

By the Committee on Insurance and Representatives Waters,  
Brown, Negron, Wiles, Simmons, McGriff, Melvin, Berfield,  
Kallinger, Lee, Fields, Ross and Sobel

1                                   A bill to be entitled  
2           An act relating to insurance and illegal use of  
3           public records; 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.; providing a  
7           definition; requiring registration of certain  
8           clinics; providing requirements; requiring  
9           medical directors for certain clinics;  
10          providing duties and responsibilities of  
11          medical directors; authorizing the Department  
12          of Insurance to adopt rules for certain  
13          purposes; providing for enforcement; amending  
14          s. 626.989, F.S.; clarifying immunity from  
15          civil actions provisions; amending s. 627.732,  
16          F.S.; providing a definition; amending s.  
17          627.736, F.S.; revising provisions relating to  
18          personal injury protection benefits; revising  
19          provisions for charges for treatments;  
20          providing for electronic access to certain  
21          information under certain circumstances;  
22          prohibiting compilation of and retention of  
23          such information; providing presuit notice  
24          requirements; providing for civil actions  
25          against persons convicted of fraud; amending s.  
26          627.739, F.S.; providing limitations on certain  
27          charges by providers; amending s. 817.234,  
28          F.S.; prohibiting solicitation of specific  
29          persons involved in motor vehicle crashes;  
30          specifying certain charges as unlawful and  
31          unenforceable; amending s. 324.021, F.S.;

1           correcting a cross reference; providing an  
2           effective date.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6           Section 1. Subsection (3) is added to section 119.10,  
7 Florida Statutes, to read:

8           119.10 Violation of chapter; penalties.--

9           (3) Any person who willingly and knowingly violates s.  
10 119.105 commits a felony of the third degree, punishable as  
11 provided in s. 775.082, s. 775.083, or s. 775.084.

12           Section 2. Effective October 1, 2001, section  
13 456.0375, Florida Statutes, is created to read:

14           456.0375 Registration of certain clinics;  
15 requirements; discipline; exemptions.--

16           (1) Definition.--As used in this section, "clinic"  
17 means a single structure or facility, or group of adjacent  
18 structures or facilities operating under the same business  
19 name or management, at which health care services are provided  
20 to individuals and which tender charges for reimbursement for  
21 such services unless otherwise licensed by the state pursuant  
22 to chapter 390, chapter 394, chapter 395, chapter 400, chapter  
23 463, chapter 465, chapter 466, chapter 478, chapter 480, or  
24 chapter 484, or exempt from federal taxation under 26 U.S.C.  
25 s. 501(c)(3).

26           (2)(a) Clinics in which an entity or individual other  
27 than those licensed under chapter 458, chapter 459, chapter  
28 460, or chapter 461 possesses an ownership interest shall be  
29 registered with the department. The clinic shall at all times  
30 maintain a valid registration. Each clinic location shall be  
31 registered separately even though operated under the same

1 business name or management. For purposes of determining  
2 registration requirements under this paragraph, clinics owned  
3 by physicians licensed pursuant to chapters 458, 459, 460, and  
4 461 shall also include those clinics owned jointly by the  
5 physician and the physician's spouse, parent, or child, so  
6 long as the licensed physician is supervising the services  
7 performed in the clinic and is legally responsible for the  
8 clinic's compliance with all federal and state laws.

9 (b) The department shall adopt rules necessary to  
10 implement the registration program, including rules  
11 establishing the specific registration procedures, forms, and  
12 fees. Registration fees shall be reasonably calculated to  
13 cover the cost of registration and be of such amount that the  
14 total fees collected do not exceed the cost to administer and  
15 enforce compliance with this section. Registration  
16 requirements shall include the following:

17 1. The clinic shall file the registration form with  
18 the department within 60 days after the effective date of this  
19 act or prior to the inception of operation. The registration  
20 shall expire automatically 2 years from the date of issuance  
21 and must be renewed biennially thereafter.

22 2. The registration form shall contain the name,  
23 residence and business address, phone number, and license  
24 number of the medical director for the clinic.

25 3. The clinic shall display the registration  
26 certificate in a conspicuous location within the clinic  
27 readily visible to all patients.

28 (3)(a) Every clinic owned by an individual other than  
29 a fully licensed physician or owned by an entity other than a  
30 professional corporation or limited liability company composed  
31 only of fully licensed physicians must employ or contract with

1 a physician maintaining a full and unencumbered physician  
2 license in accordance with chapter 458, chapter 459, chapter  
3 460, or chapter 461 to serve as the medical director.

4 (b) A medical director must agree in writing to accept  
5 legal responsibility for supervising the delivery of  
6 appropriate health care services and supplies. The medical  
7 director shall:

8 1. Have signs identifying the medical director posted  
9 in a conspicuous location within the clinic readily visible to  
10 all patients.

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

14 3. Review any patient referral contracts or agreements  
15 executed by the clinic.

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

19 5. Serve as the clinic records holder as defined in s.  
20 456.057.

21 6. Comply with medical recordkeeping, office surgery,  
22 and adverse incident reporting requirements of chapter 456,  
23 the respective practice acts, and rules promulgated  
24 thereunder.

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

29 (c) Any contract to serve as a medical director  
30 entered into or renewed by a physician in violation of this  
31 section shall be void as contrary to public policy. This

1 section shall apply to contracts entered into or renewed on or  
2 after October 1, 2001.

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

11 (4)(a) All charges or reimbursement claims made by or  
12 on behalf of a clinic required to be registered under this  
13 section for services rendered when not registered in violation  
14 of this section, are unlawful charges and therefore  
15 noncompensable and unenforceable. Any person establishing,  
16 operating, or managing an unregistered clinic otherwise  
17 required to be registered under this section commits a felony  
18 of the third degree, as provided in s. 775.082, s. 775.083, or  
19 s. 775.084, in accordance with s. 456.065.

20 (b) Any licensed health care practitioner violating  
21 the provisions of this section shall be subject to discipline  
22 in accordance with chapter 456 and the respective practice  
23 act.

24 (c) The department shall revoke the registration of  
25 any clinic registered under this section for operating in  
26 violation of the requirements of this section.

27 Section 3. Paragraph (c) of subsection (4) of section  
28 626.989, Florida Statutes, is amended to read:

29 626.989 Investigation by department or Division of  
30 Insurance Fraud; compliance; immunity; confidential

31

1 information; reports to division; division investigator's  
2 power of arrest.--  
3 (4)  
4 (c) In the absence of fraud or bad faith, a person is  
5 not subject to civil liability for libel, slander, or any  
6 other relevant tort by virtue of filing reports, without  
7 malice, or furnishing other information, without malice,  
8 required by this section or required by the department or  
9 division under the authority granted in this section, and no  
10 civil cause of action of any nature shall arise against such  
11 person:  
12 1. For any information relating to suspected  
13 fraudulent insurance acts or persons suspected of engaging in  
14 such acts, furnished to or received from law enforcement  
15 officials, their agents, or employees;  
16 2. For any information relating to suspected  
17 fraudulent insurance acts or persons suspected of engaging in  
18 such acts, furnished to or received from other persons subject  
19 to the provisions of this chapter; ~~or~~  
20 3. For any such information furnished in reports to  
21 the department, division, the National Insurance Crime Bureau,  
22 or the National Association of Insurance Commissioners, or any  
23 local, state, or federal enforcement officials, their agents,  
24 or employees; or  
25 4. For other actions taken in cooperation with any of  
26 the agencies or individuals specified in this section in the  
27 lawful investigation of suspected fraudulent insurance acts.  
28 Section 4. Subsections (1), (2), (3), (4), and (5) of  
29 section 627.732, Florida Statutes, are renumbered as  
30 subsections (2), (3), (4), (5), and (6), respectively, and a  
31 new subsection (1) is added to said section, to read:

1           627.732 Definitions.--As used in ss. 627.730-627.7405:

2           (1) "Medically necessary" means a medical service or  
3 supply a prudent physician would provide for the purpose of  
4 preventing, diagnosing, or treating an illness, injury, or  
5 disease or its symptoms in a manner that is:

6           (a) In accordance with generally accepted standards of  
7 medical practice.

8           (b) Clinically appropriate in terms of type,  
9 frequency, extent, site, and duration.

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

12           Section 5. Paragraph (a) of subsection (1), paragraphs  
13 (b) and (c) of subsection (4), subsection (5), paragraph (a)  
14 of subsection (7), subsection (8), and paragraph (a) of  
15 subsection (9) of section 627.736, Florida Statutes, are  
16 amended, and subsections (11) and (12) are added to said  
17 section, to read:

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

20           (1) REQUIRED BENEFITS.--Every insurance policy  
21 complying with the security requirements of s. 627.733 shall  
22 provide personal injury protection to the named insured,  
23 relatives residing in the same household, persons operating  
24 the insured motor vehicle, passengers in such motor vehicle,  
25 and other persons struck by such motor vehicle and suffering  
26 bodily injury while not an occupant of a self-propelled  
27 vehicle, subject to the provisions of subsection (2) and  
28 paragraph (4)(d), to a limit of \$10,000 for loss sustained by  
29 any such person as a result of bodily injury, sickness,  
30 disease, or death arising out of the ownership, maintenance,  
31 or use of a motor vehicle as follows:

1           (a) Medical benefits.--Eighty percent of all  
2 reasonable expenses for medically necessary medical, surgical,  
3 X-ray, dental, and rehabilitative services, including  
4 prosthetic devices, and medically necessary ambulance,  
5 hospital, and nursing services. ~~Such benefits shall also~~  
6 ~~include necessary remedial treatment and services recognized~~  
7 ~~and permitted under the laws of the state for an injured~~  
8 ~~person who relies upon spiritual means through prayer alone~~  
9 ~~for healing, in accordance with his or her religious beliefs.~~  
10  
11 Only insurers writing motor vehicle liability insurance in  
12 this state may provide the required benefits of this section,  
13 and no such insurer shall require the purchase of any other  
14 motor vehicle coverage other than the purchase of property  
15 damage liability coverage as required by s. 627.7275 as a  
16 condition for providing such required benefits. Insurers may  
17 not require that property damage liability insurance in an  
18 amount greater than \$10,000 be purchased in conjunction with  
19 personal injury protection. Such insurers shall make benefits  
20 and required property damage liability insurance coverage  
21 available through normal marketing channels. Any insurer  
22 writing motor vehicle liability insurance in this state who  
23 fails to comply with such availability requirement as a  
24 general business practice shall be deemed to have violated  
25 part X of chapter 626, and such violation shall constitute an  
26 unfair method of competition or an unfair or deceptive act or  
27 practice involving the business of insurance; and any such  
28 insurer committing such violation shall be subject to the  
29 penalties afforded in such part, as well as those which may be  
30 afforded elsewhere in the insurance code.  
31



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

15           (b) Personal injury protection insurance benefits paid  
16 pursuant to this section shall be overdue if not paid within  
17 30 days after the insurer is furnished written notice of the  
18 fact of a covered loss and of the amount of same. If such  
19 written notice is not furnished to the insurer as to the  
20 entire claim, any partial amount supported by written notice  
21 is overdue if not paid within 30 days after such written  
22 notice is furnished to the insurer. Any part or all of the  
23 remainder of the claim that is subsequently supported by  
24 written notice is overdue if not paid within 30 days after  
25 such written notice is furnished to the insurer. However,  
26 notwithstanding that written notice has been furnished to the  
27 insurer, any payment shall not be deemed overdue when the  
28 insurer has reasonable proof to establish that the insurer is  
29 not responsible for the payment. An insurer shall have an  
30 additional 30 days after the date the claim would otherwise  
31 have become overdue under this subsection to pay a claim the

1 insurer refers to the Department of Insurance for  
2 investigation as a fraudulent insurance act as defined in s.  
3 626.989, any other criminal act or practice under the code, or  
4 insurance fraud under s. 817.234. The insurer shall provide  
5 the Department of Insurance with any information in support of  
6 the referral and, except when the Department of Insurance  
7 agrees that it would compromise the investigation, shall  
8 notify the person submitting the claim that the claim has been  
9 referred to the Department of Insurance for investigation,  
10 ~~notwithstanding that written notice has been furnished to the~~  
11 ~~insurer.~~ For the purpose of calculating the extent to which  
12 any benefits are overdue, payment shall be treated as being  
13 made on the date a draft or other valid instrument which is  
14 equivalent to payment was placed in the United States mail in  
15 a properly addressed, postpaid envelope or, if not so posted,  
16 on the date of delivery. This paragraph shall not preclude or  
17 limit the ability of the insurer to assert that the claim was  
18 unrelated, not medically necessary, or unreasonable, including  
19 as to amount. Such assertion by the insurer may be made at any  
20 time, including after payment of the claim or after the 30-day  
21 time period for payment set forth in this paragraph. However,  
22 the insurer shall not be entitled to recover any portion of a  
23 paid claim to the extent the claim was not fraudulent.

24 (c) All overdue payments shall bear ~~simple~~ interest at  
25 the rate established by the Comptroller under s. 55.03, or the  
26 insurance contract, whichever is greater, for the year in  
27 which the payment became overdue, and for claims referred to  
28 the Department of Insurance for investigation under paragraph  
29 (b), calculated from the date the insurer was furnished with  
30 written notice of the claim. Interest shall be due at the  
31

1 time payment of the overdue claim is made of 10 percent per  
2 year.

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

4 (a) Any physician, hospital, clinic, or other person  
5 or institution lawfully rendering treatment to an injured  
6 person for a bodily injury covered by personal injury  
7 protection insurance may charge only a reasonable amount for  
8 the ~~products, services, and supplies accommodations~~ rendered,  
9 and the insurer providing such coverage may pay for such  
10 charges directly to such person or institution lawfully  
11 rendering such treatment, if the insured receiving such  
12 treatment or his or her guardian has countersigned the  
13 invoice, bill, or claim form approved by the Department of  
14 Insurance upon which such charges are to be paid for as having  
15 actually been rendered, to the best knowledge of the insured  
16 or his or her guardian. In no event, however, may such a  
17 charge be in excess of the amount the person or institution  
18 customarily charges for like ~~products, services, or supplies~~  
19 ~~accommodations~~ in cases involving no insurance.

20 (b)1., provided that Charges for medically necessary  
21 cephalic thermograms, and peripheral thermograms, spinal  
22 ultrasounds, extremity ultrasounds, video fluoroscopy, surface  
23 electromyography, and nerve conduction testing, including  
24 motor and sensory nerves as well as F waves, H reflexes,  
25 somatosensory evoked potentials, and dermatomal studies, shall  
26 not exceed the maximum reimbursement allowance for such  
27 procedures as set forth in the applicable fee schedule or  
28 other payment methodology established pursuant to s. 440.13.

29 2. Charges for medically necessary magnetic resonance  
30 imaging service may not exceed 75 percent of the Ingenix  
31 Customized Fee Analyzer for the zip code 330XX for Florida

1 year 2000 plus annual increases equal to the medical Consumer  
2 Price Index for Florida. Procedures not reimbursed under the  
3 Ingenix Customized Fee Analyzer for zip code 330XX shall not  
4 be reimbursed for magnetic resonance imaging centers or  
5 magnetic resonance imaging leasing companies in this state to  
6 reduce costs and prevent fraud. This subparagraph shall not  
7 apply to charges for magnetic resonance imaging services  
8 billed and collected by facilities licensed under chapter 395.

9       ~~(c)~~(b) With respect to any treatment or service, other  
10 than medical services billed by a hospital for services  
11 rendered at a hospital-owned facility, the statement of  
12 charges must be furnished to the insurer by the provider and  
13 may not include, and the insurer is not required to pay,  
14 charges for treatment or services rendered more than 30 days  
15 before the postmark date of the statement, except for past due  
16 amounts previously billed on a timely basis under this  
17 paragraph, and except that, if the provider submits to the  
18 insurer a notice of initiation of treatment within 21 days  
19 after its first examination or treatment of the claimant, the  
20 statement may include charges for treatment or services  
21 rendered up to, but not more than, 60 days before the postmark  
22 date of the statement. The injured party is not liable for,  
23 and the provider shall not bill the injured party for, charges  
24 that are unpaid because of the provider's failure to comply  
25 with this paragraph. Any agreement requiring the injured  
26 person or insured to pay for such charges is unenforceable.  
27 For emergency services and care as defined in s. 395.002  
28 rendered in a hospital emergency department or for transport  
29 and treatment rendered by an ambulance provider licensed  
30 pursuant to part III of chapter 401, the provider is not  
31 required to furnish the statement of charges within the time

1 periods established by this paragraph; and the insurer shall  
2 not be considered to have been furnished with notice of the  
3 amount of covered loss for purposes of paragraph (4)(b) until  
4 it receives a statement complying with paragraph (e)~~(5)(d)~~, or  
5 copy thereof, which specifically identifies the place of  
6 service to be a hospital emergency department or an ambulance  
7 in accordance with billing standards recognized by the Health  
8 Care Finance Administration. Each notice of insured's rights  
9 under s. 627.7401 must include the following statement in type  
10 no smaller than 12 points:

11 BILLING REQUIREMENTS.--Florida Statutes provide  
12 that with respect to any treatment or services,  
13 other than certain hospital and emergency  
14 services, the statement of charges furnished to  
15 the insurer by the provider may not include,  
16 and the insurer and the injured party are not  
17 required to pay, charges for treatment or  
18 services rendered more than 30 days before the  
19 postmark date of the statement, except for past  
20 due amounts previously billed on a timely  
21 basis, and except that, if the provider submits  
22 to the insurer a notice of initiation of  
23 treatment within 21 days after its first  
24 examination or treatment of the claimant, the  
25 statement may include charges for treatment or  
26 services rendered up to, but not more than, 60  
27 days before the postmark date of the statement.

28 (d)~~(e)~~ Every insurer shall include a provision in its  
29 policy for personal injury protection benefits for binding  
30 arbitration of any claims dispute involving medical benefits  
31 arising between the insurer and any person providing medical

1 services or supplies if that person has agreed to accept  
2 assignment of personal injury protection benefits. The  
3 provision shall specify that the provisions of chapter 682  
4 relating to arbitration shall apply. The prevailing party  
5 shall be entitled to attorney's fees and costs. For purposes  
6 of the award of attorney's fees and costs, the prevailing  
7 party shall be determined as follows:

8           1. When the amount of personal injury protection  
9 benefits determined by arbitration exceeds the sum of the  
10 amount offered by the insurer at arbitration plus 50 percent  
11 of the difference between the amount of the claim asserted by  
12 the claimant at arbitration and the amount offered by the  
13 insurer at arbitration, the claimant is the prevailing party.

14           2. When the amount of personal injury protection  
15 benefits determined by arbitration is less than the sum of the  
16 amount offered by the insurer at arbitration plus 50 percent  
17 of the difference between the amount of the claim asserted by  
18 the claimant at arbitration and the amount offered by the  
19 insurer at arbitration, the insurer is the prevailing party.

20           3. When neither subparagraph 1. nor subparagraph 2.  
21 applies, there is no prevailing party. For purposes of this  
22 paragraph, the amount of the offer or claim at arbitration is  
23 the amount of the last written offer or claim made at least 30  
24 days prior to the arbitration.

25           4. In the demand for arbitration, the party requesting  
26 arbitration must include a statement specifically identifying  
27 the issues for arbitration for each examination or treatment  
28 in dispute. The other party must subsequently issue a  
29 statement specifying any other examinations or treatment and  
30 any other issues that it intends to raise in the arbitration.  
31 The parties may amend their statements up to 30 days prior to

1 arbitration, provided that arbitration shall be limited to  
2 those identified issues and neither party may add additional  
3 issues during arbitration.

4 (e)~~(d)~~ All statements and bills for medical services  
5 rendered by any physician, hospital, clinic, or other person  
6 or institution shall be submitted to the insurer on a Health  
7 Care Finance Administration 1500 form, UB 92 forms, or any  
8 other standard form approved by the department for purposes of  
9 this paragraph. All billings for such services shall, to the  
10 extent applicable, follow the Physicians' Current Procedural  
11 Terminology (CPT) in the year in which services are rendered.  
12 No statement of medical services may include charges for  
13 medical services of a person or entity that performed such  
14 services without possessing the valid licenses required to  
15 perform such services. For purposes of paragraph (4)(b), an  
16 insurer shall not be considered to have been furnished with  
17 notice of the amount of covered loss or medical bills due  
18 unless the statements or bills comply with this paragraph.

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

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

1 location within the municipality in which the insured resides,  
2 or any location within 10 miles by road of the insured's  
3 residence, provided such location is within the county in  
4 which the insured resides. If the examination is to be  
5 conducted in a location reasonably accessible to the insured,  
6 and if there is no qualified physician to conduct the  
7 examination in a location reasonably accessible to the  
8 insured, then such examination shall be conducted in an area  
9 of the closest proximity to the insured's residence. Personal  
10 protection insurers are authorized to include reasonable  
11 provisions in personal injury protection insurance policies  
12 for mental and physical examination of those claiming personal  
13 injury protection insurance benefits. An insurer may not  
14 withdraw payment of a treating physician without the consent  
15 of the injured person covered by the personal injury  
16 protection, unless the insurer first obtains a report by a  
17 physician licensed under the same chapter as the treating  
18 physician whose treatment authorization is sought to be  
19 withdrawn, stating that treatment was not reasonable, related,  
20 or medically necessary.

21 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S  
22 FEES.--With respect to any dispute under the provisions of ss.  
23 627.730-627.7405 between the insured and the insurer, or an  
24 assignee of an insured's rights and the insurer,the  
25 provisions of s. 627.428 shall apply, except as provided in  
26 subsection (11).

27 (9)(a) Each insurer which has issued a policy  
28 providing personal injury protection benefits shall report the  
29 renewal, cancellation, or nonrenewal thereof to the Department  
30 of Highway Safety and Motor Vehicles within 45 days from the  
31 effective date of the renewal, cancellation, or nonrenewal.



1 Upon the issuance of a policy providing personal injury  
2 protection benefits to a named insured not previously insured  
3 by the insurer thereof during that calendar year, the insurer  
4 shall report the issuance of the new policy to the Department  
5 of Highway Safety and Motor Vehicles within 30 days. The  
6 report shall be in such form and format and contain such  
7 information as may be required by the Department of Highway  
8 Safety and Motor Vehicles which shall include a format  
9 compatible with the data processing capabilities of said  
10 department, and the Department of Highway Safety and Motor  
11 Vehicles is authorized to adopt rules necessary with respect  
12 thereto. Failure by an insurer to file proper reports with the  
13 Department of Highway Safety and Motor Vehicles as required by  
14 this subsection or rules adopted with respect to the  
15 requirements of this subsection constitutes a violation of the  
16 Florida Insurance Code. Reports of cancellations and policy  
17 renewals and reports of the issuance of new policies received  
18 by the Department of Highway Safety and Motor Vehicles are  
19 confidential and exempt from the provisions of s. 119.07(1).  
20 These records are to be used for enforcement and regulatory  
21 purposes only, including the generation by the department of  
22 data regarding compliance by owners of motor vehicles with  
23 financial responsibility coverage requirements. In addition,  
24 the Department of Highway Safety and Motor Vehicles shall  
25 release, upon a written request by a person involved in a  
26 motor vehicle accident, by the person's attorney, or by a  
27 representative of the person's motor vehicle insurer, the name  
28 of the insurance company and the policy number for the policy  
29 covering the vehicle named by the requesting party. The  
30 written request must include a copy of the appropriate  
31 accident form as provided in s. 316.065, s. 316.066, or s.

1 316.068. Electronic access to the vehicle insurer information  
2 maintained in the vehicle database of the Department of  
3 Highway Safety and Motor Vehicles may be provided by an  
4 approved third party provider to insurers, lawyers, and  
5 financial institutions for subrogation and claims purposes  
6 only. The compilation of and retention of this information is  
7 strictly prohibited.

8 (11) PRESUIT NOTICE.--

9 (a) As a condition precedent to filing any action for  
10 an overdue claim for benefits under paragraph (4)(b), an  
11 insured or an assignee of an insured's rights shall first  
12 provide the insurer with written notice of an intent to  
13 initiate litigation.

14 (b) The notice required shall be on a form approved by  
15 the department and shall state with specificity:

16 1. The name of the insured upon which such benefits  
17 are being sought.

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

20 3. The name of any medical provider who rendered the  
21 treatment, services, or supplies to an insured which forms the  
22 basis of such claim.

23 (c) Each notice required by this section shall be  
24 delivered to the insurer by United States certified or  
25 registered mail, return receipt requested, which postal costs  
26 shall be reimbursed by the insurer if so requested by the  
27 provider in the notice. Each licensed insurer, whether  
28 domestic, foreign, or alien, shall file with the department  
29 designation of the name and address of the person to whom  
30 notices pursuant to this subsection shall be sent. The name  
31 and address on file with the department pursuant to s. 624.422

1 shall be deemed the authorized representative to accept notice  
2 pursuant to this subsection in the event no other designation  
3 has been made.

4 (d) If, within 7 business days after receipt of notice  
5 by the insurer, the overdue claim specified in the notice is  
6 paid by the insurer together with applicable interest, no  
7 action for nonpayment or late payment may be brought against  
8 the insurer. For purposes of this subsection, payment shall  
9 be treated as being made on the date a draft or other valid  
10 instrument which is equivalent to payment is placed in the  
11 United States mail in a properly addressed, postpaid envelope,  
12 or if not so posted, on the date of delivery. The insurer  
13 shall not be obligated to pay any attorney's fees if the  
14 insurer pays the claim within the time prescribed by this  
15 subsection.

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

19 (f) Any insurer making a general business practice of  
20 not paying claims until receipt of the notice required by this  
21 section is engaging in an unfair trade practice under the  
22 Insurance Code.

23 (12) CIVIL ACTION AGAINST PERSONS CONVICTED OF  
24 FRAUD.--An insurer shall have a cause of action against any  
25 person convicted of insurance fraud under s. 817.234, patient  
26 brokering under s. 817.505, or kickbacks under s. 456.054,  
27 associated with a claim for personal injury protection  
28 benefits in accordance with s. 627.736. An insurer prevailing  
29 in an action brought under this subsection may recover  
30 compensatory, consequential, and punitive damages subject to  
31 the requirements and limitations of part II of chapter 768,

1 and attorney's fees and costs incurred in litigating a cause  
2 of action against any person convicted of insurance fraud  
3 under s. 817.234, patient brokering under s. 817.505, or  
4 kickbacks under s. 456.054, associated with a claim for  
5 personal injury protection benefits in accordance with s.  
6 627.736.

7 Section 6. Subsection (6) is added to section 627.739,  
8 Florida Statutes, to read:

9 627.739 Personal injury protection; optional  
10 limitations; deductibles.--

11 (6) A provider who waives, fails to bill, or fails in  
12 good faith to seek collection of a copayment or deductible  
13 shall not charge in excess of the amount the person or  
14 institution customarily charges for similar products,  
15 services, or accommodations in cases in which the provider  
16 does not waive, fail to bill, or fail in good faith to seek  
17 collection of a copayment or deductible. A provider who  
18 agrees in advance of the initiation of treatment to waive,  
19 fail to bill, or in good faith to seek collection of a  
20 copayment or deductible shall so notify the insurer at the  
21 time of submission of the claim.

22 Section 7. Subsection (8) of section 817.234, Florida  
23 Statutes, is amended to read:

24 817.234 False and fraudulent insurance claims.--

25 (8) It is unlawful for any person, in his or her  
26 individual capacity or in his or her capacity as a public or  
27 private employee, or for any firm, corporation, partnership,  
28 or association, to solicit or cause to be solicited any  
29 specific person involved in a motor vehicle crash by any means  
30 of communication other than advertising directed to the  
31 general public ~~any business in or about city receiving~~

1 ~~hospitals, city and county receiving hospitals, county~~  
2 ~~hospitals, justice courts, or municipal courts; in any public~~  
3 ~~institution; in any public place; upon any public street or~~  
4 ~~highway; in or about private hospitals, sanitariums, or any~~  
5 ~~private institution; or upon private property of any character~~  
6 ~~whatsoever~~ for the purpose of making motor vehicle tort claims  
7 or claims for personal injury protection benefits required by  
8 s. 627.736. Charges for any services rendered by a health care  
9 provider or attorney to a person solicited in violation of  
10 this subsection are unlawful charges and are not compensable  
11 under s. 627.736(12) and unenforceable as a matter of law.

12 Any person who violates the provisions of this subsection  
13 commits a felony of the third degree, punishable as provided  
14 in s. 775.082, s. 775.083, or s. 775.084.

15 Section 8. Subsection (1) of section 324.021, Florida  
16 Statutes, is amended to read:

17 324.021 Definitions; minimum insurance required.--The  
18 following words and phrases when used in this chapter shall,  
19 for the purpose of this chapter, have the meanings  
20 respectively ascribed to them in this section, except in those  
21 instances where the context clearly indicates a different  
22 meaning:

23 (1) MOTOR VEHICLE.--Every self-propelled vehicle which  
24 is designed and required to be licensed for use upon a  
25 highway, including trailers and semitrailers designed for use  
26 with such vehicles, except traction engines, road rollers,  
27 farm tractors, power shovels, and well drillers, and every  
28 vehicle which is propelled by electric power obtained from  
29 overhead wires but not operated upon rails, but not including  
30 any bicycle or moped. However, the term "motor vehicle" shall  
31 not include any motor vehicle as defined in s. 627.732(2)(1)

1 when the owner of such vehicle has complied with the  
2 requirements of ss. 627.730-627.7405, inclusive, unless the  
3 provisions of s. 324.051 apply; and, in such case, the  
4 applicable proof of insurance provisions of s. 320.02 apply.

5 Section 9. Except as otherwise provided herein, this  
6 act shall take effect upon becoming a law.

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HOUSE SUMMARY

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11 Revises provisions relating to insurance fraud. Provides  
12 criminal penalties for using victim or accident report  
13 information for commercial solicitation. Requires  
14 registration of health care services clinics. Revises  
15 personal injury protection benefits provisions. Provides  
16 for presuit notice of civil actions against persons  
convicted of fraud, and civil actions for unlawful  
charges. Provides limitations on copayment and deductible  
charges by providers. Prohibits solicitation of specific  
persons involved in motor vehicle crashes and specifies  
charges related to such solicitation as unlawful and  
unenforceable. See bill for details.

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