

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Harrell offered the following:

**Amendment to Amendment (093461) (with title amendment)**

On page 1, between lines 17 and 18,

insert:

Section 2. Paragraphs (b) and (f) of subsection (4), and paragraph (b) of subsection (5) and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

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

(4) BENEFITS; WHEN DUE.--Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration provides, pays, or becomes liable for medical

Amendment No. \_\_\_\_ (for drafter's use only)

1 assistance under the Medicaid program related to injury,  
2 sickness, disease, or death arising out of the ownership,  
3 maintenance, or use of a motor vehicle, benefits under ss.  
4 627.730-627.7405 shall be subject to the provisions of the  
5 Medicaid program.

6 (b) Personal injury protection insurance benefits paid  
7 pursuant to this section shall be overdue if not paid within  
8 30 days after the insurer is furnished written notice of the  
9 fact of a covered loss and of the amount of same. If such  
10 written notice is not furnished to the insurer as to the  
11 entire claim, any partial amount supported by written notice  
12 is overdue if not paid within 30 days after such written  
13 notice is furnished to the insurer. Any part or all of the  
14 remainder of the claim that is subsequently supported by  
15 written notice is overdue if not paid within 30 days after  
16 such written notice is furnished to the insurer. However, any  
17 payment shall not be deemed overdue when the insurer has  
18 reasonable proof to establish that the insurer is not  
19 responsible for the payment that written notice has been  
20 furnished to the insurer. For the purpose of calculating the  
21 extent to which any benefits are overdue, payment shall be  
22 treated as being made on the date a draft or other valid  
23 instrument which is equivalent to payment was placed in the  
24 United States mail in a properly addressed, postpaid envelope  
25 or, if not so posted, on the date of delivery. This paragraph  
26 does not preclude or limit the ability of the insurer to  
27 assert that the claim was unrelated, was not medically  
28 necessary, or was unreasonable or that the amount of the  
29 charge was in excess of that permitted under, or in violation  
30 of, subsection (5). Such assertion by the insurer may be made  
31 at any time, including after payment of the claim or after the

Amendment No. \_\_\_\_ (for drafter's use only)

1 30-day time period for payment set forth in this paragraph.

2 ~~(f) Medical payments insurance, if available in a~~  
3 ~~policy of motor vehicle insurance, shall pay the portion of~~  
4 ~~any claim for personal injury protection medical benefits~~  
5 ~~which is otherwise covered but is not payable due to the~~  
6 ~~coinsurance provision of paragraph (1)(a), regardless of~~  
7 ~~whether the full amount of personal injury protection coverage~~  
8 ~~has been exhausted. The benefits shall not be payable for the~~  
9 ~~amount of any deductible which has been selected.~~

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

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

Amendment No. \_\_\_\_ (for drafter's use only)

1 personal injury protection insurer, the provider has 35 days  
2 from the date the provider obtains the correct information to  
3 furnish the insurer with a statement of the charges. The  
4 insurer is not required to pay for such charges, unless the  
5 provider includes with the statement documentary evidence that  
6 was provided by the insured during the 35-day period  
7 demonstrating that the provider reasonably relied on erroneous  
8 information from the insured and either:

9       1. A denial letter from the incorrect insurer; or  
10       2. Proof of mailing, which may include an affidavit  
11 under penalty of perjury, reflecting timely mailing to the  
12 incorrect address or insurer. For emergency services and care  
13 as defined in s. 395.002 rendered in a hospital emergency  
14 department or for transport and treatment rendered by an  
15 ambulance provider licensed pursuant to part III of chapter  
16 401, the provider is not required to furnish the statement of  
17 charges within the time periods established by this paragraph;  
18 and the insurer shall not be considered to have been furnished  
19 with notice of the amount of covered loss for purposes of  
20 paragraph (4)(b) until it receives a statement complying with  
21 paragraph (e)(5)(d), or copy thereof, which specifically  
22 identifies the place of service to be a hospital emergency  
23 department or an ambulance in accordance with billing  
24 standards recognized by the Health Care Finance  
25 Administration. Each notice of insured's rights under s.  
26 627.7401 must include the following statement in type no  
27 smaller than 12 points:

28       BILLING REQUIREMENTS.--Florida Statutes provide  
29       that with respect to any treatment or services,  
30       other than certain hospital and emergency  
31       services, the statement of charges furnished to

Amendment No. \_\_\_\_ (for drafter's use only)

1 the insurer by the provider may not include,  
2 and the insurer and the injured party are not  
3 required to pay, charges for treatment or  
4 services rendered more than 35 ~~30~~ days before  
5 the postmark date of the statement, except for  
6 past due amounts previously billed on a timely  
7 basis, and except that, if the provider submits  
8 to the insurer a notice of initiation of  
9 treatment within 21 days after its first  
10 examination or treatment of the claimant, the  
11 statement may include charges for treatment or  
12 services rendered up to, but not more than, 75  
13 ~~60~~ days before the postmark date of the  
14 statement.

15 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;  
16 REPORTS.--

17 (a) Whenever the mental or physical condition of an  
18 injured person covered by personal injury protection is  
19 material to any claim that has been or may be made for past or  
20 future personal injury protection insurance benefits, such  
21 person shall, upon the request of an insurer, submit to mental  
22 or physical examination by a physician or physicians. The  
23 costs of any examinations requested by an insurer shall be  
24 borne entirely by the insurer. Such examination shall be  
25 conducted within the municipality where the insured is  
26 receiving treatment, or in a location reasonably accessible to  
27 the insured, which, for purposes of this paragraph, means any  
28 location within the municipality in which the insured resides,  
29 or any location within 10 miles by road of the insured's  
30 residence, provided such location is within the county in  
31 which the insured resides. If the examination is to be

Amendment No. \_\_\_\_ (for drafter's use only)

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

Amendment No. \_\_\_\_ (for drafter's use only)

1 research program affiliated with an accredited health  
2 professional school or accredited residency, or clinical  
3 research program.

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6 ===== T I T L E    A M E N D M E N T =====

7 And the title is amended as follows:

8            On page 15, between lines 11 and 12,

9

10 insert:

11            amending s. 627.736, F.S.; relating to required  
12            personal injury protection benefits; revising  
13            provisions relating to personal injury  
14            protection benefits;

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