

By the Committees on Appropriations; Health, Aging and Long-Term Care; and Senator Campbell

309-2270-02

1                                   A bill to be entitled  
2           An act relating to health care; amending s.  
3           395.002, F.S.; revising definitions relating to  
4           emergency services and care provided by  
5           hospitals and related facilities; amending s.  
6           395.0161, F.S.; requiring the Agency for Health  
7           Care Administration to adopt rules governing  
8           the conduct of inspections or investigations;  
9           amending s. 395.0197, F.S.; revising provisions  
10          governing the internal risk-management program;  
11          amending s. 395.1041, F.S.; revising provisions  
12          relating to hospital service capability and  
13          access to emergency services and care;  
14          directing the Agency for Health Care  
15          Administration to convene a workgroup to report  
16          to the Legislature regarding hospital service  
17          capability requirements; amending ss. 383.50,  
18          394.4787, 395.602, 395.701, 400.051, 409.905,  
19          468.505, and 812.014, F.S.; conforming  
20          cross-references; amending s. 401.23, F.S.;  
21          redefining the terms "advanced life support"  
22          and "basic life support"; defining the term  
23          "emergency medical conditions"; amending s.  
24          409.901, F.S.; revising definitions relating to  
25          emergency services and care for purposes of  
26          Medicaid coverage; amending s. 409.9128, F.S.;  
27          revising requirements for providing emergency  
28          services and care under Medicaid managed care  
29          plans and MediPass; creating s. 627.6053, F.S.;  
30          providing requirements for health insurance  
31          policy coverage of hospital emergency services

1 and care; amending ss. 641.19, 641.47, and  
2 641.513, F.S.; revising definitions and  
3 requirements relating to the provision of  
4 emergency services and care by health  
5 maintenance organizations and prepaid health  
6 clinics; providing an effective date.

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

9  
10 Section 1. Subsection (4) of section 383.50, Florida  
11 Statutes, is amended to read:

12 383.50 Treatment of abandoned newborn infant.--

13 (4) Each hospital of this state subject to s. 395.1041  
14 shall, and any other hospital may, admit and provide all  
15 necessary emergency services and care, as defined in s.  
16 395.002(11)~~(10)~~, to any newborn infant left with the hospital  
17 in accordance with this section. The hospital or any of its  
18 licensed health care professionals shall consider these  
19 actions as implied consent for treatment, and a hospital  
20 accepting physical custody of a newborn infant has implied  
21 consent to perform all necessary emergency services and care.  
22 The hospital or any of its licensed health care professionals  
23 is immune from criminal or civil liability for acting in good  
24 faith in accordance with this section. Nothing in this  
25 subsection limits liability for negligence.

26 Section 2. Subsection (7) of section 394.4787, Florida  
27 Statutes, is amended to read:

28 394.4787 Definitions; ss. 394.4786, 394.4787,  
29 394.4788, and 394.4789.--As used in this section and ss.  
30 394.4786, 394.4788, and 394.4789:

31

1           (7) "Specialty psychiatric hospital" means a hospital  
2 licensed by the agency pursuant to s. 395.002~~(31)~~~~(29)~~ as a  
3 specialty psychiatric hospital.

4           Section 3. Present subsections (9), (10), (26), and  
5 (30) of section 395.002, Florida Statutes, are amended,  
6 present subsections (10) through (21) and (22) through (33)  
7 are renumbered as subsections (11) through (22) and (24)  
8 through (35), respectively, and new subsections (10) and (23)  
9 are added to that section, to read:

10           395.002 Definitions.--As used in this chapter:

11           (9) "Emergency medical condition" means:

12           (a) A medical condition manifesting itself by acute  
13 symptoms of sufficient severity, which may include severe  
14 pain, psychiatric disturbances, symptoms of substance abuse,  
15 or other acute symptoms, such that the absence of immediate  
16 medical attention could reasonably be expected to result in  
17 any of the following:

- 18           1. Serious jeopardy to patient health, including a  
19 pregnant woman or fetus.  
20           2. Serious impairment to bodily functions.  
21           3. Serious dysfunction of any bodily organ or part.

22           (b) With respect to a pregnant woman:

- 23           1. That there is inadequate time to effect safe  
24 transfer to another hospital prior to delivery;  
25           2. That a transfer may pose a threat to the health and  
26 safety of the patient or fetus; or  
27           3. That there is evidence of the onset and persistence  
28 of uterine contractions or rupture of the membranes.

29           (c) With respect to a person exhibiting acute  
30 psychiatric disturbance or substance abuse, or taken into  
31 custody and delivered to a hospital under a court ex parte

1 order for examination or placed by an authorized party for  
2 involuntary examination in accordance with chapter 394 or  
3 chapter 397, that the absence of immediate medical attention  
4 could reasonably be expected to result in:

5 1. Serious jeopardy to the health of a patient; or

6 2. Serious jeopardy to the health of others.

7 (10) "Emergency medical services provider" means a  
8 provider licensed pursuant to chapter 401.

9 (11)(10) "Emergency services and care" means medical  
10 screening, examination, and evaluation by a physician, or, to  
11 the extent permitted by applicable law, by other appropriate  
12 personnel under the supervision of a physician, to determine  
13 if an emergency medical condition exists and, if it does, the  
14 care, treatment, or surgery by a physician necessary to  
15 stabilize ~~relieve or eliminate~~ the emergency medical  
16 condition, within the service capability of the facility.

17 (23) "Medically unnecessary procedure" means a  
18 surgical or other invasive procedure that no reasonable  
19 physician, in light of the patient's history and available  
20 diagnostic information, would deem to be indicated in order to  
21 treat, cure, or palliate the patient's condition or disease.

22 (28)(26) "Service capability" means the physical  
23 space, equipment, supplies, and services that the hospital  
24 provides and the level of care that the medical staff can  
25 provide within the training and scope of their professional  
26 licenses and hospital privileges ~~all services offered by the~~  
27 ~~facility where identification of services offered is evidenced~~  
28 ~~by the appearance of the service in a patient's medical record~~  
29 ~~or itemized bill.~~

30 (32)(30) "Stabilized" means, with respect to an  
31 emergency medical condition, that no material deterioration of

1 the condition is likely, within reasonable medical  
2 probability, to result from the transfer or discharge of the  
3 patient from a hospital.

4 Section 4. Subsection (5) is added to section  
5 395.0161, Florida Statutes, to read:

6 395.0161 Licensure inspection.--

7 (5)(a) The agency shall adopt rules governing the  
8 conduct of inspections or investigations it initiates in  
9 response to:

10 1. Reports filed pursuant to s. 395.0197.

11 2. Complaints alleging violations of state or federal  
12 emergency access laws.

13 3. Complaints made by the public alleging violations  
14 of law by licensed facilities or personnel.

15 (b) The rules must set forth the procedures to be used  
16 in the investigations or inspections in order to protect the  
17 due process rights of licensed facilities and personnel and to  
18 minimize, to the greatest reasonable extent possible, the  
19 disruption of facility operations and the cost to facilities  
20 resulting from those investigations.

21 Section 5. Subsections (2), (14), and (16) of section  
22 395.0197, Florida Statutes, are amended to read:

23 395.0197 Internal risk management program.--

24 (2) The internal risk management program is the  
25 responsibility of the governing board of the health care  
26 facility. Each licensed facility shall use the services of  
27 ~~hire~~ a risk manager, licensed under s. 395.10974, who is  
28 responsible for implementation and oversight of such  
29 facility's internal risk management program as required by  
30 this section. ~~A risk manager must not be made responsible for~~  
31 ~~more than four internal risk management programs in separate~~

1 ~~licensed facilities, unless the facilities are under one~~  
2 ~~corporate ownership or the risk management programs are in~~  
3 ~~rural hospitals.~~

4       (14) The agency shall have access, as set forth in  
5 rules adopted under s. 395.0161(5), to all licensed facility  
6 records necessary to carry out the provisions of this section.  
7 The records obtained by the agency under subsection (6),  
8 subsection (8), or subsection (10) are not available to the  
9 public under s. 119.07(1), nor shall they be discoverable or  
10 admissible in any civil or administrative action, except in  
11 disciplinary proceedings by the agency or the appropriate  
12 regulatory board, nor shall records obtained pursuant to s.  
13 456.071 be available to the public as part of the record of  
14 investigation for and prosecution in disciplinary proceedings  
15 made available to the public by the agency or the appropriate  
16 regulatory board. However, the agency or the appropriate  
17 regulatory board shall make available, upon written request by  
18 a health care professional against whom probable cause has  
19 been found, any such records which form the basis of the  
20 determination of probable cause, except that, with respect to  
21 medical review committee records, s. 766.101 controls.

22       (16) The agency shall review, as part of its licensure  
23 inspection process, the internal risk management program at  
24 each licensed facility regulated by this section to determine  
25 whether the program meets standards established in statutes  
26 and rules, whether the program is being conducted in a manner  
27 designed to reduce adverse incidents, and whether the program  
28 is appropriately reporting incidents under this section. A  
29 determination must be based on the care, skill, and judgment  
30 which, in light of all relevant surrounding circumstances, is  
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1 recognized as acceptable and appropriate by reasonably prudent  
2 similar licensed risk managers.

3 Section 6. Subsections (1) and (2) and paragraphs (c)  
4 and (d) of subsection (3) of section 395.1041, Florida  
5 Statutes, are amended to read:

6 395.1041 Access to emergency services and care.--

7 (1) LEGISLATIVE INTENT.--The Legislature finds and  
8 declares it to be of vital importance that emergency services  
9 and care be provided by hospitals and physicians to every  
10 person in need of such care. The Legislature finds that  
11 persons have been denied emergency services and care by  
12 hospitals. It is the intent of the Legislature that the  
13 agency vigorously enforce the ability of persons to receive  
14 all necessary and appropriate emergency services and care and  
15 that the agency act in a thorough and timely manner against  
16 hospitals and physicians which deny persons emergency services  
17 and care. It is further the intent of the Legislature that  
18 hospitals, emergency medical services providers, and other  
19 health care providers work together in their local communities  
20 to enter into agreements or arrangements to ensure access to  
21 emergency services and care. ~~The Legislature further~~  
22 ~~recognizes that appropriate emergency services and care often~~  
23 ~~require followup consultation and treatment in order to~~  
24 ~~effectively care for emergency medical conditions.~~

25 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.--The  
26 agency shall establish and maintain an inventory of hospitals  
27 with emergency services. The inventory shall list all  
28 services within the service capability of the hospital, and  
29 such services shall appear on the face of the hospital  
30 license. Each hospital having emergency services shall notify  
31 the agency of its service capability in the manner and form

1 prescribed by the agency. The agency, in cooperation with the  
2 Department of Health shall provide ~~use~~ the inventory to ~~assist~~  
3 emergency medical services providers and shall make the  
4 inventory available to others to assist in locating  
5 appropriate emergency medical care. The inventory shall also  
6 be made available to the general public. On or before August  
7 1, 1992, the agency shall request that each hospital identify  
8 the services which are within its service capability. ~~On or~~  
9 ~~before November 1, 1992, the agency shall notify each hospital~~  
10 ~~of the service capability to be included in the inventory.~~  
11 ~~The hospital has 15 days from the date of receipt to respond~~  
12 ~~to the notice. By December 1, 1992, the agency shall publish~~  
13 ~~a final inventory.~~ Each hospital shall reaffirm its service  
14 capability when its license is renewed and shall notify the  
15 agency of the addition of a new service or the termination of  
16 a service prior to a change in its service capability.

17 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF  
18 FACILITY OR HEALTH CARE PERSONNEL.--

19 (c) A patient that has not been stabilized, ~~whether~~  
20 ~~stabilized or not~~, may be transferred to another hospital  
21 which has the requisite service capability or is not at  
22 service capacity, if:

23 1. The patient, or a person who is legally responsible  
24 for the patient and acting on the patient's behalf, after  
25 being informed of the hospital's obligation under this section  
26 and of the risk of transfer, requests that the transfer be  
27 effected;

28 2. A physician has signed a certification that, based  
29 upon the reasonable risks and benefits to the patient, and  
30 based upon the information available at the time of transfer,  
31 the medical benefits reasonably expected from the provision of



1 appropriate medical treatment at another hospital outweigh the  
2 increased risks to the individual's medical condition from  
3 effecting the transfer; or

4           3. A physician is not physically present in the  
5 emergency services area at the time an individual is  
6 transferred and a qualified medical person signs a  
7 certification that a physician, in consultation with  
8 personnel, has determined that the medical benefits reasonably  
9 expected from the provision of appropriate medical treatment  
10 at another medical facility outweigh the increased risks to  
11 the individual's medical condition from effecting the  
12 transfer. The consulting physician must countersign the  
13 certification;

14  
15 provided that this paragraph shall not be construed to require  
16 acceptance of a transfer that is not medically necessary.

17           (d)1. Every hospital shall ensure the provision of  
18 services within the service capability of the hospital, at all  
19 times, either directly or indirectly through an arrangement  
20 with another hospital, through an arrangement with one or more  
21 physicians, or as otherwise made through prior arrangements.  
22 A hospital may enter into an agreement with another hospital  
23 for purposes of meeting its service capability requirement,  
24 and appropriate compensation or other reasonable conditions  
25 may be negotiated for these backup services.

26           2. If any arrangement requires the provision of  
27 emergency medical transportation, such arrangement must be  
28 made in consultation with the applicable emergency medical  
29 service provider and may not require the emergency medical  
30 service provider to provide transportation that is outside the  
31 routine service area of that emergency medical service

1 provider or in a manner that impairs the ability of the  
2 emergency medical service provider to timely respond to  
3 prehospital emergency calls. Emergency medical transportation  
4 provided under this subparagraph is considered to be emergency  
5 services and care as defined in s. 395.002.

6 3. A hospital shall not be required to ensure service  
7 capability at all times as required in subparagraph 1. if,  
8 prior to the receiving of any patient needing such service  
9 capability, such hospital has demonstrated to the agency that  
10 it lacks the ability to ensure such capability and it has  
11 exhausted all reasonable efforts to ensure such capability  
12 through backup arrangements. In reviewing a hospital's  
13 demonstration of lack of ability to ensure service capability,  
14 the agency shall consider factors relevant to the particular  
15 case, including the following:

16 a. Number and proximity of hospitals with the same  
17 service capability.

18 b. Number, type, credentials, and privileges of  
19 specialists.

20 c. Frequency of procedures.

21 d. Size of hospital.

22 4. The agency shall publish proposed rules  
23 implementing a reasonable exemption procedure ~~by November 1,~~  
24 ~~1992. Subparagraph 1. shall become effective upon the~~  
25 ~~effective date of said rules or January 31, 1993, whichever is~~  
26 ~~earlier. For a period not to exceed 1 year from the effective~~  
27 ~~date of subparagraph 1., a hospital requesting an exemption~~  
28 ~~shall be deemed to be exempt from offering the service until~~  
29 ~~the agency initially acts to deny or grant the original~~  
30 ~~request. The agency has 45 days from the date of receipt of~~  
31 the request for exemption to approve or deny the request.

1 ~~After the first year from the effective date of subparagraph~~  
2 ~~1.,~~If the agency fails to initially act within the time  
3 period, the hospital is deemed to be exempt from offering the  
4 service until the agency initially acts to deny the request.  
5 5. The agency shall convene a workgroup consisting of  
6 representatives from the Florida Hospital Association, the  
7 Florida Statutory Teaching Hospital Council, the Florida  
8 Medical Association, the Florida Osteopathic Association, and  
9 the Florida College of Emergency Physicians to make  
10 recommendations to the Legislature for changes to this  
11 paragraph regarding:  
12 a. Services performed on an infrequent basis that  
13 would not be considered to be within the service capability of  
14 the hospital.  
15 b. Situations in which hospitals would be deemed  
16 exempt from providing services at all times that are within  
17 their service capability.  
18 Section 7. Paragraph (c) of subsection (2) of section  
19 395.602, Florida Statutes, is amended to read:  
20 395.602 Rural hospitals.--  
21 (2) DEFINITIONS.--As used in this part:  
22 (c) "Inactive rural hospital bed" means a licensed  
23 acute care hospital bed, as defined in s. 395.002(15)~~(14)~~,  
24 that is inactive in that it cannot be occupied by acute care  
25 inpatients.  
26 Section 8. Paragraph (c) of subsection (1) of section  
27 395.701, Florida Statutes, is amended to read:  
28 395.701 Annual assessments on net operating revenues  
29 for inpatient and outpatient services to fund public medical  
30 assistance; administrative fines for failure to pay  
31 assessments when due; exemption.--

1 (1) For the purposes of this section, the term:

2 (c) "Hospital" means a health care institution as  
3 defined in s. 395.002(14)(13), but does not include any  
4 hospital operated by the agency or the Department of  
5 Corrections.

6 Section 9. Paragraph (b) of subsection (1) of section  
7 400.051, Florida Statutes, is amended to read:

8 400.051 Homes or institutions exempt from the  
9 provisions of this part.--

10 (1) The following shall be exempt from the provisions  
11 of this part:

12 (b) Any hospital, as defined in s. 395.002(12)(11),  
13 that is licensed under chapter 395.

14 Section 10. Section 401.23, Florida Statutes, is  
15 amended to read:

16 401.23 Definitions.--As used in this part, the term:

17 (1) "Advanced life support" means the use of skills  
18 and techniques described in the most recent U.S. DOT National  
19 Standard Paramedic Curriculum by a paramedic under the  
20 supervision of a licensee's medical director as required by  
21 rules of the department. The term "advanced life support" also  
22 includes other techniques which have been approved and are  
23 performed under conditions specified by rules of the  
24 department. The term "advanced life support" also includes  
25 provision of care by a paramedic under the supervision of a  
26 licensee's medical director to one experiencing an emergency  
27 medical condition as defined herein.~~"Advanced life support"~~  
28 ~~means treatment of life-threatening medical emergencies~~  
29 ~~through the use of techniques such as endotracheal intubation,~~  
30 ~~the administration of drugs or intravenous fluids, telemetry,~~

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1 ~~cardiac monitoring, and cardiac defibrillation by a qualified~~  
2 ~~person, pursuant to rules of the department.~~

3 (2) "Advanced life support service" means any  
4 emergency medical transport or nontransport service which uses  
5 advanced life support techniques.

6 (3) "Air ambulance" means any fixed-wing or  
7 rotary-wing aircraft used for, or intended to be used for, air  
8 transportation of sick or injured persons requiring or likely  
9 to require medical attention during transport.

10 (4) "Air ambulance service" means any publicly or  
11 privately owned service, licensed in accordance with the  
12 provisions of this part, which operates air ambulances to  
13 transport persons requiring or likely to require medical  
14 attention during transport.

15 (5) "Ambulance" or "emergency medical services  
16 vehicle" means any privately or publicly owned land or water  
17 vehicle that is designed, constructed, reconstructed,  
18 maintained, equipped, or operated for, and is used for, or  
19 intended to be used for, land or water transportation of sick  
20 or injured persons requiring or likely to require medical  
21 attention during transport.

22 (6) "Ambulance driver" means any person who meets the  
23 requirements of s. 401.281.

24 (7) "Basic life support" means the use of skills and  
25 techniques described in the most recent U.S. DOT National  
26 Standard EMT-Basic Curriculum by an emergency medical  
27 technician or paramedic under the supervision of a licensee's  
28 medical director as required by rules of the department. The  
29 term "basic life support" also includes other techniques which  
30 have been approved and are performed under conditions  
31 specified by rules of the department. The term "basic life

1 support" also includes provision of care by a paramedic or  
2 emergency medical technician under the supervision of a  
3 licensee's medical director to one experiencing an emergency  
4 medical condition as defined herein.~~"Basic life support"~~  
5 ~~means treatment of medical emergencies by a qualified person~~  
6 ~~through the use of techniques such as patient assessment,~~  
7 ~~cardiopulmonary resuscitation (CPR), splinting, obstetrical~~  
8 ~~assistance, bandaging, administration of oxygen, application~~  
9 ~~of medical antishock trousers, administration of a~~  
10 ~~subcutaneous injection using a premeasured autoinjector of~~  
11 ~~epinephrine to a person suffering an anaphylactic reaction,~~  
12 ~~and other techniques described in the Emergency Medical~~  
13 ~~Technician Basic Training Course Curriculum of the United~~  
14 ~~States Department of Transportation. The term "basic life~~  
15 ~~support" also includes other techniques which have been~~  
16 ~~approved and are performed under conditions specified by rules~~  
17 ~~of the department.~~

18 (8) "Basic life support service" means any emergency  
19 medical service which uses only basic life support techniques.

20 (9) "Certification" means any authorization issued  
21 pursuant to this part to a person to act as an emergency  
22 medical technician or a paramedic.

23 (10) "Department" means the Department of Health.

24 (11) "Emergency medical condition" means:

25 (a) A medical condition manifesting itself by acute  
26 symptoms of sufficient severity, which may include severe  
27 pain, psychiatric disturbances, symptoms of substance abuse,  
28 or other acute symptoms, such that the absence of immediate  
29 medical attention could reasonably be expected to result in  
30 any of the following:

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1           1. Serious jeopardy to patient health, including a  
2 pregnant woman or fetus.

3           2. Serious impairment to bodily functions.

4           3. Serious dysfunction of any bodily organ or part.

5           (b) With respect to a pregnant woman, that there is  
6 evidence of the onset and persistence of uterine contractions  
7 or rupture of the membranes.

8           (c) With respect to a person exhibiting acute  
9 psychiatric disturbance or substance abuse, that the absence  
10 of immediate medical attention could reasonably be expected to  
11 result in:

12           1. Serious jeopardy to the health of a patient; or

13           2. Serious jeopardy to the health of others.

14           (12)(11) "Emergency medical technician" means a person  
15 who is certified by the department to perform basic life  
16 support pursuant to this part.

17           (13)(12) "Interfacility transfer" means the  
18 transportation by ambulance of a patient between two  
19 facilities licensed under chapter 393, chapter 395, or chapter  
20 400, pursuant to this part.

21           (14)(13) "Licensee" means any basic life support  
22 service, advanced life support service, or air ambulance  
23 service licensed pursuant to this part.

24           (15)(14) "Medical direction" means direct supervision  
25 by a physician through two-way voice communication or, when  
26 such voice communication is unavailable, through established  
27 standing orders, pursuant to rules of the department.

28           (16)(15) "Medical director" means a physician who is  
29 employed or contracted by a licensee and who provides medical  
30 supervision, including appropriate quality assurance but not  
31

1 including administrative and managerial functions, for daily  
2 operations and training pursuant to this part.

3 (17)~~(16)~~ "Mutual aid agreement" means a written  
4 agreement between two or more entities whereby the signing  
5 parties agree to lend aid to one another under conditions  
6 specified in the agreement and as sanctioned by the governing  
7 body of each affected county.

8 (18)~~(17)~~ "Paramedic" means a person who is certified  
9 by the department to perform basic and advanced life support  
10 pursuant to this part.

11 (19)~~(18)~~ "Permit" means any authorization issued  
12 pursuant to this part for a vehicle to be operated as a basic  
13 life support or advanced life support transport vehicle or an  
14 advanced life support nontransport vehicle providing basic or  
15 advanced life support.

16 (20)~~(19)~~ "Physician" means a practitioner who is  
17 licensed under the provisions of chapter 458 or chapter 459.  
18 For the purpose of providing "medical direction" as defined in  
19 subsection (14) for the treatment of patients immediately  
20 prior to or during transportation to a United States  
21 Department of Veterans Affairs medical facility, "physician"  
22 also means a practitioner employed by the United States  
23 Department of Veterans Affairs.

24 (21)~~(20)~~ "Registered nurse" means a practitioner who  
25 is licensed to practice professional nursing pursuant to part  
26 I of chapter 464.

27 (22)~~(21)~~ "Secretary" means the Secretary of Health.

28 (23)~~(22)~~ "Service location" means any permanent  
29 location in or from which a licensee solicits, accepts, or  
30 conducts business under this part.

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1           Section 11. Subsections (9) and (10) of section  
2 409.901, Florida Statutes, are amended to read:

3           409.901 Definitions; ss. 409.901-409.920.--As used in  
4 ss. 409.901-409.920, except as otherwise specifically  
5 provided, the term:

6           (9) "Emergency medical condition" means:

7           (a) A medical condition manifesting itself by acute  
8 symptoms of sufficient severity, which may include severe  
9 pain, psychiatric disturbances, symptoms of substance abuse,  
10 or other acute symptoms, such that the absence of immediate  
11 medical attention could reasonably be expected to result in  
12 any of the following:

13           1. Serious jeopardy to the health of a patient,  
14 including a pregnant woman or a fetus.

15           2. Serious impairment to bodily functions.

16           3. Serious dysfunction of any bodily organ or part.

17           (b) With respect to a pregnant woman:

18           1. That there is inadequate time to effect safe  
19 transfer to another hospital prior to delivery.

20           2. That a transfer may pose a threat to the health and  
21 safety of the patient or fetus.

22           3. That there is evidence of the onset and persistence  
23 of uterine contractions or rupture of the membranes.

24           (c) With respect to a person exhibiting acute  
25 psychiatric disturbance or substance abuse, or taken into  
26 custody and delivered to a hospital under a court ex parte  
27 order for examination or placed by an authorized party for  
28 involuntary examination in accordance with chapter 394 or  
29 chapter 397, that the absence of immediate medical attention  
30 could reasonably be expected to result in:

31           1. Serious jeopardy to the health of a patient; or

1           2. Serious jeopardy to the health of others.

2           (10) "Emergency services and care" means medical  
3 screening, examination, and evaluation by a physician, or, to  
4 the extent permitted by applicable laws, by other appropriate  
5 personnel under the supervision of a physician, to determine  
6 whether an emergency medical condition exists and, if it does,  
7 the care, treatment, including an inpatient admission, or  
8 surgery for a covered service by a physician which is  
9 necessary to stabilize ~~relieve or eliminate~~ the emergency  
10 medical condition, within the service capability of a  
11 hospital.

12           Section 12. Subsection (8) of section 409.905, Florida  
13 Statutes, is amended to read:

14           409.905 Mandatory Medicaid services.--The agency may  
15 make payments for the following services, which are required  
16 of the state by Title XIX of the Social Security Act,  
17 furnished by Medicaid providers to recipients who are  
18 determined to be eligible on the dates on which the services  
19 were provided. Any service under this section shall be  
20 provided only when medically necessary and in accordance with  
21 state and federal law. Mandatory services rendered by  
22 providers in mobile units to Medicaid recipients may be  
23 restricted by the agency. Nothing in this section shall be  
24 construed to prevent or limit the agency from adjusting fees,  
25 reimbursement rates, lengths of stay, number of visits, number  
26 of services, or any other adjustments necessary to comply with  
27 the availability of moneys and any limitations or directions  
28 provided for in the General Appropriations Act or chapter 216.

29           (8) NURSING FACILITY SERVICES.--The agency shall pay  
30 for 24-hour-a-day nursing and rehabilitative services for a  
31 recipient in a nursing facility licensed under part II of

1 chapter 400 or in a rural hospital, as defined in s. 395.602,  
2 or in a Medicare certified skilled nursing facility operated  
3 by a hospital, as defined by s. 395.002~~(12)~~(11), that is  
4 licensed under part I of chapter 395, and in accordance with  
5 provisions set forth in s. 409.908(2)(a), which services are  
6 ordered by and provided under the direction of a licensed  
7 physician. However, if a nursing facility has been destroyed  
8 or otherwise made uninhabitable by natural disaster or other  
9 emergency and another nursing facility is not available, the  
10 agency must pay for similar services temporarily in a hospital  
11 licensed under part I of chapter 395 provided federal funding  
12 is approved and available.

13 Section 13. Section 409.9128, Florida Statutes, is  
14 amended to read:

15 409.9128 Requirements for providing emergency services  
16 and care.--

17 (1) Emergency services and care is a covered service.  
18 This section does not prevent the Agency for Health Care  
19 Administration from implementing an emergency-care review or  
20 hospital inpatient prior-authorization process consistent with  
21 federal and state law and maximum payment limits for hospital  
22 inpatient and outpatient nonemergency care, as set forth in s.  
23 409.908(1)(b) and (5).In providing for emergency services and  
24 care as a covered service, neither a managed care plan nor the  
25 MediPass program may:

26 (a) Require prior authorization for the receipt of  
27 prehospital transport or treatment or for the provision of  
28 emergency services and care.

29 (b) Indicate that emergencies are covered only if care  
30 is secured within a certain period of time or from a health  
31

1 care provider that has a contract with the managed care plan  
2 or MediPass program.

3 (c) Use terms such as "life threatening" or "bona  
4 fide" to qualify the kind of emergency that is covered.

5 (d) Deny payment based on the enrollee's or the  
6 hospital's failure to notify the managed care plan or MediPass  
7 primary care provider in advance or within a certain period of  
8 time after the care is given or to obtain care from a health  
9 care provider that has a contract with the managed care plan.

10 (2) Prehospital and hospital-based trauma services and  
11 emergency services and care must be provided as a covered  
12 service to an enrollee of a managed care plan or the MediPass  
13 program as required under ss. 395.1041, 395.4045, and 401.45.

14 (3)(a) When an enrollee is present at a hospital  
15 seeking emergency services and care, the determination as to  
16 whether an emergency medical condition, as defined in s.  
17 409.901, exists shall be made, for the purposes of treatment,  
18 by a physician of the hospital or, to the extent permitted by  
19 applicable law, by other appropriate licensed professional  
20 hospital personnel under the supervision of the hospital  
21 physician. The physician or the appropriate personnel shall  
22 indicate in the patient's chart the results of the screening,  
23 examination, and evaluation. The managed care plan or the  
24 Medicaid program on behalf of MediPass patients shall  
25 compensate the provider for the screening, evaluation, and  
26 examination that is required by law to determine ~~reasonably~~  
27 ~~calculated to assist the health care provider in arriving at a~~  
28 ~~determination as to~~ whether the patient's condition is an  
29 emergency medical condition and shall not deny payment if an  
30 emergency medical condition is not found to exist. When an  
31 emergency medical condition does exist, the managed care plan

1 or the Medicaid program on behalf of MediPass patients shall  
2 compensate the provider for all emergency services and care  
3 and any medically necessary followup care provided in  
4 accordance with this subsection. ~~If a determination is made~~  
5 ~~that an emergency medical condition does not exist, payment~~  
6 ~~for services rendered subsequent to that determination is~~  
7 ~~governed by the managed care plan's contract with the agency.~~

8 (b) If a determination has been made that an emergency  
9 medical condition exists and the enrollee has notified the  
10 hospital, or the hospital emergency personnel otherwise has  
11 knowledge that the patient is an enrollee of the managed care  
12 plan or the MediPass program, the hospital must make a  
13 reasonable attempt to notify the enrollee's primary care  
14 physician, if known, or the managed care plan, if the managed  
15 care plan had previously requested in writing that the  
16 notification be made directly to the managed care plan, of the  
17 existence of the emergency medical condition. If the primary  
18 care physician is not known, or has not been contacted, the  
19 hospital must:

20 1. Notify the managed care plan or the MediPass  
21 provider as soon as possible prior to discharge of the  
22 enrollee from the emergency care area; or

23 2. Notify the managed care plan or the MediPass  
24 provider within 24 hours or on the next business day after  
25 admission of the enrollee as an inpatient to the hospital.

26  
27 If notification required by this paragraph is not  
28 accomplished, the hospital must document its attempts to  
29 notify the managed care plan or the MediPass provider or the  
30 circumstances that precluded attempts to notify the managed  
31 care plan or the MediPass provider. Neither a managed care

1 plan nor the Medicaid program on behalf of MediPass patients  
2 may deny payment for emergency services and care based on a  
3 hospital's failure to comply with the notification  
4 requirements of this paragraph.

5       (c) The physician who provides the care, treatment, or  
6 surgery necessary to stabilize the emergency medical condition  
7 may, at his or her sole discretion, continue to care for the  
8 patient for the duration of the patient's hospital stay and  
9 for any medically necessary followup after stabilization for  
10 those services that would otherwise be covered in the managed  
11 care plan contract, the Medicaid program, or MediPass, or may  
12 transfer care of the patient, in accordance with state and  
13 federal laws, to a provider that has a contract with the  
14 managed care plan or MediPass provider.~~If the enrollee's~~  
15 ~~primary care physician responds to the notification, the~~  
16 ~~hospital physician and the primary care physician may discuss~~  
17 ~~the appropriate care and treatment of the enrollee. The~~  
18 ~~managed care plan may have a member of the hospital staff with~~  
19 ~~whom it has a contract participate in the treatment of the~~  
20 ~~enrollee within the scope of the physician's hospital staff~~  
21 ~~privileges. The enrollee may be transferred, in accordance~~  
22 ~~with state and federal law, to a hospital that has a contract~~  
23 ~~with the managed care plan and has the service capability to~~  
24 ~~treat the enrollee's emergency medical condition.~~  
25 ~~Notwithstanding any other state law, a hospital may request~~  
26 ~~and collect insurance or financial information from a patient~~  
27 ~~in accordance with federal law, which is necessary to~~  
28 ~~determine if the patient is an enrollee of a managed care plan~~  
29 ~~or the MediPass program, if emergency services and care are~~  
30 ~~not delayed.~~

31

1           (4) Nothing in this section is intended to prohibit or  
2 limit application of a nominal copayment as provided in s.  
3 409.9081 for the use of an emergency room for services other  
4 than emergency services and care.

5           (5) Reimbursement amounts for services provided to an  
6 enrollee of a managed care plan under this section shall be  
7 governed by the terms of the contract with the provider if  
8 such contract exists. Reimbursement amounts for services under  
9 this section by a provider that ~~who~~ does not have a contract  
10 with the managed care plan shall be the lesser of:

11           (a) The provider's charges;

12           (b) For nonhospital providers, the usual and customary  
13 provider charges for similar services in the community where  
14 the services were provided;

15           (c) The charge mutually agreed to by the entity and  
16 the provider within 35 ~~60~~ days after submittal of the claim;  
17 or

18           (d) The Medicaid rate.

19           (6) The provisions of this section may not be waived,  
20 voided, or nullified by contract.

21           Section 14. Paragraph (1) of subsection (1) of section  
22 468.505, Florida Statutes, is amended to read:

23           468.505 Exemptions; exceptions.--

24           (1) Nothing in this part may be construed as  
25 prohibiting or restricting the practice, services, or  
26 activities of:

27           (1) A person employed by a nursing facility exempt  
28 from licensing under s. 395.002(14)~~(13)~~, or a person exempt  
29 from licensing under s. 464.022.

30           Section 15. Section 627.6053, Florida Statutes, is  
31 created to read:

1           627.6053 Requirements for providing emergency services  
2 and care.--

3           (1) A group, blanket, or franchise health insurance  
4 policy governed by this chapter, including a health benefit  
5 plan issued pursuant to s. 627.6699, must provide coverage for  
6 hospital emergency services and care pursuant to this section.

7           (2) As used in this section, the term:

8           (a) "Emergency medical condition" means:

9           1. A medical condition manifesting itself by acute  
10 symptoms of sufficient severity, which may include severe  
11 pain, psychiatric disturbances, symptoms of substance abuse,  
12 or other acute symptoms, such that the absence of immediate  
13 medical attention could reasonably be expected to result in  
14 any of the following:

15           a. Serious jeopardy to the health of a patient,  
16 including a pregnant woman or a fetus.

17           b. Serious impairment to bodily functions.

18           c. Serious dysfunction of any bodily organ or part.

19           2. With respect to a pregnant woman:

20           a. That there is inadequate time to effect safe  
21 transfer to another hospital prior to delivery;

22           b. That a transfer may pose a threat to the health and  
23 safety of the patient or fetus; or

24           c. That there is evidence of the onset and persistence  
25 of uterine contractions or rupture of the membranes.

26           3. With respect to a person exhibiting acute  
27 psychiatric disturbance or substance abuse, or taken into  
28 custody and delivered to a hospital under a court ex parte  
29 order for examination or placed by an authorized party for  
30 involuntary examination in accordance with chapter 394 or  
31



1 chapter 397, that the absence of immediate medical attention  
2 could reasonably be expected to result in:

3 a. Serious jeopardy to the health of a patient; or

4 b. Serious jeopardy to the health of others.

5 (b) "Emergency services and care" means medical  
6 screening, examination, and evaluation by a physician, or, to  
7 the extent permitted by applicable law, by other appropriate  
8 personnel under the supervision of a physician, to determine  
9 if an emergency medical condition exists and, if it does, the  
10 care, treatment, including an inpatient admission, or surgery  
11 for a covered service by a physician necessary to stabilize  
12 the emergency medical condition, within the service capability  
13 of a hospital.

14 (c) "Provider" means any physician, hospital, or other  
15 institution, organization, or person that furnishes health  
16 care services and is licensed or otherwise authorized to  
17 practice in the state.

18 (3) Emergency services and care is a covered service.  
19 In providing for emergency services and care as a covered  
20 service, a health insurer may not:

21 (a) Require prior authorization for the receipt of  
22 prehospital transport or treatment or for the provision of  
23 emergency services and care.

24 (b) Indicate that emergencies are covered only if care  
25 is secured within a certain period of time or from a health  
26 care provider who has a contract with the health insurer.

27 (c) Use terms such as "life threatening" or "bona  
28 fide" to qualify the kind of emergency that is covered.

29 (d) Deny payment based on the insured's failure to  
30 notify the health insurer in advance of seeking treatment or  
31 within a certain period after the care is given or to obtain

1 care from a health care provider that has a contract with the  
2 health insurer.

3 (4) Prehospital and hospital-based trauma services and  
4 emergency services and care must be provided as a covered  
5 service to an insured as required under ss. 395.1041,  
6 395.4045, and 401.45.

7 (5)(a) When an insured is present at a hospital  
8 seeking emergency services and care, the determination as to  
9 whether an emergency medical condition exists shall be made,  
10 for the purposes of treatment, by a physician of the hospital  
11 or, to the extent permitted by applicable law, by other  
12 appropriate licensed professional hospital personnel under the  
13 supervision of the hospital physician. The physician or the  
14 appropriate personnel shall indicate in the patient's chart  
15 the results of the screening, examination, and evaluation.  
16 The health insurer shall compensate the provider for the  
17 screening, evaluation, and examination that is required by law  
18 to determine whether the patient's condition is an emergency  
19 medical condition and shall not deny payment if an emergency  
20 medical condition is not found to exist. When an emergency  
21 medical condition does exist, the health insurer shall  
22 compensate the provider for all emergency services and care  
23 and any medically necessary followup care provided in  
24 accordance with this subsection.

25 (b) If a determination has been made that an emergency  
26 medical condition exists and the insured has notified the  
27 hospital, or the hospital emergency personnel otherwise has  
28 knowledge that the patient has health insurance, the hospital  
29 must make a reasonable attempt to notify the insurer of the  
30 existence of the emergency medical condition. The hospital  
31 must:

1           1. Notify the health insurer as soon as possible prior  
2 to discharge of the insured from the emergency care area; or

3           2. Notify the health insurer within 24 hours or on the  
4 next business day after admission of the insured as an  
5 inpatient to the hospital.

6  
7 If notification required by this paragraph is not  
8 accomplished, the hospital must document its attempts to  
9 notify the health insurer of the circumstances that precluded  
10 attempts to notify the health insurer. A health insurer may  
11 not deny payment for emergency services and care based on a  
12 hospital's failure to comply with the notification  
13 requirements of this paragraph. This paragraph does not alter  
14 any contractual responsibility of an insured to make contact  
15 with a health insurer, subsequent to receiving treatment for  
16 the emergency medical condition.

17           (c) The physician who provides the care, treatment, or  
18 surgery necessary to stabilize the emergency medical condition  
19 may, at his or her sole discretion, continue to provide care  
20 to the patient for the duration of the patient's hospital stay  
21 and for any medically necessary followup after stabilization  
22 for those services that would otherwise be covered in the  
23 insurance policy, or may transfer care of the patient, in  
24 accordance with state and federal laws, to a provider that has  
25 a contract with the health insurer.

26           (6) Reimbursement amounts for services under this  
27 section shall be governed by the terms of the contract with  
28 the provider if such contract exists. Reimbursement amounts  
29 for services under this section by a provider that does not  
30 have a contract with the health insurer shall be the lesser  
31 of:

1           (a) The provider's charges;

2           (b) For nonhospital providers, the usual and customary  
3 provider charges for similar services in the community where  
4 the services were provided; or

5           (c) The charge mutually agreed to by the health  
6 insurer and the provider within 35 days after the submittal of  
7 the claim.

8           (7) This section shall govern the provision of  
9 emergency services and care pursuant to a policy subject to s.  
10 627.6471 or s. 627.6472.

11           (8) The provisions of this section may not be waived,  
12 voided, or nullified by contract.

13           Section 16. Subsection (7) of section 641.19, Florida  
14 Statutes, is amended to read:

15           641.19 Definitions.--As used in this part, the term:

16           (7) "Emergency medical condition" means:

17           (a) A medical condition manifesting itself by acute  
18 symptoms of sufficient severity, which may include severe  
19 pain, psychiatric disturbances, symptoms of substance abuse,  
20 or other acute symptoms, such that the absence of immediate  
21 medical attention could reasonably be expected to result in  
22 any of the following:

23           1. Serious jeopardy to the health of a patient,  
24 including a pregnant woman or a fetus.

25           2. Serious impairment to bodily functions.

26           3. Serious dysfunction of any bodily organ or part.

27           (b) With respect to a pregnant woman:

28           1. That there is inadequate time to effect safe  
29 transfer to another hospital prior to delivery;

30           2. That a transfer may pose a threat to the health and  
31 safety of the patient or fetus; or

1           3. That there is evidence of the onset and persistence  
2 of uterine contractions or rupture of the membranes.

3           (c) With respect to a person exhibiting acute  
4 psychiatric disturbance or substance abuse, or taken into  
5 custody and delivered to a hospital under a court ex parte  
6 order for examination or placed by an authorized party for  
7 involuntary examination in accordance with chapter 394 or  
8 chapter 397, that the absence of immediate medical attention  
9 could reasonably be expected to result in:

- 10           1. Serious jeopardy to the health of a patient; or  
11           2. Serious jeopardy to the health of others.

12           Section 17. Subsections (7) and (8) of section 641.47,  
13 Florida Statutes, are amended to read:

14           641.47 Definitions.--As used in this part, the term:

15           (7) "Emergency medical condition" means:

16           (a) A medical condition manifesting itself by acute  
17 symptoms of sufficient severity, which may include severe  
18 pain, psychiatric disturbances, symptoms of substance abuse,  
19 or other acute symptoms, such that the absence of immediate  
20 medical attention could reasonably be expected to result in  
21 any of the following:

- 22           1. Serious jeopardy to the health of a patient,  
23 including a pregnant woman or a fetus.  
24           2. Serious impairment to bodily functions.  
25           3. Serious dysfunction of any bodily organ or part.

26           (b) With respect to a pregnant woman:

- 27           1. That there is inadequate time to effect safe  
28 transfer to another hospital prior to delivery;  
29           2. That a transfer may pose a threat to the health and  
30 safety of the patient or fetus; or  
31

1           3. That there is evidence of the onset and persistence  
2 of uterine contractions or rupture of the membranes.

3           (c) With respect to a person exhibiting acute  
4 psychiatric disturbance or substance abuse, or taken into  
5 custody and delivered to a hospital under a court ex parte  
6 order for examination or placed by authorized party for  
7 involuntary examination in accordance with chapter 394 or  
8 chapter 397, that the absence of immediate medical attention  
9 could reasonably be expected to result in:

10           1. Serious jeopardy to the health of a patient; or

11           2. Serious jeopardy to the health of others.

12           (8) "Emergency services and care" means medical  
13 screening, examination, and evaluation by a physician or, to  
14 the extent permitted by applicable law, by other appropriate  
15 personnel under the supervision of a physician, to determine  
16 if an emergency medical condition exists, and if it does, the  
17 care, treatment, including an inpatient admission, or surgery  
18 for a covered service by a physician necessary to relieve or  
19 eliminate the emergency medical condition within the service  
20 capability of a hospital.

21           Section 18. Section 641.513, Florida Statutes, is  
22 amended to read:

23           641.513 Requirements for providing emergency services  
24 and care.--

25           (1) Emergency services and care is a covered service.

26 In providing for emergency services and care as a covered  
27 service, a health maintenance organization may not:

28           (a) Require prior authorization for the receipt of  
29 prehospital transport or treatment or for the provision of  
30 emergency services and care.

31

1 (b) Indicate that emergencies are covered only if care  
2 is secured within a certain period of time or from a health  
3 care provider that has a contract with the health maintenance  
4 organization.

5 (c) Use terms such as "life threatening" or "bona  
6 fide" to qualify the kind of emergency that is covered.

7 (d) Deny payment based on the subscriber's failure to  
8 notify the health maintenance organization in advance of  
9 seeking treatment or within a certain period of time after the  
10 care is given or to obtain care from a health care provider  
11 that does not have a contract with the health maintenance  
12 organization.

13 (2) Prehospital and hospital-based trauma services and  
14 emergency services and care must be provided as a covered  
15 service to a subscriber of a health maintenance organization  
16 as required under ss. 395.1041, 395.4045, and 401.45.

17 (3)(a) When a subscriber is present at a hospital  
18 seeking emergency services and care, the determination as to  
19 whether an emergency medical condition, as defined in s.  
20 641.47, exists shall be made, for the purposes of treatment,  
21 by a physician of the hospital or, to the extent permitted by  
22 applicable law, by other appropriate licensed professional  
23 hospital personnel under the supervision of the hospital  
24 physician. The physician or the appropriate personnel shall  
25 indicate in the patient's chart the results of the screening,  
26 examination, and evaluation. The health maintenance  
27 organization shall compensate the provider for the screening,  
28 evaluation, and examination that is required by law to  
29 determine ~~reasonably calculated to assist the health care~~  
30 ~~provider in arriving at a determination as to whether the~~  
31 ~~patient's condition is an emergency medical condition and~~ and

1 shall not deny payment if an emergency medical condition is  
2 not found to exist. When an emergency medical condition does  
3 exist, the health maintenance organization shall compensate  
4 the provider for all emergency services and care and any  
5 medically necessary followup care provided in accordance with  
6 this subsection. ~~If a determination is made that an emergency~~  
7 ~~medical condition does not exist, payment for services~~  
8 ~~rendered subsequent to that determination is governed by the~~  
9 ~~contract under which the subscriber is covered.~~

10 (b) If a determination has been made that an emergency  
11 medical condition exists and the subscriber has notified the  
12 hospital, or the hospital emergency personnel otherwise have  
13 knowledge that the patient is a subscriber of the health  
14 maintenance organization, the hospital must make a reasonable  
15 attempt to notify the subscriber's primary care physician, if  
16 known, or the health maintenance organization, if the health  
17 maintenance organization had previously requested in writing  
18 that the notification be made directly to the health  
19 maintenance organization, of the existence of the emergency  
20 medical condition. If the primary care physician is not  
21 known, or has not been contacted, the hospital must:

22 1. Notify the health maintenance organization as soon  
23 as possible prior to discharge of the subscriber from the  
24 emergency care area; or

25 2. Notify the health maintenance organization within  
26 24 hours or on the next business day after admission of the  
27 subscriber as an inpatient to the hospital.

28  
29 If notification required by this paragraph is not  
30 accomplished, the hospital must document its attempts to  
31 notify the health maintenance organization of the



1 circumstances that precluded attempts to notify the health  
2 maintenance organization. A health maintenance organization  
3 may not deny payment for emergency services and care based on  
4 a hospital's failure to comply with the notification  
5 requirements of this paragraph. Nothing in this paragraph  
6 shall alter any contractual responsibility of a subscriber to  
7 make contact with the health maintenance organization,  
8 subsequent to receiving treatment for the emergency medical  
9 condition.

10 (c) The physician who provides the care, treatment, or  
11 surgery necessary to stabilize the emergency medical condition  
12 may, at his or her sole discretion, continue to provide care  
13 to the patient for the duration of the patient's hospital stay  
14 and for any medically necessary followup after stabilization  
15 for those services that would otherwise be covered in the  
16 health maintenance contract, or may transfer care of the  
17 patient, in accordance with state and federal law, to a  
18 provider that has a contract with the health maintenance  
19 organization.~~If the subscriber's primary care physician~~  
20 ~~responds to the notification, the hospital physician and the~~  
21 ~~primary care physician may discuss the appropriate care and~~  
22 ~~treatment of the subscriber. The health maintenance~~  
23 ~~organization may have a member of the hospital staff with whom~~  
24 ~~it has a contract participate in the treatment of the~~  
25 ~~subscriber within the scope of the physician's hospital staff~~  
26 ~~privileges. The subscriber may be transferred, in accordance~~  
27 ~~with state and federal law, to a hospital that has a contract~~  
28 ~~with the health maintenance organization and has the service~~  
29 ~~capability to treat the subscriber's emergency medical~~  
30 ~~condition. Notwithstanding any other state law, a hospital may~~  
31 ~~request and collect insurance or financial information from a~~

1 ~~patient in accordance with federal law, which is necessary to~~  
2 ~~determine if the patient is a subscriber of a health~~  
3 ~~maintenance organization, if emergency services and care are~~  
4 ~~not delayed.~~

5 (4) A subscriber may be charged a reasonable  
6 copayment, as provided in s. 641.31(12), for the use of an  
7 emergency room.

8 (5) Reimbursement amounts for services pursuant to  
9 this section shall be governed by the terms of the contract  
10 with the provider if such contract exists. Reimbursement  
11 amounts for services pursuant to this section by a provider  
12 that ~~who~~ does not have a contract with the health maintenance  
13 organization shall be the lesser of:

14 (a) The provider's charges;

15 (b) For nonhospital providers, the usual and customary  
16 provider charges for similar services in the community where  
17 the services were provided; or

18 (c) The charge mutually agreed to by the health  
19 maintenance organization and the provider within 35 ~~60~~ days  
20 after ~~of~~ the submittal of the claim.

21  
22 Such reimbursement shall be net of any applicable copayment  
23 authorized pursuant to subsection (4).

24 (6) Reimbursement amounts for services under this  
25 section provided to subscribers who are Medicaid recipients  
26 shall be governed by the terms of the contract with the  
27 provider. Reimbursement amounts for services under this  
28 section by a provider when ~~for whom~~ no contract exists between  
29 the provider and the health maintenance organization shall be  
30 the lesser of:

31 (a) The provider's charges;

1           (b) For nonhospital providers,the usual and customary  
2 provider charges for similar services in the community where  
3 the services were provided;

4           (c) The charge mutually agreed to by the entity and  
5 the provider within 35 ~~60~~ days after submittal of the claim;  
6 or

7           (d) The Medicaid rate.

8           (7) The provisions of this section may not be waived,  
9 voided, or nullified by contract.

10           Section 19. Paragraph (b) of subsection (2) of section  
11 812.014, Florida Statutes, is amended to read:

12           812.014 Theft.--

13           (2)

14           (b)1. If the property stolen is valued at \$20,000 or  
15 more, but less than \$100,000;

16           2. The property stolen is cargo valued at less than  
17 \$50,000 that has entered the stream of interstate or  
18 intrastate commerce from the shipper's loading platform to the  
19 consignee's receiving dock; or

20           3. The property stolen is emergency medical equipment,  
21 valued at \$300 or more, that is taken from a facility licensed  
22 under chapter 395 or from an aircraft or vehicle permitted  
23 under chapter 401,

24  
25 the offender commits grand theft in the second degree,  
26 punishable as a felony of the second degree, as provided in s.  
27 775.082, s. 775.083, or s. 775.084. Emergency medical  
28 equipment means mechanical or electronic apparatus used to  
29 provide emergency services and care as defined in s.  
30 395.002~~(11)(10)~~or to treat medical emergencies.

31           Section 20. This act shall take effect July 1, 2002.

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   CS/SB 1490  
4                   Removes language that requires only licensed risk managers  
5                   employed by AHCA to determine a facility's compliance with  
6                   program requirements.  
7                   Removes language that created the Uncompensated Emergency  
8                   Services and Care Reimbursement Program.  
9                   Adds language to clarify that the Agency is not prevented from  
10                  implementing an emergency care review and hospital inpatient  
11                  prior-authorization process consistent with federal and state  
12                  law and maximum payments for inpatient and outpatient  
13                  nonemergency care.  
14                  Adds language that allows for medically necessary followup  
15                  care after stabilization for those services that would  
16                  otherwise be covered as follows: in the managed care contract,  
17                  Medicaid program, or Medipass; in the insurance policy; or in  
18                  the health maintenance contract.  
19                  Removes individual health insurance policies from being  
20                  required to provide coverage for hospital emergency services.  
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