic.

21 3. The clinic to display the registration certificate
22 in a conspicuous location within the clinic readily visible to
23 all patients.

24 (3)(a) Each clinic must employ or contract with a
25 physician maintaining a full and unencumbered physician
26 license in accordance with chapter 458, chapter 459, chapter
27 460, or chapter 461 to serve as the medical director.
28 However, if the clinic is limited to providing health care
29 services pursuant to chapter 457, chapter 484, chapter 486,
30 chapter 490, or chapter 491 or part I, part III, part X, part
31 XIII, or part XIV of chapter 468, the clinic may appoint a

1 health care practitioner licensed under that chapter to serve
2 as a clinical director who is responsible for the clinic's
3 activities. A health care practitioner may not serve as the
4 clinical director if the services provided at the clinic are
5 beyond the scope of that practitioner's license.

6 (b) The medical director or clinical director shall
7 agree in writing to accept legal responsibility for the
8 following activities on behalf of the clinic. The medical
9 director or the clinical director shall:

10 1. Have signs identifying the medical director or
11 clinical director posted in a conspicuous location within the
12 clinic readily visible to all patients.

13 2. Ensure that all practitioners providing health care
14 services or supplies to patients maintain a current active and
15 unencumbered Florida license.

16 3. Review any patient referral contracts or agreements
17 executed by the clinic.

18 4. Ensure that all health care practitioners at the
19 clinic have active appropriate certification or licensure for
20 the level of care being provided.

21 5. Serve as the clinic records holder as defined in s.
22 456.057.

23 6. Ensure compliance with the recordkeeping, office
24 surgery, and adverse incident reporting requirements of
25 chapter 456, the respective practice acts, and rules adopted
26 thereunder.

27 7. Conduct systematic reviews of clinic billings to
28 ensure that the billings are not fraudulent or unlawful. Upon
29 discovery of an unlawful charge, the medical director shall
30 take immediate corrective action.

31

1 (c) Any contract to serve as a medical director or a
2 clinical director entered into or renewed by a physician or a
3 licensed health care practitioner in violation of this section
4 is void as contrary to public policy. This section shall
5 apply to contracts entered into or renewed on or after October
6 1, 2001.

7 (d) The department, in consultation with the boards,
8 shall adopt rules specifying limitations on the number of
9 registered clinics and licensees for which a medical director
10 or a clinical director may assume responsibility for purposes
11 of this section. In determining the quality of supervision a
12 medical director or a clinical director can provide, the
13 department shall consider the number of clinic employees,
14 clinic location, and services provided by the clinic.

15 (4)(a) All charges or reimbursement claims made by or
16 on behalf of a clinic that is required to be registered under
17 this section, but that is not so registered, are unlawful
18 charges and therefore are noncompensable and unenforceable.

19 (b) Any person establishing, operating, or managing an
20 unregistered clinic otherwise required to be registered under
21 this section commits a felony of the third degree, punishable
22 as provided in s. 775.082, s. 775.083, or s. 775.084.

23 (c) Any licensed health care practitioner who violates
24 this section is subject to discipline in accordance with
25 chapter 456 and the respective practice act.

26 (d) The department shall revoke the registration of
27 any clinic registered under this section for operating in
28 violation of the requirements of this section or the rules
29 adopted by the department.

30
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1 (e) The department shall investigate allegations of
2 noncompliance with this section and the rules adopted pursuant
3 to this section.

4 Section 4. Paragraph (c) of subsection (4) of section
5 626.989, Florida Statutes, is amended to read:

6 626.989 Investigation by department or Division of
7 Insurance Fraud; compliance; immunity; confidential
8 information; reports to division; division investigator's
9 power of arrest.--

10 (4)

11 (c) In the absence of fraud or bad faith, a person is
12 not subject to civil liability for libel, slander, or any
13 other relevant tort by virtue of filing reports, without
14 malice, or furnishing other information, without malice,
15 required by this section or required by the department or
16 division under the authority granted in this section, and no
17 civil cause of action of any nature shall arise against such
18 person:

19 1. For any information relating to suspected
20 fraudulent insurance acts or persons suspected of engaging in
21 such acts furnished to or received from law enforcement
22 officials, their agents, or employees;

23 2. For any information relating to suspected
24 fraudulent insurance acts or persons suspected of engaging in
25 such acts furnished to or received from other persons subject
26 to the provisions of this chapter; ~~or~~

27 3. For any such information furnished in reports to
28 the department, the division, the National Insurance Crime
29 Bureau, ~~or~~ the National Association of Insurance
30 Commissioners, or any local, state, or federal enforcement
31 officials or their agents or employees; or

1 4. For other actions taken in cooperation with any of
2 the agencies or individuals specified in this paragraph in the
3 lawful investigation of suspected fraudulent insurance acts.

4 Section 5. Section 627.732, Florida Statutes, is
5 amended to read:

6 627.732 Definitions.--As used in ss. 627.730-627.7405,
7 the term:

8 (1) "Broker" means any person not possessing a license
9 under chapter 395, chapter 400, chapter 458, chapter 459,
10 chapter 460, chapter 461, or chapter 641 who charges or
11 receives compensation for any use of medical equipment and is
12 not the 100-percent owner or the 100-percent lessee of such
13 equipment. For purposes of this section, such owner or lessee
14 may be an individual, a corporation, a partnership, or any
15 other entity and any of its 100-percent-owned affiliates and
16 subsidiaries. For purposes of this subsection, the term
17 "lessee" means a long-term lessee under a capital or operating
18 lease, but does not include a part-time lessee. The term
19 "broker" does not include a hospital or physician management
20 company whose medical equipment is ancillary to the practices
21 managed, a debt collection agency, or an entity that has
22 contracted with the insurer to obtain a discounted rate for
23 such services; nor does the term include a management company
24 that has contracted to provide general management services for
25 a licensed physician or health care facility and whose
26 compensation is not materially affected by the usage or
27 frequency of usage of medical equipment or an entity that is
28 100-percent owned by one or more hospitals or physicians. The
29 term "broker" does not include a person or entity that
30 certifies, upon request of an insurer, that:

31 (a) It is a clinic registered under s. 456.0375;

1 (b) It is a 100-percent owner of medical equipment;
2 and

3 (c) The owner's only part-time lease of medical
4 equipment for personal injury protection patients is on a
5 temporary basis not to exceed 30 days in a 12-month period,
6 and such lease is solely for the purposes of necessary repair
7 or maintenance of the 100-percent-owned medical equipment, or
8 for patients for whom, because of physical size or
9 claustrophobia, it is determined by the medical director or
10 clinical director to be medically necessary that the test be
11 performed in medical equipment that is open-style. The leased
12 medical equipment cannot be used by patients who are not
13 patients of the registered clinic for medical treatment of
14 services. Any person or entity making a false certification
15 under this subsection commits insurance fraud as defined in s.
16 817.234.

17 (2) "Medically necessary" refers to a medical service
18 or supply that a prudent physician would provide for the
19 purpose of preventing, diagnosing, or treating an illness,
20 injury, disease, or symptom in a manner that is:

21 (a) In accordance with generally accepted standards of
22 medical practice;

23 (b) Clinically appropriate in terms of type,
24 frequency, extent, site, and duration; and

25 (c) Not primarily for the convenience of the patient,
26 physician, or other health care provider.

27 (3)~~(1)~~ "Motor vehicle" means any self-propelled
28 vehicle with four or more wheels which is of a type both
29 designed and required to be licensed for use on the highways
30 of this state and any trailer or semitrailer designed for use
31 with such vehicle and includes:

1 (a) A "private passenger motor vehicle," which is any
2 motor vehicle which is a sedan, station wagon, or jeep-type
3 vehicle and, if not used primarily for occupational,
4 professional, or business purposes, a motor vehicle of the
5 pickup, panel, van, camper, or motor home type.

6 (b) A "commercial motor vehicle," which is any motor
7 vehicle which is not a private passenger motor vehicle.

8
9 The term "motor vehicle" does not include a mobile home or any
10 motor vehicle which is used in mass transit, other than public
11 school transportation, and designed to transport more than
12 five passengers exclusive of the operator of the motor vehicle
13 and which is owned by a municipality, a transit authority, or
14 a political subdivision of the state.

15 (4)~~(2)~~ "Named insured" means a person, usually the
16 owner of a vehicle, identified in a policy by name as the
17 insured under the policy.

18 (5)~~(3)~~ "Owner" means a person who holds the legal
19 title to a motor vehicle; or, in the event a motor vehicle is
20 the subject of a security agreement or lease with an option to
21 purchase with the debtor or lessee having the right to
22 possession, then the debtor or lessee shall be deemed the
23 owner for the purposes of ss. 627.730-627.7405.

24 (6)~~(4)~~ "Relative residing in the same household" means
25 a relative of any degree by blood or by marriage who usually
26 makes her or his home in the same family unit, whether or not
27 temporarily living elsewhere.

28 (7)~~(5)~~ "Recovery agent" means any person or agency who
29 is licensed as a recovery agent or recovery agency and
30 authorized under s. 324.202 to seize license plates.

31

1 Section 6. Subsections (1), (4), (5), (7), and (8) of
2 section 627.736, Florida Statutes, and paragraph (b) of
3 subsection (6) of that section, are amended, and subsections
4 (11) and (12) are added to that section, to read:

5 627.736 Required personal injury protection benefits;
6 exclusions; priority; claims.--

7 (1) REQUIRED BENEFITS.--Every insurance policy
8 complying with the security requirements of s. 627.733 shall
9 provide personal injury protection to the named insured,
10 relatives residing in the same household, persons operating
11 the insured motor vehicle, passengers in such motor vehicle,
12 and other persons struck by such motor vehicle and suffering
13 bodily injury while not an occupant of a self-propelled
14 vehicle, subject to the provisions of subsection (2) and
15 paragraph (4)(d), to a limit of \$10,000 for loss sustained by
16 any such person as a result of bodily injury, sickness,
17 disease, or death arising out of the ownership, maintenance,
18 or use of a motor vehicle as follows:

19 (a) Medical benefits.--Eighty percent of all
20 reasonable expenses for medically necessary medical, surgical,
21 X-ray, dental, and rehabilitative services, including
22 prosthetic devices, and medically necessary ambulance,
23 hospital, and nursing services. Such benefits shall also
24 include necessary remedial treatment and services recognized
25 and permitted under the laws of the state for an injured
26 person who relies upon spiritual means through prayer alone
27 for healing, in accordance with his or her religious beliefs;
28 however, this sentence does not affect the determination of
29 what other services or procedures are medically necessary.

30 (b) Disability benefits.--Sixty percent of any loss of
31 gross income and loss of earning capacity per individual from

1 inability to work proximately caused by the injury sustained
2 by the injured person, plus all expenses reasonably incurred
3 in obtaining from others ordinary and necessary services in
4 lieu of those that, but for the injury, the injured person
5 would have performed without income for the benefit of his or
6 her household. All disability benefits payable under this
7 provision shall be paid not less than every 2 weeks.

8 (c) Death benefits.--Death benefits of \$5,000 per
9 individual. The insurer may pay such benefits to the executor
10 or administrator of the deceased, to any of the deceased's
11 relatives by blood or legal adoption or connection by
12 marriage, or to any person appearing to the insurer to be
13 equitably entitled thereto.

14

15 Only insurers writing motor vehicle liability insurance in
16 this state may provide the required benefits of this section,
17 and no such insurer shall require the purchase of any other
18 motor vehicle coverage other than the purchase of property
19 damage liability coverage as required by s. 627.7275 as a
20 condition for providing such required benefits. Insurers may
21 not require that property damage liability insurance in an
22 amount greater than \$10,000 be purchased in conjunction with
23 personal injury protection. Such insurers shall make benefits
24 and required property damage liability insurance coverage
25 available through normal marketing channels. Any insurer
26 writing motor vehicle liability insurance in this state who
27 fails to comply with such availability requirement as a
28 general business practice shall be deemed to have violated
29 part X of chapter 626, and such violation shall constitute an
30 unfair method of competition or an unfair or deceptive act or
31 practice involving the business of insurance; and any such

1 insurer committing such violation shall be subject to the
2 penalties afforded in such part, as well as those which may be
3 afforded elsewhere in the insurance code.

4 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer
5 under ss. 627.730-627.7405 shall be primary, except that
6 benefits received under any workers' compensation law shall be
7 credited against the benefits provided by subsection (1) and
8 shall be due and payable as loss accrues, upon receipt of
9 reasonable proof of such loss and the amount of expenses and
10 loss incurred which are covered by the policy issued under ss.
11 627.730-627.7405. When the Agency for Health Care
12 Administration provides, pays, or becomes liable for medical
13 assistance under the Medicaid program related to injury,
14 sickness, disease, or death arising out of the ownership,
15 maintenance, or use of a motor vehicle, benefits under ss.
16 627.730-627.7405 shall be subject to the provisions of the
17 Medicaid program.

18 (a) An insurer may require written notice to be given
19 as soon as practicable after an accident involving a motor
20 vehicle with respect to which the policy affords the security
21 required by ss. 627.730-627.7405.

22 (b) Personal injury protection insurance benefits paid
23 pursuant to this section shall be overdue if not paid within
24 30 days after the insurer is furnished written notice of the
25 fact of a covered loss and of the amount of same. If such
26 written notice is not furnished to the insurer as to the
27 entire claim, any partial amount supported by written notice
28 is overdue if not paid within 30 days after such written
29 notice is furnished to the insurer. Any part or all of the
30 remainder of the claim that is subsequently supported by
31 written notice is overdue if not paid within 30 days after

1 such written notice is furnished to the insurer. When an
2 insurer pays only a portion of a claim or rejects a claim, the
3 insurer shall provide at the time of the partial payment or
4 rejection an itemized specification of each item that the
5 insurer had reduced, omitted, or declined to pay and any
6 information that the insurer desires the claimant to consider
7 related to the medical necessity of the denied treatment or to
8 explain the reasonableness of the reduced charge, provided
9 that this shall not limit the introduction of evidence at
10 trial; and the insurer shall include the name and address of
11 the person to whom the claimant should respond and a claim
12 number to be referenced in future correspondence. However,
13 notwithstanding the fact that written notice has been
14 furnished to the insurer, any payment shall not be deemed
15 overdue when the insurer has reasonable proof to establish
16 that the insurer is not responsible for the payment;
17 ~~notwithstanding that written notice has been furnished to the~~
18 ~~insurer.~~ For the purpose of calculating the extent to which
19 any benefits are overdue, payment shall be treated as being
20 made on the date a draft or other valid instrument which is
21 equivalent to payment was placed in the United States mail in
22 a properly addressed, postpaid envelope or, if not so posted,
23 on the date of delivery. This paragraph does not preclude or
24 limit the ability of the insurer to assert that the claim was
25 unrelated, was not medically necessary, or was unreasonable or
26 that the amount of the charge was in excess of that permitted
27 under, or in violation of, subsection (5). Such assertion by
28 the insurer may be made at any time, including after payment
29 of the claim or after the 30-day time period for payment set
30 forth in this paragraph.

31

1 (c) All overdue payments shall bear simple interest at
2 the rate established by the Comptroller under s. 55.03 or the
3 rate established in the insurance contract, whichever is
4 greater, for the year in which the payment became overdue,
5 calculated from the date the insurer was furnished with
6 written notice of the amount of covered loss. Interest shall
7 be due at the time payment of the overdue claim is made ~~of 10~~
8 ~~percent per year.~~

9 (d) The insurer of the owner of a motor vehicle shall
10 pay personal injury protection benefits for:

11 1. Accidental bodily injury sustained in this state by
12 the owner while occupying a motor vehicle, or while not an
13 occupant of a self-propelled vehicle if the injury is caused
14 by physical contact with a motor vehicle.

15 2. Accidental bodily injury sustained outside this
16 state, but within the United States of America or its
17 territories or possessions or Canada, by the owner while
18 occupying the owner's motor vehicle.

19 3. Accidental bodily injury sustained by a relative of
20 the owner residing in the same household, under the
21 circumstances described in subparagraph 1. or subparagraph 2.,
22 provided the relative at the time of the accident is domiciled
23 in the owner's household and is not himself or herself the
24 owner of a motor vehicle with respect to which security is
25 required under ss. 627.730-627.7405.

26 4. Accidental bodily injury sustained in this state by
27 any other person while occupying the owner's motor vehicle or,
28 if a resident of this state, while not an occupant of a
29 self-propelled vehicle, if the injury is caused by physical
30 contact with such motor vehicle, provided the injured person
31 is not himself or herself:

1 a. The owner of a motor vehicle with respect to which
2 security is required under ss. 627.730-627.7405; or

3 b. Entitled to personal injury benefits from the
4 insurer of the owner or owners of such a motor vehicle.

5 (e) If two or more insurers are liable to pay personal
6 injury protection benefits for the same injury to any one
7 person, the maximum payable shall be as specified in
8 subsection (1), and any insurer paying the benefits shall be
9 entitled to recover from each of the other insurers an
10 equitable pro rata share of the benefits paid and expenses
11 incurred in processing the claim.

12 ~~(f) Medical payments insurance, if available in a~~
13 ~~policy of motor vehicle insurance, shall pay the portion of~~
14 ~~any claim for personal injury protection medical benefits~~
15 ~~which is otherwise covered but is not payable due to the~~
16 ~~coinsurance provision of paragraph (1)(a), regardless of~~
17 ~~whether the full amount of personal injury protection coverage~~
18 ~~has been exhausted. The benefits shall not be payable for the~~
19 ~~amount of any deductible which has been selected.~~

20 (f)(g) It is a violation of the insurance code for an
21 insurer to fail to timely provide benefits as required by this
22 section with such frequency as to constitute a general
23 business practice.

24 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

25 (a) Any physician, hospital, clinic, or other person
26 or institution lawfully rendering treatment to an injured
27 person for a bodily injury covered by personal injury
28 protection insurance may charge only a reasonable amount for
29 the ~~products, services, and~~ supplies accommodations rendered,
30 and the insurer providing such coverage may pay for such
31 charges directly to such person or institution lawfully

1 rendering such treatment, if the insured receiving such
2 treatment or his or her guardian has countersigned the
3 invoice, bill, or claim form approved by the Department of
4 Insurance upon which such charges are to be paid for as having
5 actually been rendered, to the best knowledge of the insured
6 or his or her guardian. In no event, however, may such a
7 charge be in excess of the amount the person or institution
8 customarily charges for like ~~products, services, or~~ supplies
9 ~~accommodations~~ in cases involving no insurance. ~~7. provided that~~

10 (b)1. An insurer or insured is not required to pay a
11 claim made by a broker or by a person making a claim on behalf
12 of a broker.

13 2. Charges for medically necessary cephalic
14 thermograms, and peripheral thermograms, spinal ultrasounds,
15 extremity ultrasounds, video fluoroscopy, and surface
16 electromyography shall not exceed the maximum reimbursement
17 allowance for such procedures as set forth in the applicable
18 fee schedule or other payment methodology established pursuant
19 to s. 440.13.

20 3. Allowable amounts that may be charged to a personal
21 injury protection insurance insurer and insured for medically
22 necessary nerve conduction testing when done in conjunction
23 with a needle electromyography procedure and both are
24 performed and billed solely by a physician licensed under
25 chapter 458, chapter 459, chapter 460, or chapter 461 who is
26 also certified by the American Board of Electrodiagnostic
27 Medicine or by a board recognized by the American Board of
28 Medical Specialties or the American Osteopathic Association or
29 who holds diplomate status with the American Chiropractic
30 Neurology Board or its predecessors shall not exceed 200
31 percent of the allowable amount under Medicare Part B for year

1 2001, for the area in which the treatment was rendered,
2 adjusted annually by an additional amount equal to the medical
3 Consumer Price Index for Florida.

4 4. Allowable amounts that may be charged to a personal
5 injury protection insurance insurer and insured for medically
6 necessary nerve conduction testing that does not meet the
7 requirements of subparagraph 3. shall not exceed the
8 applicable fee schedule or other payment methodology
9 established pursuant to s. 440.13.

10 5. Effective upon this act becoming a law and before
11 November 1, 2001, allowable amounts that may be charged to a
12 personal injury protection insurance insurer and insured for
13 magnetic resonance imaging services shall not exceed 200
14 percent of the allowable amount under Medicare Part B for year
15 2001, for the area in which the treatment was rendered.
16 Beginning November 1, 2001, allowable amounts that may be
17 charged to a personal injury protection insurance insurer and
18 insured for magnetic resonance imaging services shall not
19 exceed 175 percent of the allowable amount under Medicare Part
20 B for year 2001, for the area in which the treatment was
21 rendered, adjusted annually by an additional amount equal to
22 the medical Consumer Price Index for Florida, except that
23 allowable amounts that may be charged to a personal injury
24 protection insurance insurer and insured for magnetic
25 resonance imaging services provided in facilities accredited
26 by the American College of Radiology or the Joint Commission
27 on Accreditation of Healthcare Organizations shall not exceed
28 200 percent of the allowable amount under Medicare Part B for
29 year 2001, for the area in which the treatment was rendered,
30 adjusted annually by an additional amount equal to the medical
31 Consumer Price Index for Florida. This paragraph does not

1 apply to charges for magnetic resonance imaging services and
2 nerve conduction testing for inpatients and emergency services
3 and care as defined in chapter 395 rendered by facilities
4 licensed under chapter 395.

5 ~~(c)(b)~~ With respect to any treatment or service, other
6 than medical services billed by a hospital or other provider
7 for emergency services as defined in s. 395.002 or inpatient
8 services rendered at a hospital-owned facility, the statement
9 of charges must be furnished to the insurer by the provider
10 and may not include, and the insurer is not required to pay,
11 charges for treatment or services rendered more than 35 ~~30~~
12 days before the postmark date of the statement, except for
13 past due amounts previously billed on a timely basis under
14 this paragraph, and except that, if the provider submits to
15 the insurer a notice of initiation of treatment within 21 days
16 after its first examination or treatment of the claimant, the
17 statement may include charges for treatment or services
18 rendered up to, but not more than, 75 ~~60~~ days before the
19 postmark date of the statement. The injured party is not
20 liable for, and the provider shall not bill the injured party
21 for, charges that are unpaid because of the provider's failure
22 to comply with this paragraph. Any agreement requiring the
23 injured person or insured to pay for such charges is
24 unenforceable. If, however, the insured fails to furnish the
25 provider with the correct name and address of the insured's
26 personal injury protection insurer, the provider has 35 days
27 from the date the provider obtains the correct information to
28 furnish the insurer with a statement of the charges. The
29 insurer is not required to pay for such charges unless the
30 provider includes with the statement documentary evidence that
31 was provided by the insured during the 35-day period

1 demonstrating that the provider reasonably relied on erroneous
2 information from the insured and either:

- 3 1. A denial letter from the incorrect insurer; or
4 2. Proof of mailing, which may include an affidavit
5 under penalty of perjury, reflecting timely mailing to the
6 incorrect address or insurer.

7
8 For emergency services and care as defined in s. 395.002
9 rendered in a hospital emergency department or for transport
10 and treatment rendered by an ambulance provider licensed
11 pursuant to part III of chapter 401, the provider is not
12 required to furnish the statement of charges within the time
13 periods established by this paragraph; and the insurer shall
14 not be considered to have been furnished with notice of the
15 amount of covered loss for purposes of paragraph (4)(b) until
16 it receives a statement complying with paragraph ~~(e)(5)(d)~~,
17 or copy thereof, which specifically identifies the place of
18 service to be a hospital emergency department or an ambulance
19 in accordance with billing standards recognized by the Health
20 Care Finance Administration. Each notice of insured's rights
21 under s. 627.7401 must include the following statement in type
22 no smaller than 12 points:

23 BILLING REQUIREMENTS.--Florida Statutes provide
24 that with respect to any treatment or services,
25 other than certain hospital and emergency
26 services, the statement of charges furnished to
27 the insurer by the provider may not include,
28 and the insurer and the injured party are not
29 required to pay, charges for treatment or
30 services rendered more than 35 ~~30~~ days before
31 the postmark date of the statement, except for

1 past due amounts previously billed on a timely
2 basis, and except that, if the provider submits
3 to the insurer a notice of initiation of
4 treatment within 21 days after its first
5 examination or treatment of the claimant, the
6 statement may include charges for treatment or
7 services rendered up to, but not more than, 75
8 ~~60~~ days before the postmark date of the
9 statement.

10 (d)~~(c)~~ Every insurer shall include a provision in its
11 policy for personal injury protection benefits for binding
12 arbitration of any claims dispute involving medical benefits
13 arising between the insurer and any person providing medical
14 services or supplies if that person has agreed to accept
15 assignment of personal injury protection benefits. The
16 provision shall specify that the provisions of chapter 682
17 relating to arbitration shall apply. The prevailing party
18 shall be entitled to attorney's fees and costs. For purposes
19 of the award of attorney's fees and costs, the prevailing
20 party shall be determined as follows:

21 1. When the amount of personal injury protection
22 benefits determined by arbitration exceeds the sum of the
23 amount offered by the insurer at arbitration plus 50 percent
24 of the difference between the amount of the claim asserted by
25 the claimant at arbitration and the amount offered by the
26 insurer at arbitration, the claimant is the prevailing party.

27 2. When the amount of personal injury protection
28 benefits determined by arbitration is less than the sum of the
29 amount offered by the insurer at arbitration plus 50 percent
30 of the difference between the amount of the claim asserted by
31

1 the claimant at arbitration and the amount offered by the
2 insurer at arbitration, the insurer is the prevailing party.

3 3. When neither subparagraph 1. nor subparagraph 2.
4 applies, there is no prevailing party. For purposes of this
5 paragraph, the amount of the offer or claim at arbitration is
6 the amount of the last written offer or claim made at least 30
7 days prior to the arbitration.

8 4. In the demand for arbitration, the party requesting
9 arbitration must include a statement specifically identifying
10 the issues for arbitration for each examination or treatment
11 in dispute. The other party must subsequently issue a
12 statement specifying any other examinations or treatment and
13 any other issues that it intends to raise in the arbitration.
14 The parties may amend their statements up to 30 days prior to
15 arbitration, provided that arbitration shall be limited to
16 those identified issues and neither party may add additional
17 issues during arbitration.

18 (e)~~(d)~~ All statements and bills for medical services
19 rendered by any physician, hospital, clinic, or other person
20 or institution shall be submitted to the insurer on a Health
21 Care Finance Administration 1500 form, UB 92 forms, or any
22 other standard form approved by the department for purposes of
23 this paragraph. All billings for such services shall, to the
24 extent applicable, follow the Physicians' Current Procedural
25 Terminology (CPT) in the year in which services are rendered.
26 No statement of medical services may include charges for
27 medical services of a person or entity that performed such
28 services without possessing the valid licenses required to
29 perform such services. For purposes of paragraph (4)(b), an
30 insurer shall not be considered to have been furnished with
31

1 notice of the amount of covered loss or medical bills due
2 unless the statements or bills comply with this paragraph.

3 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;
4 DISPUTES.--

5 (b) Every physician, hospital, clinic, or other
6 medical institution providing, before or after bodily injury
7 upon which a claim for personal injury protection insurance
8 benefits is based, any products, services, or accommodations
9 in relation to that or any other injury, or in relation to a
10 condition claimed to be connected with that or any other
11 injury, shall, if requested to do so by the insurer against
12 whom the claim has been made, furnish forthwith a written
13 report of the history, condition, treatment, dates, and costs
14 of such treatment of the injured person and why the items
15 identified by the insurer were reasonable in amount and
16 medically necessary, together with a sworn statement that the
17 treatment or services rendered were reasonable and necessary
18 with respect to the bodily injury sustained and identifying
19 which portion of the expenses for such treatment or services
20 was incurred as a result of such bodily injury, and produce
21 forthwith, and permit the inspection and copying of, his or
22 her or its records regarding such history, condition,
23 treatment, dates, and costs of treatment; provided that this
24 shall not limit the introduction of evidence at trial. Such
25 sworn statement shall read as follows: "Under penalty of
26 perjury, I declare that I have read the foregoing, and the
27 facts alleged are true, to the best of my knowledge and
28 belief." No cause of action for violation of the
29 physician-patient privilege or invasion of the right of
30 privacy shall be permitted against any physician, hospital,
31 clinic, or other medical institution complying with the

1 provisions of this section. The person requesting such records
2 and such sworn statement shall pay all reasonable costs
3 connected therewith. If an insurer makes a written request for
4 documentation or information under this paragraph within 30 ~~20~~
5 days after having received notice of the amount of a covered
6 loss under paragraph (4)(a), the amount or the partial amount
7 which is the subject of the insurer's inquiry shall become
8 overdue if the insurer does not pay ~~the insurer shall pay the~~
9 ~~amount or partial amount of covered loss to which such~~
10 ~~documentation relates~~ in accordance with paragraph (4)(b) or
11 within 10 days after the insurer's receipt of the requested
12 documentation or information, whichever occurs later. For
13 purposes of this paragraph, the term "receipt" includes, but
14 is not limited to, inspection and copying pursuant to this
15 paragraph. Any insurer that requests documentation or
16 information pertaining to reasonableness of charges or medical
17 necessity under this paragraph without a reasonable basis for
18 such requests as a general business practice is engaging in an
19 unfair trade practice under the insurance code.

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

22 (a) Whenever the mental or physical condition of an
23 injured person covered by personal injury protection is
24 material to any claim that has been or may be made for past or
25 future personal injury protection insurance benefits, such
26 person shall, upon the request of an insurer, submit to mental
27 or physical examination by a physician or physicians. The
28 costs of any examinations requested by an insurer shall be
29 borne entirely by the insurer. Such examination shall be
30 conducted within the municipality where the insured is
31 receiving treatment, or in a location reasonably accessible to

1 the insured, which, for purposes of this paragraph, means any
2 location within the municipality in which the insured resides,
3 or any location within 10 miles by road of the insured's
4 residence, provided such location is within the county in
5 which the insured resides. If the examination is to be
6 conducted in a location reasonably accessible to the insured,
7 and if there is no qualified physician to conduct the
8 examination in a location reasonably accessible to the
9 insured, then such examination shall be conducted in an area
10 of the closest proximity to the insured's residence. Personal
11 protection insurers are authorized to include reasonable
12 provisions in personal injury protection insurance policies
13 for mental and physical examination of those claiming personal
14 injury protection insurance benefits. An insurer may not
15 withdraw payment of a treating physician without the consent
16 of the injured person covered by the personal injury
17 protection, unless the insurer first obtains a valid report by
18 a physician licensed under the same chapter as the treating
19 physician whose treatment authorization is sought to be
20 withdrawn, stating that treatment was not reasonable, related,
21 or necessary. A valid report is one that is prepared and
22 signed by the physician examining the injured person or
23 reviewing the treatment records of the injured person and is
24 factually supported by the examination and treatment records
25 if reviewed and that has not been modified by anyone other
26 than the physician. The physician preparing the report must be
27 in active practice, unless the physician is physically
28 disabled. Active practice means that during the 3 years
29 immediately preceding the date of the physical examination or
30 review of the treatment records the physician must have
31 devoted professional time to the active clinical practice of

1 evaluation, diagnosis, or treatment of medical conditions or
2 to the instruction of students in an accredited health
3 professional school or accredited residency program or a
4 clinical research program that is affiliated with an
5 accredited health professional school or teaching hospital or
6 accredited residency program.

7 (b) If requested by the person examined, a party
8 causing an examination to be made shall deliver to him or her
9 a copy of every written report concerning the examination
10 rendered by an examining physician, at least one of which
11 reports must set out the examining physician's findings and
12 conclusions in detail. After such request and delivery, the
13 party causing the examination to be made is entitled, upon
14 request, to receive from the person examined every written
15 report available to him or her or his or her representative
16 concerning any examination, previously or thereafter made, of
17 the same mental or physical condition. By requesting and
18 obtaining a report of the examination so ordered, or by taking
19 the deposition of the examiner, the person examined waives any
20 privilege he or she may have, in relation to the claim for
21 benefits, regarding the testimony of every other person who
22 has examined, or may thereafter examine, him or her in respect
23 to the same mental or physical condition. If a person
24 unreasonably refuses to submit to an examination, the personal
25 injury protection carrier is no longer liable for subsequent
26 personal injury protection benefits.

27 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S
28 FEES.--With respect to any dispute under the provisions of ss.
29 627.730-627.7405 between the insured and the insurer, or
30 between an assignee of an insured's rights and the insurer,
31

1 the provisions of s. 627.428 shall apply, except as provided
2 in subsection (11).

3 (11) DEMAND LETTER.--

4 (a) As a condition precedent to filing any action for
5 an overdue claim for benefits under paragraph (4)(b), the
6 insurer must be provided with written notice of an intent to
7 initiate litigation; provided, however, that, except with
8 regard to a claim or amended claim or judgment for interest
9 only which was not paid or was incorrectly calculated, such
10 notice is not required for an overdue claim that the insurer
11 has denied or reduced, nor is such notice required if the
12 insurer has been provided documentation or information at the
13 insurer's request pursuant to subsection (6). Such notice may
14 not be sent until the claim is overdue, including any
15 additional time the insurer has to pay the claim pursuant to
16 paragraph (4)(b).

17 (b) The notice required shall state that it is a
18 "demand letter under s. 627.736(11)" and shall state with
19 specificity:

20 1. The name of the insured upon which such benefits
21 are being sought.

22 2. The claim number or policy number upon which such
23 claim was originally submitted to the insurer.

24 3. To the extent applicable, the name of any medical
25 provider who rendered to an insured the treatment, services,
26 accommodations, or supplies that form the basis of such claim;
27 and an itemized statement specifying each exact amount, the
28 date of treatment, service, or accommodation, and the type of
29 benefit claimed to be due. A completed Health Care Finance
30 Administration 1500 form, UB 92, or successor forms approved

31

1 by the Secretary of the U.S. Department of Health and Human
2 Services may be used as the itemized statement.

3 (c) Each notice required by this section must be
4 delivered to the insurer by U.S. certified or registered mail,
5 return receipt requested. Such postal costs shall be
6 reimbursed by the insurer if so requested by the provider in
7 the notice, when the insurer pays the overdue claim. Such
8 notice must be sent to the person and address specified by the
9 insurer for the purposes of receiving notices under this
10 section, on the document denying or reducing the amount
11 asserted by the filer to be overdue. Each licensed insurer,
12 whether domestic, foreign, or alien, may file with the
13 department designation of the name and address of the person
14 to whom notices pursuant to this section shall be sent when
15 such document does not specify the name and address to whom
16 the notices under this section are to be sent or when there is
17 no such document. The name and address on file with the
18 department pursuant to s. 624.422 shall be deemed the
19 authorized representative to accept notice pursuant to this
20 section in the event no other designation has been made.

21 (d) If, within 7 business days after receipt of notice
22 by the insurer, the overdue claim specified in the notice is
23 paid by the insurer together with applicable interest and a
24 penalty of 10 percent of the overdue amount paid by the
25 insurer, subject to a maximum penalty of \$250, no action for
26 nonpayment or late payment may be brought against the insurer.
27 To the extent the insurer determines not to pay the overdue
28 amount, the penalty shall not be payable in any action for
29 nonpayment or late payment. For purposes of this subsection,
30 payment shall be treated as being made on the date a draft or
31 other valid instrument that is equivalent to payment is placed

1 in the United States mail in a properly addressed, postpaid
2 envelope, or if not so posted, on the date of delivery. The
3 insurer shall not be obligated to pay any attorney's fees if
4 the insurer pays the claim within the time prescribed by this
5 subsection.

6 (e) The applicable statute of limitation for an action
7 under this section shall be tolled for a period of 15 business
8 days by the mailing of the notice required by this subsection.

9 (f) Any insurer making a general business practice of
10 not paying valid claims until receipt of the notice required
11 by this section is engaging in an unfair trade practice under
12 the insurance code.

13 (12) CIVIL ACTION FOR INSURANCE FRAUD.--An insurer
14 shall have a cause of action against any person convicted of,
15 or who, regardless of adjudication of guilt, pleads guilty or
16 nolo contendere to insurance fraud under s. 817.234, patient
17 brokering under s. 817.505, or kickbacks under s. 456.054,
18 associated with a claim for personal injury protection
19 benefits in accordance with s. 627.736. An insurer prevailing
20 in an action brought under this subsection may recover
21 compensatory, consequential, and punitive damages subject to
22 the requirements and limitations of part II of chapter 768,
23 and attorney's fees and costs incurred in litigating a cause
24 of action against any person convicted of, or who, regardless
25 of adjudication of guilt, pleads guilty or nolo contendere to
26 insurance fraud under s. 817.234, patient brokering under s.
27 817.505, or kickbacks under s. 456.054, associated with a
28 claim for personal injury protection benefits in accordance
29 with s. 627.736.

30
31

1 Section 7. Effective October 1, 2001, subsections (8)
2 and (9) of section 817.234, Florida Statutes, are amended to
3 read:

4 817.234 False and fraudulent insurance claims.--
5 (8) It is unlawful for any person, in his or her
6 individual capacity or in his or her capacity as a public or
7 private employee, or for any firm, corporation, partnership,
8 or association, to solicit or cause to be solicited any
9 business from a person involved in a motor vehicle accident by
10 any means of communication other than advertising directed to
11 the public in or about city receiving hospitals, city and
12 county receiving hospitals, county hospitals, justice courts,
13 or municipal courts; in any public institution; in any public
14 place; upon any public street or highway; in or about private
15 hospitals, sanitariums, or any private institution; or upon
16 private property of any character whatsoever for the purpose
17 of making motor vehicle tort claims or claims for personal
18 injury protection benefits required by s. 627.736. Charges
19 for any services rendered by a health care provider or
20 attorney who violates this subsection in regard to the person
21 for whom such services were rendered are noncompensable and
22 unenforceable as a matter of law.Any person who violates the
23 provisions of this subsection commits a felony of the third
24 degree, punishable as provided in s. 775.082, s. 775.083, or
25 s. 775.084.

26 (9) It is unlawful for any attorney to solicit any
27 business relating to the representation of a person involved
28 ~~persons injured~~ in a motor vehicle accident for the purpose of
29 filing a motor vehicle tort claim or a claim for personal
30 injury protection benefits required by s. 627.736. The
31 solicitation by advertising of any business by an attorney

1 relating to the representation of a person injured in a
 2 specific motor vehicle accident is prohibited by this section.
 3 Any attorney who violates the provisions of this subsection
 4 commits a felony of the third degree, punishable as provided
 5 in s. 775.082, s. 775.083, or s. 775.084. Whenever any circuit
 6 or special grievance committee acting under the jurisdiction
 7 of the Supreme Court finds probable cause to believe that an
 8 attorney is guilty of a violation of this section, such
 9 committee shall forward to the appropriate state attorney a
 10 copy of the finding of probable cause and the report being
 11 filed in the matter. This section shall not be interpreted to
 12 prohibit advertising by attorneys which does not entail a
 13 solicitation as described in this subsection and which is
 14 permitted by the rules regulating The Florida Bar as
 15 promulgated by the Florida Supreme Court.

16 Section 8. Effective October 1, 2001, paragraphs (c),
 17 (e), and (g) of subsection (3) of section 921.0022, Florida
 18 Statutes, are amended to read:

19 921.0022 Criminal Punishment Code; offense severity
 20 ranking chart.--

21 (3) OFFENSE SEVERITY RANKING CHART

22

23 Florida	Felony	
24 Statute	Degree	Description
		(c) LEVEL 3
28 316.1935(2)	3rd	27 Fleeing or attempting to elude 28 law enforcement officer in marked 29 patrol vehicle with siren and 30 lights activated. 31

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	319.30(4)	3rd	Possession by junkyard of motor
2			vehicle with identification
3			number plate removed.
4	319.33(1)(a)	3rd	Alter or forge any certificate of
5			title to a motor vehicle or
6			mobile home.
7	319.33(1)(c)	3rd	Procure or pass title on stolen
8			vehicle.
9	319.33(4)	3rd	With intent to defraud, possess,
10			sell, etc., a blank, forged, or
11			unlawfully obtained title or
12			registration.
13	328.05(2)	3rd	Possess, sell, or counterfeit
14			fictitious, stolen, or fraudulent
15			titles or bills of sale of
16			vessels.
17	328.07(4)	3rd	Manufacture, exchange, or possess
18			vessel with counterfeit or wrong
19			ID number.
20	376.302(5)	3rd	Fraud related to reimbursement
21			for cleanup expenses under the
22			Inland Protection Trust Fund.
23	501.001(2)(b)	2nd	Tampers with a consumer product
24			or the container using materially
25			false/misleading information.
26	697.08	3rd	Equity skimming.
27	790.15(3)	3rd	Person directs another to
28			discharge firearm from a vehicle.
29	796.05(1)	3rd	Live on earnings of a prostitute.
30			
31			

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	806.10(1)	3rd	Maliciously injure, destroy, or
2			interfere with vehicles or
3			equipment used in firefighting.
4	806.10(2)	3rd	Interferes with or assaults
5			firefighter in performance of
6			duty.
7	810.09(2)(c)	3rd	Trespass on property other than
8			structure or conveyance armed
9			with firearm or dangerous weapon.
10	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
11			less than \$10,000.
12	815.04(4)(b)	2nd	Computer offense devised to
13			defraud or obtain property.
14	817.034(4)(a)3.	3rd	Engages in scheme to defraud
15			(Florida Communications Fraud
16			Act), property valued at less
17			than \$20,000.
18	817.233	3rd	Burning to defraud insurer.
19	<u>817.234(8) & (9)</u>	<u>3rd</u>	<u>Unlawful solicitation of persons</u>
20			<u>involved in motor vehicle</u>
21			<u>accidents.</u>
22	<u>817.234(11)(a)</u>	<u>3rd</u>	<u>Insurance fraud; property value</u>
23			<u>less than \$20,000.</u>
24	<u>817.505(4)</u>	<u>3rd</u>	<u>Patient brokering.</u>
25	828.12(2)	3rd	Tortures any animal with intent
26			to inflict intense pain, serious
27			physical injury, or death.
28	831.29	2nd	Possession of instruments for
29			counterfeiting drivers' licenses
30			or identification cards.
31			

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	838.021(3)(b)	3rd	Threatens unlawful harm to public
2			servant.
3	843.19	3rd	Injure, disable, or kill police
4			dog or horse.
5	870.01(2)	3rd	Riot; inciting or encouraging.
6	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
7			cannabis (or other s.
8			893.03(1)(c), (2)(c)1., (2)(c)2.,
9			(2)(c)3., (2)(c)5., (2)(c)6.,
10			(2)(c)7., (2)(c)8., (2)(c)9.,
11			(3), or (4) drugs).
12	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
13			893.03(1)(c), (2)(c)1., (2)(c)2.,
14			(2)(c)3., (2)(c)5., (2)(c)6.,
15			(2)(c)7., (2)(c)8., (2)(c)9.,
16			(3), or (4) drugs within 200 feet
17			of university or public park.
18	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
19			893.03(1)(c), (2)(c)1., (2)(c)2.,
20			(2)(c)3., (2)(c)5., (2)(c)6.,
21			(2)(c)7., (2)(c)8., (2)(c)9.,
22			(3), or (4) drugs within 200 feet
23			of public housing facility.
24	893.13(6)(a)	3rd	Possession of any controlled
25			substance other than felony
26			possession of cannabis.
27	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
28			controlled substance by fraud,
29			forgery, misrepresentation, etc.
30			
31			

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	893.13(7)(a)11.	3rd	Furnish false or fraudulent
2			material information on any
3			document or record required by
4			chapter 893.
5	918.13(1)(a)	3rd	Alter, destroy, or conceal
6			investigation evidence.
7	944.47		
8	(1)(a)1.-2.	3rd	Introduce contraband to
9			correctional facility.
10	944.47(1)(c)	2nd	Possess contraband while upon the
11			grounds of a correctional
12			institution.
13	985.3141	3rd	Escapes from a juvenile facility
14			(secure detention or residential
15			commitment facility).
16			(e) LEVEL 5
17	316.027(1)(a)	3rd	Accidents involving personal
18			injuries, failure to stop;
19			leaving scene.
20	316.1935(4)	2nd	Aggravated fleeing or eluding.
21	322.34(6)	3rd	Careless operation of motor
22			vehicle with suspended license,
23			resulting in death or serious
24			bodily injury.
25	327.30(5)	3rd	Vessel accidents involving
26			personal injury; leaving scene.
27	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
28			knowing HIV positive.
29	790.01(2)	3rd	Carrying a concealed firearm.
30	790.162	2nd	Threat to throw or discharge
31			destructive device.

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	790.163	2nd	False report of deadly explosive.
2	790.165(2)	3rd	Manufacture, sell, possess, or
3			deliver hoax bomb.
4	790.221(1)	2nd	Possession of short-barreled
5			shotgun or machine gun.
6	790.23	2nd	Felons in possession of firearms
7			or electronic weapons or devices.
8	800.04(6)(c)	3rd	Lewd or lascivious conduct;
9			offender less than 18 years.
10	800.04(7)(c)	2nd	Lewd or lascivious exhibition;
11			offender 18 years or older.
12	806.111(1)	3rd	Possess, manufacture, or dispense
13			fire bomb with intent to damage
14			any structure or property.
15	812.019(1)	2nd	Stolen property; dealing in or
16			trafficking in.
17	812.131(2)(b)	3rd	Robbery by sudden snatching.
18	812.16(2)	3rd	Owning, operating, or conducting
19			a chop shop.
20	817.034(4)(a)2.	2nd	Communications fraud, value
21			\$20,000 to \$50,000.
22	<u>817.234(11)(b)</u>	<u>2nd</u>	<u>Insurance fraud; property value</u>
23			<u>\$20,000 or more but less than</u>
24			<u>\$100,000.</u>
25	825.1025(4)	3rd	Lewd or lascivious exhibition in
26			the presence of an elderly person
27			or disabled adult.
28	827.071(4)	2nd	Possess with intent to promote
29			any photographic material, motion
30			picture, etc., which includes
31			sexual conduct by a child.

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	843.01	3rd	Resist officer with violence to
2			person; resist arrest with
3			violence.
4	874.05(2)	2nd	Encouraging or recruiting another
5			to join a criminal street gang;
6			second or subsequent offense.
7	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
8			cocaine (or other s.
9			893.03(1)(a), (1)(b), (1)(d),
10			(2)(a), (2)(b), or (2)(c)4.
11			drugs).
12	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
13			cannabis (or other s.
14			893.03(1)(c), (2)(c)1., (2)(c)2.,
15			(2)(c)3., (2)(c)5., (2)(c)6.,
16			(2)(c)7., (2)(c)8., (2)(c)9.,
17			(3), or (4) drugs) within 1,000
18			feet of a child care facility or
19			school.
20	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
21			cocaine (or other s.
22			893.03(1)(a), (1)(b), (1)(d),
23			(2)(a), (2)(b), or (2)(c)4.
24			drugs) within 200 feet of
25			university or public park.
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1	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver
2			cannabis or other drug prohibited
3			under s. 893.03(1)(c), (2)(c)1.,
4			(2)(c)2., (2)(c)3., (2)(c)5.,
5			(2)(c)6., (2)(c)7., (2)(c)8.,
6			(2)(c)9., (3), or (4) within
7			1,000 feet of property used for
8			religious services or a specified
9			business site.
10	893.13(1)(f)1.	1st	Sell, manufacture, or deliver
11			cocaine (or other s.
12			893.03(1)(a), (1)(b), (1)(d), or
13			(2)(a), (2)(b), or (2)(c)4.
14			drugs) within 200 feet of public
15			housing facility.
16	893.13(4)(b)	2nd	Deliver to minor cannabis (or
17			other s. 893.03(1)(c), (2)(c)1.,
18			(2)(c)2., (2)(c)3., (2)(c)5.,
19			(2)(c)6., (2)(c)7., (2)(c)8.,
20			(2)(c)9., (3), or (4) drugs).
21			(g) LEVEL 7
22	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
23			injury.
24	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
25			bodily injury.
26	402.319(2)	2nd	Misrepresentation and negligence
27			or intentional act resulting in
28			great bodily harm, permanent
29			disfiguration, permanent
30			disability, or death.
31	409.920(2)	3rd	Medicaid provider fraud.

ENROLLED

2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	456.065(2)	3rd	Practicing a health care
2			profession without a license.
3	456.065(2)	2nd	Practicing a health care
4			profession without a license
5			which results in serious bodily
6			injury.
7	458.327(1)	3rd	Practicing medicine without a
8			license.
9	459.013(1)	3rd	Practicing osteopathic medicine
10			without a license.
11	460.411(1)	3rd	Practicing chiropractic medicine
12			without a license.
13	461.012(1)	3rd	Practicing podiatric medicine
14			without a license.
15	462.17	3rd	Practicing naturopathy without a
16			license.
17	463.015(1)	3rd	Practicing optometry without a
18			license.
19	464.016(1)	3rd	Practicing nursing without a
20			license.
21	465.015(2)	3rd	Practicing pharmacy without a
22			license.
23	466.026(1)	3rd	Practicing dentistry or dental
24			hygiene without a license.
25	467.201	3rd	Practicing midwifery without a
26			license.
27	468.366	3rd	Delivering respiratory care
28			services without a license.
29	483.828(1)	3rd	Practicing as clinical laboratory
30			personnel without a license.
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2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	483.901(9)	3rd	Practicing medical physics
2			without a license.
3	484.053	3rd	Dispensing hearing aids without a
4			license.
5	494.0018(2)	1st	Conviction of any violation of
6			ss. 494.001-494.0077 in which the
7			total money and property
8			unlawfully obtained exceeded
9			\$50,000 and there were five or
10			more victims.
11	560.123(8)(b)1.	3rd	Failure to report currency or
12			payment instruments exceeding
13			\$300 but less than \$20,000 by
14			money transmitter.
15	560.125(5)(a)	3rd	Money transmitter business by
16			unauthorized person, currency or
17			payment instruments exceeding
18			\$300 but less than \$20,000.
19	655.50(10)(b)1.	3rd	Failure to report financial
20			transactions exceeding \$300 but
21			less than \$20,000 by financial
22			institution.
23	782.051(3)	2nd	Attempted felony murder of a
24			person by a person other than the
25			perpetrator or the perpetrator of
26			an attempted felony.
27	782.07(1)	2nd	Killing of a human being by the
28			act, procurement, or culpable
29			negligence of another
30			(manslaughter).
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2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	782.071	2nd	Killing of human being or viable
2			fetus by the operation of a motor
3			vehicle in a reckless manner
4			(vehicular homicide).
5	782.072	2nd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	784.083(1)	1st	Aggravated battery on code
28			inspector.
29	790.07(4)	1st	Specified weapons violation
30			subsequent to previous conviction
31			of s. 790.07(1) or (2).

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2001 Legislature

CS for CS for SB 1092, 1st Engrossed

1	790.16(1)	1st	Discharge of a machine gun under
2			specified circumstances.
3	790.166(3)	2nd	Possessing, selling, using, or
4			attempting to use a hoax weapon
5			of mass destruction.
6	796.03	2nd	Procuring any person under 16
7			years for prostitution.
8	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
9			victim less than 12 years of age;
10			offender less than 18 years.
11	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
12			victim 12 years of age or older
13			but less than 16 years; offender
14			18 years or older.
15	806.01(2)	2nd	Maliciously damage structure by
16			fire or explosive.
17	810.02(3)(a)	2nd	Burglary of occupied dwelling;
18			unarmed; no assault or battery.
19	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
20			unarmed; no assault or battery.
21	810.02(3)(d)	2nd	Burglary of occupied conveyance;
22			unarmed; no assault or battery.
23	812.014(2)(a)	1st	Property stolen, valued at
24			\$100,000 or more; property stolen
25			while causing other property
26			damage; 1st degree grand theft.
27	812.019(2)	1st	Stolen property; initiates,
28			organizes, plans, etc., the theft
29			of property and traffics in
30			stolen property.
31	812.131(2)(a)	2nd	Robbery by sudden snatching.

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CS for CS for SB 1092, 1st Engrossed

1	812.133(2)(b)	1st	Carjacking; no firearm, deadly
2			weapon, or other weapon.
3	<u>817.234(11)(c)</u>	<u>1st</u>	<u>Insurance fraud; property value</u>
4			<u>\$100,000 or more.</u>
5	825.102(3)(b)	2nd	Neglecting an elderly person or
6			disabled adult causing great
7			bodily harm, disability, or
8			disfigurement.
9	825.1025(2)	2nd	Lewd or lascivious battery upon
10			an elderly person or disabled
11			adult.
12	825.103(2)(b)	2nd	Exploiting an elderly person or
13			disabled adult and property is
14			valued at \$20,000 or more, but
15			less than \$100,000.
16	827.03(3)(b)	2nd	Neglect of a child causing great
17			bodily harm, disability, or
18			disfigurement.
19	827.04(3)	3rd	Impregnation of a child under 16
20			years of age by person 21 years
21			of age or older.
22	837.05(2)	3rd	Giving false information about
23			alleged capital felony to a law
24			enforcement officer.
25	872.06	2nd	Abuse of a dead human body.
26	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
27			cocaine (or other drug prohibited
28			under s. 893.03(1)(a), (1)(b),
29			(1)(d), (2)(a), (2)(b), or
30			(2)(c)4.) within 1,000 feet of a
31			child care facility or school.

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CS for CS for SB 1092, 1st Engrossed

1	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
2			cocaine or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4., within 1,000 feet of
6			property used for religious
7			services or a specified business
8			site.
9	893.13(4)(a)	1st	Deliver to minor cocaine (or
10			other s. 893.03(1)(a), (1)(b),
11			(1)(d), (2)(a), (2)(b), or
12			(2)(c)4. drugs).
13	893.135(1)(a)1.	1st	Trafficking in cannabis, more
14			than 50 lbs., less than 2,000
15			lbs.
16	893.135		
17	(1)(b)1.a.	1st	Trafficking in cocaine, more than
18			28 grams, less than 200 grams.
19	893.135		
20	(1)(c)1.a.	1st	Trafficking in illegal drugs,
21			more than 4 grams, less than 14
22			grams.
23	893.135		
24	(1)(d)1.	1st	Trafficking in phencyclidine,
25			more than 28 grams, less than 200
26			grams.
27	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
28			than 200 grams, less than 5
29			kilograms.
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CS for CS for SB 1092, 1st Engrossed

1 893.135(1)(f)1. 1st Trafficking in amphetamine, more
2 than 14 grams, less than 28
3 grams.
4 893.135
5 (1)(g)1.a. 1st Trafficking in flunitrazepam, 4
6 grams or more, less than 14
7 grams.
8 893.135
9 (1)(h)1.a. 1st Trafficking in
10 gamma-hydroxybutyric acid (GHB),
11 1 kilogram or more, less than 5
12 kilograms.
13 893.135
14 (1)(i)1.a. 1st Trafficking in 1,4-Butanediol, 1
15 kilogram or more, less than 5
16 kilograms.
17 893.135
18 (1)(j)2.a. 1st Trafficking in Phenethylamines,
19 10 grams or more, less than 200
20 grams.
21 896.101(5)(a) 3rd Money laundering, financial
22 transactions exceeding \$300 but
23 less than \$20,000.
24 896.104(4)(a)1. 3rd Structuring transactions to evade
25 reporting or registration
26 requirements, financial
27 transactions exceeding \$300 but
28 less than \$20,000.

29 Section 9. Subsection (1) of section 324.021, Florida
30 Statutes, is amended to read:

31

1 324.021 Definitions; minimum insurance required.--The
2 following words and phrases when used in this chapter shall,
3 for the purpose of this chapter, have the meanings
4 respectively ascribed to them in this section, except in those
5 instances where the context clearly indicates a different
6 meaning:

7 (1) MOTOR VEHICLE.--Every self-propelled vehicle which
8 is designed and required to be licensed for use upon a
9 highway, including trailers and semitrailers designed for use
10 with such vehicles, except traction engines, road rollers,
11 farm tractors, power shovels, and well drillers, and every
12 vehicle which is propelled by electric power obtained from
13 overhead wires but not operated upon rails, but not including
14 any bicycle or moped. However, the term "motor vehicle" shall
15 not include any motor vehicle as defined in s. 627.732(3)~~s.~~
16 ~~627.732(1)~~when the owner of such vehicle has complied with
17 the requirements of ss. 627.730-627.7405, inclusive, unless
18 the provisions of s. 324.051 apply; and, in such case, the
19 applicable proof of insurance provisions of s. 320.02 apply.

20 Section 10. The sum of \$100,000 is appropriated from
21 the registration fees collected from clinics pursuant to
22 section 456.0375, Florida Statutes, to the Department of
23 Health and one-half of one full-time-equivalent position is
24 authorized for the purposes of regulating medical clinics
25 pursuant to section 456.0375, Florida Statutes. These funds
26 shall be deposited into the Medical Quality Assurance Trust
27 Fund.

28 Section 11. (1) Except as otherwise expressly
29 provided in this act, this act shall take effect upon becoming
30 a law.

31

1 (2) Paragraphs (1)(a), and (c), and (7)(a) of section
2 627.736, Florida Statutes, as amended by section 6 of this
3 act, and the deletion of paragraph (4)(f) and redesignation of
4 paragraph (4)(g) as (4)(f) by section 6 of this act shall
5 apply to policies issued new or renewed on or after October 1,
6 2001.

7 (3) Paragraphs (4)(b), (5)(b) and (c) and subsection
8 (6) of section 627.736, Florida Statutes, as amended by this
9 act and subsection (11) of section 627.736, Florida Statutes,
10 shall apply to treatment and services occurring on or after
11 October 1, 2001, except that subsection (11) of section
12 627.736, Florida Statutes, shall apply to actions filed on or
13 after the effective date of this act with regard to a claim or
14 amended claim or judgment for interest only which was not paid
15 or was incorrectly calculated.

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