

Bill No. CS for CS for SB 1202

Amendment No. ____ Barcode 830216

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2	04/30/2003	.	
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11	Senator Alexander moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 66, line 5, through page 68, line 20, delete		
15	those lines,		
16			
17	and insert: <u>to participate in the peer review. In all other</u>		
18	<u>cases, the insurer shall pay the costs of the peer review.</u>		
19	<u>(i) If the insurer declines to participate in peer</u>		
20	<u>review or declines to pay the amount recommended in a peer</u>		
21	<u>reviewer's report, the insurer remains potentially liable for</u>		
22	<u>reasonable attorney's fees pursuant to law. In such cases,</u>		
23	<u>contingency risk multipliers apply only if the court</u>		
24	<u>determines and states explicitly the particular legal or</u>		
25	<u>factual issue involved and provides reasons supporting its</u>		
26	<u>determination. The contingency risk multiplier shall be 2.5 if</u>		
27	<u>the court determines that the issue is of such great public</u>		
28	<u>importance that the public interest requires the determination</u>		
29	<u>of that issue.</u>		
30	<u>(j) If the claimant declines to participate in peer</u>		
31	<u>review or declines to settle the matter in accordance with the</u>		

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1 recommendation of the peer reviewer pursuant to this section,
2 the insurer is not liable for attorney's fees otherwise
3 required by provisions of the insurance code or for damages
4 under s. 624.155.

5 (k) The insurer is not liable for attorney's fees
6 otherwise required by provisions of the insurance code or for
7 damages under s. 624.155 if the insurer tenders payment of the
8 amount demanded in the demand letter at any time prior to the
9 insurer's receipt of the peer reviewer's written
10 recommendation, or tenders the amount recommended within 10
11 days after the insurer's receipt of the peer reviewer's
12 written recommendation, applicable interest, and a penalty of
13 10 percent of the overdue amount paid by the insurer, subject
14 to a maximum penalty of \$250. If the dispute involves an
15 insurer's withdrawal of payment under paragraph (7)(a) for
16 future treatment not yet rendered, the insurer is not liable
17 in any action for attorney's fees otherwise required by the
18 insurance code or for damages under s. 624.155 if within 10
19 business days after its receipt of the written recommendation
20 of the peer reviewer, or at any time prior to or during the
21 pendency of a dispute under this subsection, the insurer mails
22 to the claimant a written statement of its agreement to pay
23 for such treatment in accordance with the claimant's demand or
24 peer reviewer's recommendation and to pay a penalty of 10
25 percent, subject to a maximum penalty of \$250, when it pays
26 for such future treatment in accordance with this section.

27 (1) If the peer reviewer recommends an amount that is
28 in excess of the amount that the insurer has paid, the insurer
29 is liable for reasonable advocate's fees of the claimant of up
30 to \$1,000, as determined by the peer reviewer. If the peer
31 reviewer recommends an amount that is equal to or less than

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1 the amount the insurer has paid, the claimant is liable for a
2 reasonable advocate's fees of the insurer of up to \$1,000, as
3 determined by the peer reviewer.

4 (m) For purposes of this subsection, payment or the
5 insurer's agreement shall be treated as being made on the date
6 a draft or other valid instrument that is equivalent to
7 payment or tender of payment, or the insurer's written
8 statement of agreement, is placed in the United States mail in
9 a properly addressed, postpaid envelope, or if not so posted,
10 on the date of delivery.

11 (n) Evidence in litigation.--The notice of dispute and
12 all documents submitted by the health care practitioner and
13 the insurer, together with the notice of resolution and the
14 resolution of any appeal, may be introduced into evidence in
15 any civil action if such documents are admissible pursuant to
16 the Florida Evidence Code.

17 (o) Rules.--The agency shall adopt rules to administer
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20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 On page 2, lines 26-30, delete those lines

23
24 and insert:

- 25 demand letter; providing a peer review process;
- 26 limiting attorney's fees if matters are not
- 27 resolved by the peer review process;
- 28 authorizing

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