

By the Committees on Health Regulation, Insurance and Representatives Waters, Heyman, Brown, Negron, Wiles, Simmons, McGriff, Melvin, Berfield, Kallinger, Lee, Fields, Ross, Sobel, Wishner and Farkas

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 appropriation; providing effective dates.

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, a group of adjacent
18 structures or facilities, or a portion of a structure or
19 facility, operating under the same business name or
20 management, at which health care services are provided to
21 individuals and which tender charges for reimbursement for
22 such services unless otherwise licensed by the state pursuant
23 to chapter 383, chapter 390, chapter 394, chapter 395, chapter
24 397, chapter 400, chapter 463, chapter 465, chapter 466,
25 chapter 478, chapter 480, or chapter 484, or exempt from
26 federal taxation under 26 U.S.C. s. 501(c)(3). For purposes of
27 this section, "health care services" means any service that
28 may only be performed by a licensed health care practitioner
29 as defined in s. 456.001.

30 (2)(a) Clinics in which an entity or individual, other
31 than those licensed under chapter 458, chapter 459, chapter

1 460, or chapter 461, possesses an ownership interest shall be
2 registered with the department. The clinic shall at all times
3 maintain a valid registration. Each clinic location shall be
4 registered separately even though operated under the same
5 business name or management. A registration is not
6 transferable. For purposes of determining registration
7 requirements under this paragraph, clinics owned by physicians
8 licensed pursuant to chapter 458, chapter 459, chapter 460, or
9 chapter 461 shall also include those clinics owned jointly by
10 the physician and the physician's spouse, parent, or child, so
11 long as the licensed physician is supervising the delivery of
12 appropriate health care services performed in the clinic and
13 is legally responsible for the clinic's compliance with all
14 federal and state laws.

15 (b) The department shall adopt rules necessary to
16 implement the registration program, including rules
17 establishing the specific registration procedures, forms, and
18 fees. Registration fees shall be reasonably calculated to
19 cover the cost of registration and be of such amount that the
20 total fees collected do not exceed the cost to administer and
21 enforce compliance with this section. Registration may be
22 conducted electronically. Registration requirements shall
23 include the following:

24 1. The clinic shall file the registration form with
25 the department within 60 days after the effective date of this
26 act or prior to the inception of operation. The registration
27 shall expire automatically 2 years from the date of issuance
28 and must be renewed biennially thereafter.

29 2. The registration form shall contain the name,
30 residence and business address, phone number, and license
31 number of the medical director for the clinic.

1 3. The clinic shall display the registration
2 certificate in a conspicuous location within the clinic
3 readily visible to all patients.

4 (3)(a) Every clinic owned by an individual other than
5 a fully licensed physician or owned by an entity other than a
6 professional corporation or limited liability company composed
7 only of fully licensed physicians shall employ or contract
8 with a physician maintaining a full and unencumbered physician
9 license in accordance with chapter 458, chapter 459, chapter
10 460, or chapter 461 to serve as the medical director.

11 (b) A medical director shall agree in writing to
12 accept legal responsibility for supervising the delivery of
13 appropriate health care services and supplies. The medical
14 director shall:

15 1. Have signs identifying the medical director posted
16 in a conspicuous location within the clinic readily visible to
17 all patients.

18 2. Ensure that all practitioners providing health care
19 services or supplies to patients maintain a current active and
20 unencumbered license in this state.

21 3. Review any patient referral contracts or agreements
22 executed by the clinic.

23 4. Ensure that all health care practitioners at the
24 clinic have active appropriate certification or licensure for
25 the level of care being provided.

26 5. Serve as the clinic records holder as defined in s.
27 456.057.

28 6. Comply with medical recordkeeping, office surgery,
29 and adverse incident reporting requirements of chapter 456,
30 the respective practice acts, and rules adopted thereunder.

31

1 7. Conduct systematic reviews of clinic billings to
2 ensure that the billings are not fraudulent or unlawful. Upon
3 discovery of an unlawful charge, the medical director shall
4 take immediate corrective action.

5 (c) Any contract to serve as a medical director
6 entered into or renewed by a physician in violation of this
7 section shall be void as contrary to public policy. This
8 section shall apply to contracts entered into or renewed on or
9 after October 1, 2001.

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

18 (4)(a) All charges or reimbursement claims made by or
19 on behalf of a clinic, required to be registered under this
20 section for services rendered when not registered in violation
21 of this section, are unlawful charges and therefore
22 noncompensable and unenforceable.

23 (b) Any person establishing, operating, or managing an
24 unregistered clinic otherwise required to be registered under
25 this section commits a felony of the third degree, punishable
26 as provided in s. 775.082, s. 775.083, or s. 775.084, in
27 accordance with s. 456.065.

28 (c) Any licensed health care practitioner violating
29 the provisions of this section shall be subject to discipline
30 in accordance with chapter 456 and the respective practice
31 act.

1 (d) The department shall revoke the registration of
2 any clinic registered under this section for operating in
3 violation of the requirements of this section or the rules
4 adopted by the department.

5 (e) The department shall investigate allegations of
6 noncompliance with this section and the rules adopted pursuant
7 to this section.

8 Section 3. Paragraph (c) of subsection (4) of section
9 626.989, Florida Statutes, is amended to read:

10 626.989 Investigation by department or Division of
11 Insurance Fraud; compliance; immunity; confidential
12 information; reports to division; division investigator's
13 power of arrest.--

14 (4)

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

23 1. For any information relating to suspected
24 fraudulent insurance acts, or persons suspected of engaging in
25 such acts, furnished to or received from law enforcement
26 officials, their agents, or employees;

27 2. For any information relating to suspected
28 fraudulent insurance acts, or persons suspected of engaging in
29 such acts, furnished to or received from other persons subject
30 to the provisions of this chapter; ~~or~~

31

1 3. For any such information furnished in reports to
2 the department, division, the National Insurance Crime Bureau,
3 or the National Association of Insurance Commissioners, or any
4 local, state, or federal enforcement officials, their agents,
5 or employees; or

6 4. For other actions taken in cooperation with any of
7 the agencies or individuals specified in this section in the
8 lawful investigation of suspected fraudulent insurance acts.

9 Section 4. Subsections (1), (2), (3), (4), and (5) of
10 section 627.732, Florida Statutes, are renumbered as
11 subsections (2), (3), (4), (5), and (6), respectively, and a
12 new subsection (1) is added to said section, to read:

13 627.732 Definitions.--As used in ss. 627.730-627.7405:

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

18 (a) In accordance with generally accepted standards of
19 medical practice.

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

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

24 Section 5. Paragraph (a) of subsection (1), paragraphs
25 (b) and (c) of subsection (4), subsection (5), paragraph (a)
26 of subsection (7), subsection (8), and paragraph (a) of
27 subsection (9) of section 627.736, Florida Statutes, are
28 amended, and subsections (11) and (12) are added to said
29 section, to read:

30 627.736 Required personal injury protection benefits;
31 exclusions; priority; claims.--

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

13 (a) Medical benefits.--Eighty percent of all
14 reasonable expenses for medically necessary medical, surgical,
15 X-ray, dental, and rehabilitative services, including
16 prosthetic devices, and medically necessary ambulance,
17 hospital, and nursing services. ~~Such benefits shall also
18 include necessary remedial treatment and services recognized
19 and permitted under the laws of the state for an injured
20 person who relies upon spiritual means through prayer alone
21 for healing, in accordance with his or her religious beliefs.~~

22
23 Only insurers writing motor vehicle liability insurance in
24 this state may provide the required benefits of this section,
25 and no such insurer shall require the purchase of any other
26 motor vehicle coverage other than the purchase of property
27 damage liability coverage as required by s. 627.7275 as a
28 condition for providing such required benefits. Insurers may
29 not require that property damage liability insurance in an
30 amount greater than \$10,000 be purchased in conjunction with
31 personal injury protection. Such insurers shall make benefits

1 and required property damage liability insurance coverage
2 available through normal marketing channels. Any insurer
3 writing motor vehicle liability insurance in this state who
4 fails to comply with such availability requirement as a
5 general business practice shall be deemed to have violated
6 part X of chapter 626, and such violation shall constitute an
7 unfair method of competition or an unfair or deceptive act or
8 practice involving the business of insurance; and any such
9 insurer committing such violation shall be subject to the
10 penalties afforded in such part, as well as those which may be
11 afforded elsewhere in the insurance code.

12 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer
13 under ss. 627.730-627.7405 shall be primary, except that
14 benefits received under any workers' compensation law shall be
15 credited against the benefits provided by subsection (1) and
16 shall be due and payable as loss accrues, upon receipt of
17 reasonable proof of such loss and the amount of expenses and
18 loss incurred which are covered by the policy issued under ss.
19 627.730-627.7405. When the Agency for Health Care
20 Administration provides, pays, or becomes liable for medical
21 assistance under the Medicaid program related to injury,
22 sickness, disease, or death arising out of the ownership,
23 maintenance, or use of a motor vehicle, benefits under ss.
24 627.730-627.7405 shall be subject to the provisions of the
25 Medicaid program.

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

1 is overdue if not paid within 30 days after such written
2 notice is furnished to the insurer. Any part or all of the
3 remainder of the claim that is subsequently supported by
4 written notice is overdue if not paid within 30 days after
5 such written notice is furnished to the insurer. However,
6 notwithstanding that written notice has been furnished to the
7 insurer, any payment shall not be deemed overdue when the
8 insurer has reasonable proof to establish that the insurer is
9 not responsible for the payment. An insurer shall have an
10 additional 30 days after the date the claim would otherwise
11 have become overdue under this subsection to pay a claim the
12 insurer refers to the Department of Insurance for
13 investigation as a fraudulent insurance act as defined in s.
14 626.989, any other criminal act or practice under the code, or
15 insurance fraud under s. 817.234. The insurer shall provide
16 the Department of Insurance with any information in support of
17 the referral and, except when the Department of Insurance
18 agrees that it would compromise the investigation, shall
19 notify the person submitting the claim that the claim has been
20 referred to the Department of Insurance for investigation
21 ~~notwithstanding that written notice has been furnished to the~~
22 ~~insurer.~~ For the purpose of calculating the extent to which
23 any benefits are overdue, payment shall be treated as being
24 made on the date a draft or other valid instrument which is
25 equivalent to payment was placed in the United States mail in
26 a properly addressed, postpaid envelope or, if not so posted,
27 on the date of delivery. This paragraph shall not preclude or
28 limit the ability of the insurer to assert that the claim was
29 unrelated, not medically necessary, or unreasonable, including
30 as to amount. Such assertion by the insurer may be made at any
31 time, including after payment of the claim or after the 30-day

1 time period for payment set forth in this paragraph. However,
2 the insurer shall not be entitled to recover any portion of a
3 paid claim to the extent the claim was not fraudulent.

4 (c) All overdue payments shall bear ~~simple~~ interest at
5 the rate established by the Comptroller under s. 55.03, or the
6 insurance contract, whichever is greater, for the year in
7 which the payment became overdue, and for claims referred to
8 the Department of Insurance for investigation under paragraph
9 (b), calculated from the date the insurer was furnished with
10 written notice of the claim. Interest shall be due at the
11 time payment of the overdue claim is made of 10 percent per
12 year.

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

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

30 (b)1., provided that Charges for medically necessary
31 cephalic thermograms, and peripheral thermograms, spinal

1 ultrasounds, extremity ultrasounds, video fluoroscopy, surface
2 electromyography, and nerve conduction testing, including
3 motor and sensory nerves as well as F waves, H reflexes,
4 somatosensory evoked potentials, and dermatomal studies, shall
5 not exceed the maximum reimbursement allowance for such
6 procedures as set forth in the applicable fee schedule or
7 other payment methodology established pursuant to s. 440.13.

8 2. Charges for medically necessary magnetic resonance
9 imaging service may not exceed 75 percent of the Ingenix
10 Customized Fee Analyzer for the zip code 330XX for Florida
11 year 2000 plus annual increases equal to the medical Consumer
12 Price Index for Florida. Procedures not reimbursed under the
13 Ingenix Customized Fee Analyzer for zip code 330XX shall not
14 be reimbursed for magnetic resonance imaging centers or
15 magnetic resonance imaging leasing companies in this state to
16 reduce costs and prevent fraud. This subparagraph shall not
17 apply to charges for magnetic resonance imaging services
18 billed and collected by facilities licensed under chapter 395.

19 (c)~~(b)~~ With respect to any treatment or service, other
20 than medical services billed by a hospital for services
21 rendered at a hospital-owned facility, the statement of
22 charges must be furnished to the insurer by the provider and
23 may not include, and the insurer is not required to pay,
24 charges for treatment or services rendered more than 30 days
25 before the postmark date of the statement, except for past due
26 amounts previously billed on a timely basis under this
27 paragraph, and except that, if the provider submits to the
28 insurer a notice of initiation of treatment within 21 days
29 after its first examination or treatment of the claimant, the
30 statement may include charges for treatment or services
31 rendered up to, but not more than, 60 days before the postmark

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

21 BILLING REQUIREMENTS.--Florida Statutes provide
22 that with respect to any treatment or services,
23 other than certain hospital and emergency
24 services, the statement of charges furnished to
25 the insurer by the provider may not include,
26 and the insurer and the injured party are not
27 required to pay, charges for treatment or
28 services rendered more than 30 days before the
29 postmark date of the statement, except for past
30 due amounts previously billed on a timely
31 basis, and except that, if the provider submits

1 to the insurer a notice of initiation of
2 treatment within 21 days after its first
3 examination or treatment of the claimant, the
4 statement may include charges for treatment or
5 services rendered up to, but not more than, 60
6 days before the postmark date of the statement.

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

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

24 2. When the amount of personal injury protection
25 benefits determined by arbitration is less than the sum of the
26 amount offered by the insurer at arbitration plus 50 percent
27 of the difference between the amount of the claim asserted by
28 the claimant at arbitration and the amount offered by the
29 insurer at arbitration, the insurer is the prevailing party.

30 3. When neither subparagraph 1. nor subparagraph 2.
31 applies, there is no prevailing party. For purposes of this

1 paragraph, the amount of the offer or claim at arbitration is
2 the amount of the last written offer or claim made at least 30
3 days prior to the arbitration.

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

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

29 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
30 REPORTS.--

31

1 (a) Whenever the mental or physical condition of an
2 injured person covered by personal injury protection is
3 material to any claim that has been or may be made for past or
4 future personal injury protection insurance benefits, such
5 person shall, upon the request of an insurer, submit to mental
6 or physical examination by a physician or physicians. The
7 costs of any examinations requested by an insurer shall be
8 borne entirely by the insurer. Such examination shall be
9 conducted within the municipality where the insured is
10 receiving treatment, or in a location reasonably accessible to
11 the insured, which, for purposes of this paragraph, means any
12 location within the municipality in which the insured resides,
13 or any location within 10 miles by road of the insured's
14 residence, provided such location is within the county in
15 which the insured resides. If the examination is to be
16 conducted in a location reasonably accessible to the insured,
17 and if there is no qualified physician to conduct the
18 examination in a location reasonably accessible to the
19 insured, then such examination shall be conducted in an area
20 of the closest proximity to the insured's residence. Personal
21 protection insurers are authorized to include reasonable
22 provisions in personal injury protection insurance policies
23 for mental and physical examination of those claiming personal
24 injury protection insurance benefits. An insurer may not
25 withdraw payment of a treating physician without the consent
26 of the injured person covered by the personal injury
27 protection, unless the insurer first obtains a report by a
28 physician licensed under the same chapter as the treating
29 physician whose treatment authorization is sought to be
30 withdrawn, stating that treatment was not reasonable, related,
31 or medically necessary.

1 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S
2 FEES.--With respect to any dispute under the provisions of ss.
3 627.730-627.7405 between the insured and the insurer, or an
4 assignee of an insured's rights and the insurer,the
5 provisions of s. 627.428 shall apply, except as provided in
6 subsection (11).

7 (9)(a) Each insurer which has issued a policy
8 providing personal injury protection benefits shall report the
9 renewal, cancellation, or nonrenewal thereof to the Department
10 of Highway Safety and Motor Vehicles within 45 days from the
11 effective date of the renewal, cancellation, or nonrenewal.
12 Upon the issuance of a policy providing personal injury
13 protection benefits to a named insured not previously insured
14 by the insurer thereof during that calendar year, the insurer
15 shall report the issuance of the new policy to the Department
16 of Highway Safety and Motor Vehicles within 30 days. The
17 report shall be in such form and format and contain such
18 information as may be required by the Department of Highway
19 Safety and Motor Vehicles which shall include a format
20 compatible with the data processing capabilities of said
21 department, and the Department of Highway Safety and Motor
22 Vehicles is authorized to adopt rules necessary with respect
23 thereto. Failure by an insurer to file proper reports with the
24 Department of Highway Safety and Motor Vehicles as required by
25 this subsection or rules adopted with respect to the
26 requirements of this subsection constitutes a violation of the
27 Florida Insurance Code. Reports of cancellations and policy
28 renewals and reports of the issuance of new policies received
29 by the Department of Highway Safety and Motor Vehicles are
30 confidential and exempt from the provisions of s. 119.07(1).
31 These records are to be used for enforcement and regulatory

1 purposes only, including the generation by the department of
2 data regarding compliance by owners of motor vehicles with
3 financial responsibility coverage requirements. In addition,
4 the Department of Highway Safety and Motor Vehicles shall
5 release, upon a written request by a person involved in a
6 motor vehicle accident, by the person's attorney, or by a
7 representative of the person's motor vehicle insurer, the name
8 of the insurance company and the policy number for the policy
9 covering the vehicle named by the requesting party. The
10 written request must include a copy of the appropriate
11 accident form as provided in s. 316.065, s. 316.066, or s.
12 316.068. Electronic access to the vehicle insurer information
13 maintained in the vehicle database of the Department of
14 Highway Safety and Motor Vehicles may be provided by an
15 approved third party provider to insurers, lawyers, and
16 financial institutions for subrogation and claims purposes
17 only. The compilation of and retention of this information is
18 strictly prohibited.

19 (11) PRESUIT NOTICE.--

20 (a) As a condition precedent to filing any action for
21 an overdue claim for benefits under paragraph (4)(b), an
22 insured or an assignee of an insured's rights shall first
23 provide the insurer with written notice of an intent to
24 initiate litigation.

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

27 1. The name of the insured upon which such benefits
28 are being sought.

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

31

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

4 (c) Each notice required by this section shall be
5 delivered to the insurer by United States certified or
6 registered mail, return receipt requested, which postal costs
7 shall be reimbursed by the insurer if so requested by the
8 provider in the notice. Each licensed insurer, whether
9 domestic, foreign, or alien, shall file with the department
10 designation of the name and address of the person to whom
11 notices pursuant to this subsection shall be sent. The name
12 and address on file with the department pursuant to s. 624.422
13 shall be deemed the authorized representative to accept notice
14 pursuant to this subsection in the event no other designation
15 has been made.

16 (d) If, within 7 business days after receipt of notice
17 by the insurer, the overdue claim specified in the notice is
18 paid by the insurer together with applicable interest, no
19 action for nonpayment or late payment may be brought against
20 the insurer. For purposes of this subsection, payment shall
21 be treated as being made on the date a draft or other valid
22 instrument which is equivalent to payment is placed in the
23 United States mail in a properly addressed, postpaid envelope,
24 or if not so posted, on the date of delivery. The insurer
25 shall not be obligated to pay any attorney's fees if the
26 insurer pays the claim within the time prescribed by this
27 subsection.

28 (e) The applicable statute of limitation for an action
29 under this section shall be tolled for a period of 15 business
30 days by the mailing of the notice required by this subsection.
31

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

5 (12) CIVIL ACTION AGAINST PERSONS CONVICTED OF
6 FRAUD.--An insurer shall have a cause of action against any
7 person convicted of insurance fraud under s. 817.234, patient
8 brokering under s. 817.505, or kickbacks under s. 456.054,
9 associated with a claim for personal injury protection
10 benefits in accordance with s. 627.736. An insurer prevailing
11 in an action brought under this subsection may recover
12 compensatory, consequential, and punitive damages subject to
13 the requirements and limitations of part II of chapter 768,
14 and attorney's fees and costs incurred in litigating a cause
15 of action against any person convicted of insurance fraud
16 under s. 817.234, patient brokering under s. 817.505, or
17 kickbacks under s. 456.054, associated with a claim for
18 personal injury protection benefits in accordance with s.
19 627.736.

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

22 627.739 Personal injury protection; optional
23 limitations; deductibles.--

24 (6) A provider who waives, fails to bill, or fails in
25 good faith to seek collection of a copayment or deductible
26 shall not charge in excess of the amount the person or
27 institution customarily charges for similar products,
28 services, or accommodations in cases in which the provider
29 does not waive, fail to bill, or fail in good faith to seek
30 collection of a copayment or deductible. A provider who
31 agrees in advance of the initiation of treatment to waive,

1 fail to bill, or in good faith to seek collection of a
2 copayment or deductible shall so notify the insurer at the
3 time of submission of the claim.

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

6 817.234 False and fraudulent insurance claims.--

7 (8) It is unlawful for any person, in his or her
8 individual capacity or in his or her capacity as a public or
9 private employee, or for any firm, corporation, partnership,
10 or association, to solicit or cause to be solicited any
11 specific person involved in a motor vehicle crash by any means
12 of communication other than advertising directed to the
13 general public ~~any business in or about city receiving~~
14 ~~hospitals, city and county receiving hospitals, county~~
15 ~~hospitals, justice courts, or municipal courts; in any public~~
16 ~~institution; in any public place; upon any public street or~~
17 ~~highway; in or about private hospitals, sanitariums, or any~~
18 ~~private institution; or upon private property of any character~~
19 ~~whatsoever~~ for the purpose of making motor vehicle tort claims
20 or claims for personal injury protection benefits required by
21 s. 627.736. Charges for any services rendered by a health care
22 provider or attorney to a person solicited in violation of
23 this subsection are unlawful charges and are not compensable
24 under s. 627.736(12) and unenforceable as a matter of law.

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

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

30 324.021 Definitions; minimum insurance required.--The
31 following words and phrases when used in this chapter shall,

1 for the purpose of this chapter, have the meanings
2 respectively ascribed to them in this section, except in those
3 instances where the context clearly indicates a different
4 meaning:

5 (1) MOTOR VEHICLE.--Every self-propelled vehicle which
6 is designed and required to be licensed for use upon a
7 highway, including trailers and semitrailers designed for use
8 with such vehicles, except traction engines, road rollers,
9 farm tractors, power shovels, and well drillers, and every
10 vehicle which is propelled by electric power obtained from
11 overhead wires but not operated upon rails, but not including
12 any bicycle or moped. However, the term "motor vehicle" shall
13 not include any motor vehicle as defined in s. 627.732~~(2)(1)~~
14 when the owner of such vehicle has complied with the
15 requirements of ss. 627.730-627.7405, inclusive, unless the
16 provisions of s. 324.051 apply; and, in such case, the
17 applicable proof of insurance provisions of s. 320.02 apply.

18 Section 9. The Legislature hereby appropriates from
19 the registration fees collected from clinics pursuant to s.
20 456.0375, Florida Statutes, \$100,000 and one-half of one
21 full-time equivalent position to the Department of Health for
22 the purposes of regulating medical clinics pursuant to s.
23 456.0375, Florida Statutes. The funds shall be deposited into
24 the Medical Quality Assurance Trust Fund.

25 Section 10. Except as otherwise provided herein, this
26 act shall take effect upon becoming a law.

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