

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

Representative(s) Sobel offered the following:

Amendment to Amendment (803811) (with title amendment)

On page 5, line 15, through page 8, line 4,
remove: all of said lines,

and insert:

Section 4. Paragraph (d) is added to subsection (1) of section 627.736, Florida Statutes, and paragraph (b) of subsection (5) and paragraph (b) of subsection (6) of said section are amended, to read:

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

(1) REQUIRED BENEFITS.--Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to the provisions of subsection (2) and

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

1 paragraph (4)(d), to a limit of \$10,000 for loss sustained by
2 any such person as a result of bodily injury, sickness,
3 disease, or death arising out of the ownership, maintenance,
4 or use of a motor vehicle as follows:

5 (d) Any person covered under a personal injury
6 protection policy is not prohibited from assigning the rights
7 and benefits under the policy to any provider of medical
8 services.

9
10 Only insurers writing motor vehicle liability insurance in
11 this state may provide the required benefits of this section,
12 and no such insurer shall require the purchase of any other
13 motor vehicle coverage other than the purchase of property
14 damage liability coverage as required by s. 627.7275 as a
15 condition for providing such required benefits. Insurers may
16 not require that property damage liability insurance in an
17 amount greater than \$10,000 be purchased in conjunction with
18 personal injury protection. Such insurers shall make benefits
19 and required property damage liability insurance coverage
20 available through normal marketing channels. Any insurer
21 writing motor vehicle liability insurance in this state who
22 fails to comply with such availability requirement as a
23 general business practice shall be deemed to have violated
24 part IX of chapter 626, and such violation shall constitute an
25 unfair method of competition or an unfair or deceptive act or
26 practice involving the business of insurance; and any such
27 insurer committing such violation shall be subject to the
28 penalties afforded in such part, as well as those which may be
29 afforded elsewhere in the insurance code.

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

31 (b)1. An insurer or insured is not required to pay a

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

1 claim made by a broker or by a person making a claim on behalf
2 of a broker. However, this sub-paragraph shall not be
3 construed to require reimbursement for persons not otherwise
4 reimbursable.

5 2. Charges for medically necessary cephalic
6 thermograms, peripheral thermograms, spinal ultrasounds,
7 extremity ultrasounds, video fluoroscopy, and surface
8 electromyography shall not exceed the maximum reimbursement
9 allowance for such procedures as set forth in the applicable
10 fee schedule or other payment methodology established pursuant
11 to s. 440.13. If the procedures referenced in this
12 sub-paragraph are not listed, the procedure is not
13 reimbursable.

14 3. Allowable amounts that may be charged to a personal
15 injury protection insurance insurer and insured for medically
16 necessary nerve conduction testing when done in conjunction
17 with a needle electromyography procedure and both are
18 performed and billed solely by a physician licensed under
19 chapter 458, chapter 459, chapter 460, or chapter 461 who is
20 also certified by the American Board of Electrodiagnostic
21 Medicine or by a board recognized by the American Board of
22 Medical Specialties or the American Osteopathic Association or
23 who holds diplomate status with the American Chiropractic
24 Neurology Board or its predecessors shall not exceed 200
25 percent of the allowable amount under the participating
26 physician fee schedule of Medicare Part B for year 2001, in
27 effect on June 19, 2001 for the area in which the treatment
28 was rendered, adjusted annually in February of each year,
29 beginning with February 2003, by an additional amount equal to
30 the prior year's annual Medical Care Item of the Consumer
31 Price Index for All Urban Consumers as determined by the

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

1 Bureau of Labor Statistics of the United States Department of
2 Labor ~~medical Consumer Price Index for Florida.~~

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

9 5. From June 19, 2001 ~~Effective upon this act becoming~~
10 ~~a law~~ and before November 1, 2001, allowable amounts that may
11 be charged to a personal injury protection insurance insurer
12 and insured for magnetic resonance imaging services shall not
13 exceed 200 percent of the allowable amount under the
14 participating physician fee schedule of Medicare Part B for
15 year 2001 in effect on June 19, 2001, for the area in which
16 the treatment was rendered. Beginning November 1, 2001,
17 allowable amounts that may be charged to a personal injury
18 protection insurance insurer and insured for magnetic
19 resonance imaging services shall not exceed 175 percent of the
20 allowable amount under the participating physician fee
21 schedule of Medicare Part B for year 2001 in effect on June
22 19, 2001, for the area in which the treatment was rendered,
23 adjusted annually in February of each year, beginning with
24 February 2003, by an additional amount equal to the prior
25 year's annual Medical Care Item of the Consumer Price Index
26 for All Urban Consumers as determined by the Bureau of Labor
27 Statistics of the United States Department of Labor ~~medical~~
28 ~~Consumer Price Index for Florida~~, except that allowable
29 amounts that may be charged to a personal injury protection
30 insurance insurer and insured for magnetic resonance imaging
31 services provided in facilities accredited by the American

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

1 College of Radiology or the Joint Commission on Accreditation
2 of Healthcare Organizations shall not exceed 200 percent of
3 the allowable amount under the participating physician fee
4 schedule of Medicare Part B for year 2001 in effect on June
5 19, 2001, for the area in which the treatment was rendered,
6 adjusted annually in February of each year, beginning with
7 February 2003, by an additional amount equal to the prior
8 year's annual Medical Care Item of the Consumer Price Index
9 for All Urban Consumers as determined by the Bureau of Labor
10 Statistics of the United States Department of Labor ~~medical~~
11 ~~Consumer Price Index for Florida~~. This paragraph does not
12 apply to charges for magnetic resonance imaging services and
13 nerve conduction testing for inpatients and emergency services
14 and care as defined in chapter 395 rendered by facilities
15 licensed under chapter 395.

16 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;
17 DISPUTES.--

18 (b) Every physician, hospital, clinic, or other
19 medical institution providing, before or after bodily injury
20 upon which a claim for personal injury protection insurance
21 benefits is based, any products, services, or accommodations
22 in relation to that or any other injury, or in relation to a
23 condition claimed to be connected with that or any other
24 injury, shall, if requested to do so by the insurer against
25 whom the claim has been made, furnish forthwith a written
26 report of the history, condition, treatment, dates, and costs
27 of such treatment of the injured person and why the items
28 identified by the insurer were reasonable in amount and
29 medically necessary, together with a sworn statement that the
30 treatment or services rendered were reasonable and necessary
31 with respect to the bodily injury sustained and identifying

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

1 which portion of the expenses for such treatment or services
2 was incurred as a result of such bodily injury, and produce
3 forthwith, and permit the inspection and copying of, his or
4 her or its records regarding such history, condition,
5 treatment, dates, and costs of treatment; provided that this
6 shall not limit the introduction of evidence at trial. Such
7 sworn statement shall read as follows: "Under penalty of
8 perjury, I declare that I have read the foregoing, and the
9 facts alleged are true, to the best of my knowledge and
10 belief." Regardless of status as an assignee, nothing in this
11 section shall be construed as granting any insurance carrier
12 any right to require any medical provider to submit to a
13 presuit examination under oath unless ordered to do so by a
14 court of competent jurisdiction pursuant to a pure bill of
15 discovery. No cause of action for violation of the
16 physician-patient privilege or invasion of the right of
17 privacy shall be permitted against any physician, hospital,
18 clinic, or other medical institution complying with the
19 provisions of this section. The person requesting such records
20 and such sworn statement shall pay all reasonable costs
21 connected therewith. If an insurer makes a written request for
22 documentation or information under this paragraph within 30
23 days after having received notice of the amount of a covered
24 loss under paragraph (4)(a), the amount or the partial amount
25 which is the subject of the insurer's inquiry shall become
26 overdue if the insurer does not pay in accordance with
27 paragraph (4)(b) or within 10 days after the insurer's receipt
28 of the requested documentation or information, whichever
29 occurs later. For purposes of this paragraph, the term
30 "receipt" includes, but is not limited to, inspection and
31 copying pursuant to this paragraph. Any insurer that requests

hbd-032

Bill No. CS for SB 1362

Amendment No. ____ (for drafter's use only)

1 documentation or information pertaining to reasonableness of
 2 charges or medical necessity under this paragraph without a
 3 reasonable basis for such requests as a general business
 4 practice is engaging in an unfair trade practice under the
 5 insurance code.

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

9 And the title is amended as follows:

10 On page 8, lines 26-28, of the amendment

11 remove: all of said lines,

12

13 and insert:

14 insurance; amending s. 627.736, F.S.; providing
 15 for assignment of certain rights and benefits
 16 under a personal injury protection policy to a
 17 provider of medical services; revising
 18 provisions for charges for treatment of injured
 19 persons; providing construction relating to
 20 presuit examinations under certain
 21 circumstances; providing an effective date.

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