

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Health Regulation offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause

and insert:

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

383.50 Treatment of abandoned newborn infant.--

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

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1 subsection limits liability for negligence.

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

4 394.4787 Definitions; ss. 394.4786, 394.4787,  
5 394.4788, and 394.4789.--As used in this section and ss.  
6 394.4786, 394.4788, and 394.4789:

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

10 Section 3. Present subsections (9), (10), (26), and  
11 (30) of section 395.002, Florida Statutes, are amended,  
12 present subsections (10) through (21) and (22) through (33)  
13 are renumbered as subsections (11) through (22) and (24)  
14 through (35), respectively, and new subsections (10) and (23)  
15 are added to said section, to read:

16 395.002 Definitions.--As used in this chapter:

17 (9) "Emergency medical condition" means:

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

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

26 2. Serious impairment to bodily functions.

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

28 (b) With respect to a pregnant woman:

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

31 2. That a transfer may pose a threat to the health and

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1 safety of the patient or fetus; or

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

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

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

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

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

23 (23) "Medically unnecessary procedure" means a  
24 surgical or other invasive procedure that a reasonable  
25 physician, in light of the patient's history and available  
26 diagnostic information, would not deem to be indicated in  
27 order to treat, cure, or palliate the patient's condition or  
28 disease.

29 (28)(26) "Service capability" means the physical  
30 space, equipment, supplies, and services that the hospital  
31 provides and the level of care that the medical staff can

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1 provide within the training and scope of their professional  
2 licenses and hospital privileges ~~all services offered by the~~  
3 ~~facility where identification of services offered is evidenced~~  
4 ~~by the appearance of the service in a patient's medical record~~  
5 ~~or itemized bill.~~

6 (32)~~(30)~~ "Stabilized" means, with respect to an  
7 emergency medical condition, that no material deterioration of  
8 the condition is likely, within reasonable medical  
9 probability, to result from the transfer or discharge of the  
10 patient from a hospital.

11 Section 4. Subsections (2), (14), and (16) of section  
12 395.0197, Florida Statutes, is amended to read:

13 395.0197 Internal risk management program.--

14 (2) The internal risk management program is the  
15 responsibility of the governing board of the health care  
16 facility. Each licensed facility shall utilize the services of  
17 ~~hire~~ a risk manager, licensed under s. 395.10974, who is  
18 responsible for implementation and oversight of such  
19 facility's internal risk management program as required by  
20 this section. ~~A risk manager must not be made responsible for~~  
21 ~~more than four internal risk management programs in separate~~  
22 ~~licensed facilities, unless the facilities are under one~~  
23 ~~corporate ownership or the risk management programs are in~~  
24 ~~rural hospitals.~~

25 (14) The agency shall have access, as set forth in  
26 rules adopted pursuant to s. 395.0161(5), to all licensed  
27 facility records necessary to carry out the provisions of this  
28 section. The records obtained by the agency under subsection  
29 (6), subsection (8), or subsection (10) are not available to  
30 the public under s. 119.07(1), nor shall they be discoverable  
31 or admissible in any civil or administrative action, except in

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1 disciplinary proceedings by the agency or the appropriate  
2 regulatory board, nor shall records obtained pursuant to s.  
3 456.071 be available to the public as part of the record of  
4 investigation for and prosecution in disciplinary proceedings  
5 made available to the public by the agency or the appropriate  
6 regulatory board. However, the agency or the appropriate  
7 regulatory board shall make available, upon written request by  
8 a health care professional against whom probable cause has  
9 been found, any such records which form the basis of the  
10 determination of probable cause, except that, with respect to  
11 medical review committee records, s. 766.101 controls.

12 (16) The agency shall review, as part of its licensure  
13 inspection process, the internal risk management program at  
14 each licensed facility regulated by this section to determine  
15 whether the program meets standards established in statutes  
16 and rules, whether the program is being conducted in a manner  
17 designed to reduce adverse incidents, and whether the program  
18 is appropriately reporting incidents under this section. Only  
19 a risk manager, licensed under s. 395.10974, and employed by  
20 AHCA, shall have authority to conduct inspections to determine  
21 whether a program meets the requirements of this section. Such  
22 determination shall be based on that level of care, skill, and  
23 judgment which, in light of all relevant surrounding  
24 circumstances, is recognized as acceptable and appropriate by  
25 reasonably prudent similar licensed risk managers.

26 Section 5. Subsection (5) of section 395.0161, Florida  
27 Statutes, is created to read:

28 395.0161 Licensure inspection.--

29 (5)(a) The agency shall adopt rules governing the  
30 conduct of inspections or investigations it initiates in  
31 response to:

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- 1           1. Reports filed pursuant to s. 395.0197.  
2           2. Complaints alleging violations of state or federal  
3 emergency access laws.  
4           3. Complaints made by the public alleging violations  
5 of law by licensed facilities or personnel.  
6           (b) Such rules shall set forth the procedures to be  
7 used in such investigations or inspections in order to protect  
8 the due process rights of licensed facilities and personnel  
9 and to minimize, to the greatest reasonable extent possible,  
10 the disruption of facility operations and the cost to  
11 facilities resulting from such investigations.

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

15           395.1041 Access to emergency services and care.--

16           (1) LEGISLATIVE INTENT.--The Legislature finds and  
17 declares it to be of vital importance that emergency services  
18 and care be provided by hospitals and physicians to every  
19 person in need of such care. The Legislature finds that  
20 persons have been denied emergency services and care by  
21 hospitals. It is the intent of the Legislature that the  
22 agency vigorously enforce the ability of persons to receive  
23 all necessary and appropriate emergency services and care and  
24 that the agency act in a thorough and timely manner against  
25 hospitals and physicians which deny persons emergency services  
26 and care. It is further the intent of the Legislature that  
27 hospitals, emergency medical services providers, and other  
28 health care providers work together in their local communities  
29 to enter into agreements or arrangements to ensure access to  
30 emergency services and care. ~~The Legislature further~~  
31 ~~recognizes that appropriate emergency services and care often~~

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1 ~~require followup consultation and treatment in order to~~  
2 ~~effectively care for emergency medical conditions.~~

3 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.--The  
4 agency shall establish and maintain an inventory of hospitals  
5 with emergency services. The inventory shall list all  
6 services within the service capability of the hospital, and  
7 such services shall appear on the face of the hospital  
8 license. Each hospital having emergency services shall notify  
9 the agency of its service capability in the manner and form  
10 prescribed by the agency. The agency, in cooperation with the  
11 Department of Health shall provide use the inventory to ~~assist~~  
12 emergency medical services providers and shall make the  
13 inventory available to others to assist in locating  
14 appropriate emergency medical care. The inventory shall also  
15 be made available to the general public. On or before August  
16 1, 1992, the agency shall request that each hospital identify  
17 the services which are within its service capability. ~~On or~~  
18 ~~before November 1, 1992, the agency shall notify each hospital~~  
19 ~~of the service capability to be included in the inventory.~~  
20 ~~The hospital has 15 days from the date of receipt to respond~~  
21 ~~to the notice. By December 1, 1992, the agency shall publish~~  
22 ~~a final inventory.~~Each hospital shall reaffirm its service  
23 capability when its license is renewed and shall notify the  
24 agency of the addition of a new service or the termination of  
25 a service prior to a change in its service capability.

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

28 (c) A patient that has not been stabilized, whether  
29 ~~stabilized or not,~~ may be transferred to another hospital  
30 which has the requisite service capability or is not at  
31 service capacity, if:

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

6           2. A physician has signed a certification that, based  
7 upon the reasonable risks and benefits to the patient, and  
8 based upon the information available at the time of transfer,  
9 the medical benefits reasonably expected from the provision of  
10 appropriate medical treatment at another hospital outweigh the  
11 increased risks to the individual's medical condition from  
12 effecting the transfer; or

13           3. A physician is not physically present in the  
14 emergency services area at the time an individual is  
15 transferred and a qualified medical person signs a  
16 certification that a physician, in consultation with  
17 personnel, has determined that the medical benefits reasonably  
18 expected from the provision of appropriate medical treatment  
19 at another medical facility outweigh the increased risks to  
20 the individual's medical condition from effecting the  
21 transfer. The consulting physician must countersign the  
22 certification;

23  
24 provided that this paragraph shall not be construed to require  
25 acceptance of a transfer that is not medically necessary.

26           (d)1. Every hospital shall ensure the provision of  
27 services within the service capability of the hospital, at all  
28 times, either directly or indirectly through an arrangement  
29 with another hospital, through an arrangement with one or more  
30 physicians, or as otherwise made through prior arrangements.

31 A hospital may enter into an agreement with another hospital



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1 for purposes of meeting its service capability requirement,  
2 and appropriate compensation or other reasonable conditions  
3 may be negotiated for these backup services.

4           2. If any arrangement requires the provision of  
5 emergency medical transportation, such arrangement must be  
6 made in consultation with the applicable emergency medical  
7 service provider and may not require the emergency medical  
8 service provider to provide transportation that is outside the  
9 routine service area of that emergency medical service  
10 provider or in a manner that impairs the ability of the  
11 emergency medical service provider to timely respond to  
12 prehospital emergency calls. Emergency medical transportation  
13 provided pursuant to this paragraph shall be considered  
14 emergency services and care as provided in s. 395.002.

15           3. A hospital shall not be required to ensure service  
16 capability at all times as required in subparagraph 1. if,  
17 prior to the receiving of any patient needing such service  
18 capability, such hospital has demonstrated to the agency that  
19 it lacks the ability to ensure such capability and it has  
20 exhausted all reasonable efforts to ensure such capability  
21 through backup arrangements. In reviewing a hospital's  
22 demonstration of lack of ability to ensure service capability,  
23 the agency shall consider factors relevant to the particular  
24 case, including the following:

25           a. Number and proximity of hospitals with the same  
26 service capability.

27           b. Number, type, credentials, and privileges of  
28 specialists.

29           c. Frequency of procedures.

30           d. Size of hospital.

31           4. The agency shall publish proposed rules

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1 implementing a reasonable exemption procedure ~~by November 1,~~  
2 ~~1992. Subparagraph 1. shall become effective upon the~~  
3 ~~effective date of said rules or January 31, 1993, whichever is~~  
4 ~~earlier. For a period not to exceed 1 year from the effective~~  
5 ~~date of subparagraph 1., a hospital requesting an exemption~~  
6 ~~shall be deemed to be exempt from offering the service until~~  
7 ~~the agency initially acts to deny or grant the original~~  
8 ~~request. The agency has 45 days from the date of receipt of~~  
9 ~~the request for exemption to approve or deny the request.~~  
10 ~~After the first year from the effective date of subparagraph~~  
11 ~~1., If the agency fails to initially act within the time~~  
12 ~~period, the hospital is deemed to be exempt from offering the~~  
13 ~~service until the agency initially acts to deny the request.~~

14 5. The agency shall convene a workgroup consisting of  
15 representatives from the Florida Hospital Association, the  
16 Florida Medical Association, Florida Statutory Teaching  
17 Hospital Council, and the Florida College of Emergency  
18 Physicians to make recommendations to the Legislature for  
19 changes to this paragraph regarding:

20 a. Services performed on an infrequent basis that  
21 would not be considered to be within the service capability of  
22 the hospital.

23 b. Situations in which hospitals would be deemed  
24 exempt from providing services at all times that are within  
25 their service capability.

26 Section 7. Section 395.1042, Florida Statutes, is  
27 created to read:

28 395.1042 Uncompensated Emergency Services and Care  
29 Reimbursement Program.--

30 (1) There is established the Uncompensated Emergency  
31 Services and Care Reimbursement Program for the purpose of

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1 reimbursing health care facilities and health care  
2 practitioners for the cost of uncompensated emergency services  
3 and care provided as required by s. 395.1041. The Agency for  
4 Health Care Administration shall reimburse providers for  
5 services at the Medicaid rate in an amount equal to the  
6 provider's pro rata share of uncompensated emergency services  
7 and care provided in the prior fiscal year.

8 (2) Any funds appropriated in the General  
9 Appropriations Act for the implementation of s. 395.1041, and  
10 any other funds that become available for the implementation  
11 of s. 395.1041, shall be used exclusively to compensate  
12 providers under the Uncompensated Emergency Services and Care  
13 Reimbursement Program.

14 Section 8. Paragraph (c) of subsection (2) of section  
15 395.602, Florida Statutes, is amended to read:

16 395.602 Rural hospitals.--

17 (2) DEFINITIONS.--As used in this part:

18 (c) "Inactive rural hospital bed" means a licensed  
19 acute care hospital bed, as defined in s. 395.002(15)~~(14)~~,  
20 that is inactive in that it cannot be occupied by acute care  
21 inpatients.

22 Section 9. Paragraph (c) of subsection (1) of section  
23 395.701, Florida Statutes, is amended to read:

24 395.701 Annual assessments on net operating revenues  
25 for inpatient and outpatient services to fund public medical  
26 assistance; administrative fines for failure to pay  
27 assessments when due; exemption.--

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

29 (c) "Hospital" means a health care institution as  
30 defined in s. 395.002(14)~~(13)~~, but does not include any  
31 hospital operated by the agency or the Department of

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1 Corrections.

2 Section 10. Paragraph (b) of subsection (1) of section  
3 400.051, Florida Statutes, is amended to read:

4 400.051 Homes or institutions exempt from the  
5 provisions of this part.--

6 (1) The following shall be exempt from the provisions  
7 of this part:

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

10 Section 11. Subsections (1), (7), and (11) of section  
11 401.23, Florida Statutes, are amended to read:

12 401.23 Definitions.--As used in this part, the term:

13 (1) "Advanced life support" means the use of skills  
14 and techniques described in the most recent U.S. DOT National  
15 Standard Paramedic Curriculum by a paramedic under the  
16 supervision of a licensee's medical director as required by  
17 rules of the department. The term "advanced life support" also  
18 includes other techniques which have been approved and are  
19 performed under conditions specified by rules of the  
20 department. The term "advanced life support" also includes  
21 provision of care by a paramedic under the supervision of a  
22 licensee's medical director to one experiencing an emergency  
23 medical condition as defined herein.

24 ~~(1) "Advanced life support" means treatment of~~  
25 ~~life-threatening medical emergencies through the use of~~  
26 ~~techniques such as endotracheal intubation, the administration~~  
27 ~~of drugs or intravenous fluids, telemetry, cardiac monitoring,~~  
28 ~~and cardiac defibrillation by a qualified person, pursuant to~~  
29 ~~rules of the department.~~

30 (7) "Basic life support" means the use of skills and  
31 techniques described in the most recent U.S. DOT National

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1 Standard EMT-Basic Curriculum by an emergency medical  
2 technician or paramedic under the supervision of a licensee's  
3 medical director as required by rules of the department. The  
4 term "basic life support" also includes other techniques which  
5 have been approved and are performed under conditions  
6 specified by rules of the department. The term "basic life  
7 support" also includes provision of care by a paramedic or  
8 emergency medical technician under the supervision of a  
9 licensee's medical director to one experiencing an emergency  
10 medical condition as defined herein.

11 ~~(7) "Basic life support" means treatment of medical~~  
12 ~~emergencies by a qualified person through the use of~~  
13 ~~techniques such as patient assessment, cardiopulmonary~~  
14 ~~resuscitation (CPR), splinting, obstetrical assistance,~~  
15 ~~bandaging, administration of oxygen, application of medical~~  
16 ~~antishock trousers, administration of a subcutaneous injection~~  
17 ~~using a premeasured autoinjector of epinephrine to a person~~  
18 ~~suffering an anaphylactic reaction, and other techniques~~  
19 ~~described in the Emergency Medical Technician Basic Training~~  
20 ~~Course Curriculum of the United States Department of~~  
21 ~~Transportation. The term "basic life support" also includes~~  
22 ~~other techniques which have been approved and are performed~~  
23 ~~under conditions specified by rules of the department.~~

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 such that the absence of immediate medical attention could  
29 reasonably be expected to result in any of the following:

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

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- 1           2. Serious impairment to bodily functions.  
2           3. Serious dysfunction of any bodily organ or part.  
3           (b) With respect to a pregnant woman:  
4           1. That there is inadequate time to effect safe  
5 transfer to another hospital prior to delivery;  
6           2. That a transfer may pose a threat to the health and  
7 safety of the patient or fetus; or  
8           3. That there is evidence of the onset and persistence  
9 of uterine contractions or rupture of the membranes.  
10          (c) With respect to a person exhibiting acute  
11 psychiatric disturbance or substance abuse, or taken into  
12 custody and delivered to a hospital under a court exparte  
13 order for examination or placed by an authorized party for  
14 involuntary examination in accordance with chapter 394 or  
15 chapter 397, that the absence of immediate medical attention  
16 could reasonably be expected to result in:  
17           1. Serious jeopardy to the health of a patient; or  
18           2. Serious jeopardy to the health of others.  
19          (12)(11) "Emergency medical technician" means a person  
20 who is certified by the department to perform basic life  
21 support pursuant to this part.  
22          (13)(12) "Interfacility transfer" means the  
23 transportation by ambulance of a patient between two  
24 facilities licensed under chapter 393, chapter 395, or chapter  
25 400, pursuant to this part.  
26          (14)(13) "Licensee" means any basic life support  
27 service, advanced life support service, or air ambulance  
28 service licensed pursuant to this part.  
29          (15)(14) "Medical direction" means direct supervision  
30 by a physician through two-way voice communication or, when  
31 such voice communication is unavailable, through established

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1 standing orders, pursuant to rules of the department.

2 (16)~~(15)~~ "Medical director" means a physician who is  
3 employed or contracted by a licensee and who provides medical  
4 supervision, including appropriate quality assurance but not  
5 including administrative and managerial functions, for daily  
6 operations and training pursuant to this part.

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

12 (18)~~(17)~~ "Paramedic" means a person who is certified  
13 by the department to perform basic and advanced life support  
14 pursuant to this part.

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

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

28 (21)~~(20)~~ "Registered nurse" means a practitioner who  
29 is licensed to practice professional nursing pursuant to part  
30 I of chapter 464.

31 (22)~~(21)~~ "Secretary" means the Secretary of Health.

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1           ~~(23)~~(22) "Service location" means any permanent  
2 location in or from which a licensee solicits, accepts, or  
3 conducts business under this part.

4           Section 12. Subsections (9) and (10) of section  
5 409.901, Florida Statutes, are amended to read:

6           409.901 Definitions; ss. 409.901-409.920.--As used in  
7 ss. 409.901-409.920, except as otherwise specifically  
8 provided, the term:

9           (9) "Emergency medical condition" means:

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

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

20           (b) With respect to a pregnant woman:

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

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



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

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

4 2. Serious jeopardy to the health of others.

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

14 Section 13. Subsection (8) of section 409.905, Florida  
15 Statutes, is amended and subsection (13) is created to read:

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

31 (8) NURSING FACILITY SERVICES.--The agency shall pay

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1 for 24-hour-a-day nursing and rehabilitative services for a  
2 recipient in a nursing facility licensed under part II of  
3 chapter 400 or in a rural hospital, as defined in s. 395.602,  
4 or in a Medicare certified skilled nursing facility operated  
5 by a hospital, as defined by s. 395.002(12)(~~11~~), that is  
6 licensed under part I of chapter 395, and in accordance with  
7 provisions set forth in s. 409.908(2)(a), which services are  
8 ordered by and provided under the direction of a licensed  
9 physician. However, if a nursing facility has been destroyed  
10 or otherwise made uninhabitable by natural disaster or other  
11 emergency and another nursing facility is not available, the  
12 agency must pay for similar services temporarily in a hospital  
13 licensed under part I of chapter 395 provided federal funding  
14 is approved and available.

15 (13) The agency shall pay for services provided to a  
16 recipient by a health facility licensed pursuant to chapter  
17 395, and a practitioner licensed pursuant to chapter 458, 459,  
18 and 464, F.S., for emergency medical conditions as defined in  
19 s. 395.002, F.S.

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

22 409.9128 Requirements for providing emergency services  
23 and care.--

24 (1) Emergency services and care is a covered service.  
25 In providing for emergency services and care as a covered  
26 service, neither a managed care plan nor the MediPass program  
27 may:

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 (b) Indicate that emergencies are covered only if care

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1 is secured within a certain period of time or from a health  
2 care provider that has a contract with the managed care plan  
3 or MediPass program.

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

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

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

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

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

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

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

25 2. Notify the managed care plan or the MediPass  
26 provider within 24 hours or on the next business day after  
27 admission of the enrollee 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 managed care plan or the MediPass provider or the

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1 circumstances that precluded attempts to notify the managed  
2 care plan or the MediPass provider. Neither a managed care  
3 plan nor the Medicaid program on behalf of MediPass patients  
4 may deny payment for emergency services and care based on a  
5 hospital's failure to comply with the notification  
6 requirements of this paragraph.

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

31           (4) Nothing in this section is intended to prohibit or

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1 limit application of a nominal copayment as provided in s.  
2 409.9081 for the use of an emergency room for services other  
3 than emergency services and care.

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

10 (a) The provider's charges;

11 (b) For non-hospital providers, the usual and  
12 customary provider charges for similar services in the  
13 community where the services were provided;

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

17 (d) The Medicaid rate.

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

20 Section 15. Paragraph (3) of section 456.056, Florida  
21 Statutes, is amended to read:

22 456.056 Treatment of Medicare beneficiaries; refusal,  
23 emergencies, consulting physicians.--

24 (3) If treatment is provided to a beneficiary for an  
25 emergency medical condition as defined in s. 395.002(9)  
26 ~~395.0142(2)(c)~~, the physician must accept Medicare assignment  
27 provided that the requirement to accept Medicare assignment  
28 for an emergency medical condition shall not apply to  
29 treatment rendered after the patient is stabilized, or the  
30 treatment is unrelated to the original emergency medical  
31 condition. For the purpose of this subsection "stabilized" is

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1 defined to mean with respect to an emergency medical  
2 condition, that no material deterioration of the condition is  
3 likely within reasonable medical probability.

4 Section 16. Paragraph (1) of subsection (1) of section  
5 468.505, Florida Statutes, is amended to read:

6 468.505 Exemptions; exceptions.--

7 (1) Nothing in this part may be construed as  
8 prohibiting or restricting the practice, services, or  
9 activities of:

10 (1) A person employed by a nursing facility exempt  
11 from licensing under s. 395.002(14)(13), or a person exempt  
12 from licensing under s. 464.022.

13 Section 17. 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

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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           (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, or surgery for a covered service by a  
18 physician necessary to stabilize ~~relieve or eliminate~~ the  
19 emergency medical condition, within the service capability of  
20 a hospital.

21           Section 18. Subsection (7) of section 641.47, Florida  
22 Statutes, is amended to read:

23           641.47 Definitions.--As used in this part, the term:

24           (7) "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:

31           1. Serious jeopardy to the health of a patient,



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- 1 including a pregnant woman or a fetus.
- 2 2. Serious impairment to bodily functions.
- 3 3. Serious dysfunction of any bodily organ or part.
- 4 (b) With respect to a pregnant woman:
- 5 1. That there is inadequate time to effect safe
- 6 transfer to another hospital prior to delivery;
- 7 2. That a transfer may pose a threat to the health and
- 8 safety of the patient or fetus; or
- 9 3. That there is evidence of the onset and persistence
- 10 of uterine contractions or rupture of the membranes.
- 11 (c) With respect to a person exhibiting acute
- 12 psychiatric disturbance or substance abuse, or taken into
- 13 custody and delivered to a hospital under a court ex parte
- 14 order for examination or placed by authorized party for
- 15 involuntary examination in accordance with chapter 394 or
- 16 chapter 397, that the absence of immediate medical attention
- 17 could reasonably be expected to result in:
- 18 1. Serious jeopardy to the health of a patient; or
- 19 2. Serious jeopardy to the health of others.
- 20 Section 19. Section 641.513, Florida Statutes, is
- 21 amended to read:
- 22 641.513 Requirements for providing emergency services
- 23 and care.--
- 24 (1) Emergency services and care is a covered service.
- 25 In providing for emergency services and care as a covered
- 26 service, a health maintenance organization may not:
- 27 (a) Require prior authorization for the receipt of
- 28 prehospital transport or treatment or for the provision of
- 29 emergency services and care.
- 30 (b) Indicate that emergencies are covered only if care
- 31 is secured within a certain period of time or only if care is

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1 provided from a health care provider that has a contract with  
2 the health maintenance organization.

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 subscriber's failure to  
6 notify the health maintenance organization in advance of  
7 seeking treatment or within a certain period of time after the  
8 care is given or to obtain care from a health care provider  
9 that does not have a contract with the health maintenance  
10 organization.

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

15 (3)(a) When a subscriber is present at a hospital  
16 seeking emergency services and care, the determination as to  
17 whether an emergency medical condition, as defined in s.  
18 641.47, exists shall be made, for the purposes of treatment,  
19 by a physician of the hospital or, to the extent permitted by  
20 applicable law, by other appropriate licensed professional  
21 hospital personnel under the supervision of the hospital  
22 physician. The physician or the appropriate personnel shall  
23 indicate in the patient's chart the results of the screening,  
24 examination, and evaluation. The health maintenance  
25 organization shall compensate the provider for the screening,  
26 evaluation, and examination that is required by law to  
27 determine ~~reasonably calculated to assist the health care~~  
28 ~~provider in arriving at a determination as to whether the~~  
29 ~~patient's condition is an emergency medical condition and~~  
30 shall not deny payment if an emergency medical condition is  
31 not found to exist. When an emergency medical condition does

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

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

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

23 2. Notify the health maintenance organization within  
24 24 hours or on the next business day after admission of the  
25 subscriber 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 health maintenance organization of the  
30 circumstances that precluded attempts to notify the health  
31 maintenance organization. A health maintenance organization

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

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

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

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

10 (a) The provider's charges;

11 (b) For non-hospital providers, the usual and  
12 customary provider charges for similar services in the  
13 community where the services were provided; or

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

17  
18 Such reimbursement shall be net of any applicable copayment  
19 authorized pursuant to subsection (4).

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

27 (a) The provider's charges;

28 (b) For non-hospital providers, the usual and  
29 customary provider charges for similar services in the  
30 community where the services were provided;

31 (c) The charge mutually agreed to by the entity and

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1 the provider within 35 ~~60~~ days after submittal of the claim;  
2 or

3 (d) The Medicaid rate.

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

6 Section 20. Paragraph (b) of subsection (2) of section  
7 812.014, Florida Statutes, is amended to read:

8 812.014 Theft.--

9 (2)

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

12 2. The property stolen is cargo valued at less than  
13 \$50,000 that has entered the stream of interstate or  
14 intrastate commerce from the shipper's loading platform to the  
15 consignee's receiving dock; or

16 3. The property stolen is emergency medical equipment,  
17 valued at \$300 or more, that is taken from a facility licensed  
18 under chapter 395 or from an aircraft or vehicle permitted  
19 under chapter 401,

20  
21 the offender commits grand theft in the second degree,  
22 punishable as a felony of the second degree, as provided in s.  
23 775.082, s. 775.083, or s. 775.084. Emergency medical  
24 equipment means mechanical or electronic apparatus used to  
25 provide emergency services and care as defined in s.  
26 395.002(11)~~(10)~~ or to treat medical emergencies.

27 Section 21. This act shall take effect July 1, 2002.

28  
29  
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 remove: Everything before the enacting clause

2

3 and insert:

4 An act relating to health care; amending s.  
5 395.002, F.S.; revising definitions relating to  
6 emergency services and care provided by  
7 hospitals and related facilities; amending s.  
8 395.0197, F.S., revising provisions relating to  
9 Risk Management; amending s. 395.0161, F.S.,  
10 authorize department to adopt rule regarding  
11 risk managements; amending s. 395.1041, F.S.;  
12 revising provisions relating to hospital  
13 service capability and access to emergency  
14 services and care; directing the Agency for  
15 Health Care Administration to convene a  
16 workgroup to report to the Legislature  
17 regarding hospital service capability  
18 requirements; creating s. 395.1042, F.S.;  
19 establishing a program under the agency to  
20 reimburse health care facilities and  
21 practitioners for the cost of uncompensated  
22 emergency services and care; amending ss.  
23 383.50, 394.4787, 395.602, 395.701, 400.051,  
24 409.905, 456.056, 468.505, and 812.014, F.S.;  
25 correcting cross references; amending s.  
26 401.23, F.S.; revising definitions relating to  
27 emergency medical transportation services;  
28 amending s. 409.901, F.S.; revising definition  
29 s relating to emergency services and care for  
30 purposes of Medicaid coverage; amending s.  
31 409.950, F.S., revising requirements for

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1 mandatory services; amending s. 409.9128, F.S.;

2 revising requirements for providing emergency

3 services and care under Medicaid managed care

4 plans and MediPass; creating s. 627.6053, F.S.;

5 providing requirements for health insurance

6 policy coverage of hospital emergency services

7 and care; amending ss. 641.19, 641.47, and

8 641.513, F.S.; revising definitions and

9 requirements relating to the provision of

10 emergency services and care by health

11 maintenance organizations and prepaid health

12 clinics; providing an appropriation; providing

13 an effective date.

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