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A bill to be entitled  
 An act relating to workers' compensation; amending s.  
 440.02, F.S.; revising and repealing definitions; amending  
 s. 440.05, F.S.; revising requirements relating to  
 submitting notice of election of exemption; providing that  
 an officer of a corporation who elects exemption may not  
 recover benefits and is not considered an employee for  
 purposes of determining premiums; amending s. 440.06,  
 F.S.; revising provisions relating to failure to secure  
 compensation; amending s. 440.077, F.S.; providing that a  
 corporate officer electing to be exempt may not receive  
 benefits under ch. 440, F.S.; amending s. 440.09, F.S.;  
 clarifying provisions relating to compensation for  
 subsequent injuries; providing definitions; revising  
 provisions relating to drug testing; amending s. 440.10,  
 F.S.; revising provisions relating to contractors and  
 subcontractors with regard to liability for compensation;  
 requiring subcontractors to provide evidence of workers'  
 compensation coverage or proof of exemption to a  
 contractor; deleting provisions relating to independent  
 contractors; amending s. 440.1025, F.S.; revising  
 requirements relating to workplace safety programs;  
 amending s. 440.105, F.S.; increasing criminal penalties  
 for certain violations of workers' compensation compliance  
 requirements; amending s. 440.1051, F.S.; increasing  
 criminal penalty for false reports; amending s. 440.107,  
 F.S.; providing additional powers to the Department of  
 Insurance relating to compliance and enforcement;  
 providing penalties; amending s. 440.11, F.S.; revising  
 employer and safety consultant immunity from liability



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31 provisions; amending s. 440.13, F.S.; requiring the Agency  
32 for Health Care Administration to ensure establishment of  
33 practice parameters for physician medical services;  
34 revising provisions that provide for reimbursement  
35 allowances; requiring revision of specified reimbursement  
36 schedules; providing timetable for revision of schedules  
37 of maximum reimbursement allowances; revising certain  
38 reimbursement allowances; revising procedure for  
39 determination of fee-for-service and hospital per-diem  
40 schedules; amending s. 440.134, F.S.; revising provisions  
41 relating to managed care arrangements; revising a  
42 definition; amending s. 440.14, F.S.; revising provisions  
43 relating to calculation of average weekly wage for injured  
44 employees; amending s. 440.15, F.S.; providing additional  
45 limitations on compensation for permanent total  
46 disability; increasing payment schedule for impairment  
47 benefits and providing for partial reduction under certain  
48 circumstances; amending s. 440.16, F.S.; increasing the  
49 limits on the amount of certain benefits paid as  
50 compensation for death; amending s. 440.192, F.S.;  
51 requiring a petition for benefits to include all claims  
52 which are ripe, due, and owing; amending s. 440.25, F.S.;  
53 revising procedures for mediation and hearings; amending  
54 s. 440.34, F.S.; revising provisions relating to the award  
55 of attorney's fees; amending s. 440.38, F.S.; providing  
56 requirement for employers with coverage provided by  
57 insurers from outside the state; amending s. 440.381,  
58 F.S.; providing criminal penalty for unlawful  
59 applications; amending s. 627.311, F.S.; providing for an  
60 additional subplan within the joint underwriting plan for



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61 workers' compensation insurance; providing for rates,  
62 surcharges, and assessments; limiting assessment powers;  
63 amending s. 921.0022, F.S.; revising the offense severity  
64 ranking chart to reflect changes in penalties under the  
65 act; requiring a report to the Legislature from the  
66 Department of Financial Services regarding provisions of  
67 law relating to enforcement; providing effective dates.  
68

69 Be It Enacted by the Legislature of the State of Florida:  
70

71 Section 1. Subsections (15), (41, and (42) of section  
72 440.02, Florida Statutes, are amended to read:

73 440.02 Definitions.--When used in this chapter, unless the  
74 context clearly requires otherwise, the following terms shall  
75 have the following meanings:

76 (15)(a) "Employee" means any person engaged in any  
77 employment under any appointment or contract of hire or  
78 apprenticeship, express or implied, oral or written, whether  
79 lawfully or unlawfully employed, and includes, but is not  
80 limited to, aliens and minors.

81 (b) "Employee" includes any person who is an officer of a  
82 corporation and who performs services for remuneration for such  
83 corporation within this state, whether or not such services are  
84 continuous.

85 1. Any officer of a corporation may elect to be exempt  
86 from this chapter by filing written notice of the election with  
87 the department as provided in s. 440.05.

88 2. As to officers of a corporation who are actively  
89 engaged in the construction industry, no more than three  
90 officers may elect to be exempt from this chapter by filing



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91 written notice of the election with the department as provided  
92 in s. 440.05. ~~However, any exemption obtained by a corporate~~  
93 ~~officer of a corporation actively engaged in the construction~~  
94 ~~industry is not applicable with respect to any commercial~~  
95 ~~building project estimated to be valued at \$250,000 or greater.~~

96 3. An officer of a corporation who elects to be exempt  
97 from this chapter by filing a written notice of the election  
98 with the department as provided in s. 440.05 is not an employee.

99  
100 Services are presumed to have been rendered to the corporation  
101 if the officer is compensated by other than dividends upon  
102 shares of stock of the corporation which the officer owns.

103 (c)~~1~~. "Employee" includes a sole proprietor or a partner  
104 who devotes full time to the proprietorship or partnership and,  
105 except as provided in this paragraph, elects to be included in  
106 the definition of employee by filing notice thereof as provided  
107 in s. 440.05. Partners or sole proprietors actively engaged in  
108 the construction industry are considered employees unless they  
109 elect to be excluded from the definition of employee by filing  
110 written notice of the election with the department as provided  
111 in s. 440.05. However, no more than three partners in a  
112 partnership that is actively engaged in the construction  
113 industry may elect to be excluded. A sole proprietor or partner  
114 who is actively engaged in the construction industry and who  
115 elects to be exempt from this chapter by filing a written notice  
116 of the election with the department as provided in s. 440.05 is  
117 not an employee. For purposes of this chapter, an independent  
118 contractor is an employee unless he or she meets all of the  
119 conditions set forth in subparagraph (d)1.

120 ~~2. Notwithstanding the provisions of subparagraph 1., the~~



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121 ~~term "employee" includes a sole proprietor or partner actively~~  
122 ~~engaged in the construction industry with respect to any~~  
123 ~~commercial building project estimated to be valued at \$250,000~~  
124 ~~or greater. Any exemption obtained is not applicable, with~~  
125 ~~respect to work performed at such a commercial building project.~~

126 (d) "Employee" does not include:

127 1. An independent contractor, if:

128 a. The independent contractor maintains a separate  
129 business with his or her own work facility, truck, equipment,  
130 materials, or similar accommodations;

131 b. The independent contractor holds or has applied for a  
132 federal employer identification number, unless the independent  
133 contractor is a sole proprietor who is not required to obtain a  
134 federal employer identification number under state or federal  
135 requirements;

136 c. The independent contractor performs or agrees to  
137 perform specific services or work for specific amounts of money  
138 and controls the means of performing the services or work;

139 d. The independent contractor incurs the principal  
140 expenses related to the service or work that he or she performs  
141 or agrees to perform;

142 e. The independent contractor is responsible for the  
143 satisfactory completion of work or services that he or she  
144 performs or agrees to perform and is or could be held liable for  
145 a failure to complete the work or services;

146 f. The independent contractor receives compensation for  
147 work or services performed for a commission or on a per-job or  
148 competitive-bid basis and not on any other basis;

149 g. The independent contractor may realize a profit or  
150 suffer a loss in connection with performing work or services;



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151 h. The independent contractor has continuing or recurring  
152 business liabilities or obligations; and

153 i. The success or failure of the independent contractor's  
154 business depends on the relationship of business receipts to  
155 expenditures.

156

157 However, the determination as to whether an individual included  
158 in the Standard Industrial Classification Manual of 1987,  
159 Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782,  
160 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449,  
161 or a newspaper delivery person, is an independent contractor is  
162 governed not by the criteria in this paragraph but by common-law  
163 principles, giving due consideration to the business activity of  
164 the individual. ~~Notwithstanding the provisions of this paragraph  
165 or any other provision of this chapter, with respect to any  
166 commercial building project estimated to be valued at \$250,000  
167 or greater, a person who is actively engaged in the construction  
168 industry is not an independent contractor and is either an  
169 employer or an employee who may not be exempt from the coverage  
170 requirements of this chapter.~~

171 2. A real estate salesperson or agent, if that person  
172 agrees, in writing, to perform for remuneration solely by way of  
173 commission.

174 3. Bands, orchestras, and musical and theatrical  
175 performers, including disk jockeys, performing in licensed  
176 premises as defined in chapter 562, if a written contract  
177 evidencing an independent contractor relationship is entered  
178 into before the commencement of such entertainment.

179 4. An owner-operator of a motor vehicle who transports  
180 property under a written contract with a motor carrier which



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181 evidences a relationship by which the owner-operator assumes the  
 182 responsibility of an employer for the performance of the  
 183 contract, if the owner-operator is required to furnish the  
 184 necessary motor vehicle equipment and all costs incidental to  
 185 the performance of the contract, including, but not limited to,  
 186 fuel, taxes, licenses, repairs, and hired help; and the owner-  
 187 operator is paid a commission for transportation service and is  
 188 not paid by the hour or on some other time-measured basis.

189 5. A person whose employment is both casual and not in the  
 190 course of the trade, business, profession, or occupation of the  
 191 employer.

192 6. A volunteer, except a volunteer worker for the state or  
 193 a county, municipality, or other governmental entity. A person  
 194 who does not receive monetary remuneration for services is  
 195 presumed to be a volunteer unless there is substantial evidence  
 196 that a valuable consideration was intended by both employer and  
 197 employee. For purposes of this chapter, the term "volunteer"  
 198 includes, but is not limited to:

199 a. Persons who serve in private nonprofit agencies and who  
 200 receive no compensation other than expenses in an amount less  
 201 than or equivalent to the standard mileage and per-diem expenses  
 202 provided to salaried employees in the same agency or, if such  
 203 agency does not have salaried employees who receive mileage and  
 204 per diem, then such volunteers who receive no compensation other  
 205 than expenses in an amount less than or equivalent to the  
 206 customary mileage and per diem paid to salaried workers in the  
 207 community as determined by the department; and

208 b. Volunteers participating in federal programs  
 209 established under Pub. L. No. 93-113.

210 7. Any officer of a corporation who elects to be exempt



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211 from this chapter.

212 8. A sole proprietor or officer of a corporation who  
213 actively engages in the construction industry, and a partner in  
214 a partnership that is actively engaged in the construction  
215 industry, who elects to be exempt from the provisions of this  
216 chapter. Such sole proprietor, officer, or partner is not an  
217 employee for any reason until the notice of revocation of  
218 election filed pursuant to s. 440.05 is effective.

219 9. An exercise rider who does not work for a single horse  
220 farm or breeder, and who is compensated for riding on a case-by-  
221 case basis, provided a written contract is entered into prior to  
222 the commencement of such activity which evidences that an  
223 employee/employer relationship does not exist.

224 10. A taxicab, limousine, or other passenger vehicle-for-  
225 hire driver who operates said vehicles pursuant to a written  
226 agreement with a company which provides any dispatch, marketing,  
227 insurance, communications, or other services under which the  
228 driver and any fees or charges paid by the driver to the company  
229 for such services are not conditioned upon, or expressed as a  
230 proportion of, fare revenues.

231 11. A person who performs services as a sports official  
232 for an entity sponsoring an interscholastic sports event or for  
233 a public entity or private, nonprofit organization that sponsors  
234 an amateur sports event. For purposes of this subparagraph, such  
235 a person is an independent contractor. For purposes of this  
236 subparagraph, the term "sports official" means any person who is  
237 a neutral participant in a sports event, including, but not  
238 limited to, umpires, referees, judges, linespersons,  
239 scorekeepers, or timekeepers. This subparagraph does not apply  
240 to any person employed by a district school board who serves as





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241 a sports official as required by the employing school board or  
 242 who serves as a sports official as part of his or her  
 243 responsibilities during normal school hours.

244 ~~(41) "Commercial building" means any building or structure~~  
 245 ~~intended for commercial or industrial use, or any building or~~  
 246 ~~structure intended for multifamily use of more than four~~  
 247 ~~dwelling units, as well as any accessory use structures~~  
 248 ~~constructed in conjunction with the principal structure. The~~  
 249 ~~term, "commercial building," does not include the conversion of~~  
 250 ~~any existing residential building to a commercial building.~~

251 ~~(42) "Residential building" means any building or~~  
 252 ~~structure intended for residential use containing four or fewer~~  
 253 ~~dwelling units and any structures intended as an accessory use~~  
 254 ~~to the residential structure.~~

255 Section 2. Effective January 1, 2004, subsections (8),  
 256 (15), (16), and (38) of section 440.02, Florida Statutes, as  
 257 amended by this act, are amended to read:

258 440.02 Definitions.--When used in this chapter, unless the  
 259 context clearly requires otherwise, the following terms shall  
 260 have the following meanings:

261 (8) "Construction industry" means for-profit activities  
 262 involving ~~the carrying out of~~ any building, clearing, filling,  
 263 excavation, or substantial improvement in the size or use of any  
 264 structure or the appearance of any land. ~~When appropriate to the~~  
 265 ~~context, "construction" refers to the act of construction or the~~  
 266 ~~result of construction.~~ However, "construction" does ~~shall~~ not  
 267 mean a homeowner's ~~landowner's~~ act of construction or the result  
 268 of a construction upon his or her own premises, provided such  
 269 premises are not intended to be sold, ~~or~~ resold, or leased by  
 270 the owner within 1 year after the commencement of construction.



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271 The division may, by rule, establish standard industrial  
 272 classification codes and definitions thereof which meet the  
 273 criteria of the term "construction industry" as set forth in  
 274 this section.

275 (15)(a) "Employee" means any person who receives  
 276 remuneration from an employer for the performance of any work or  
 277 service, whether by ~~engaged in any employment under any~~  
 278 appointment or contract ~~for~~ of hire or apprenticeship, express  
 279 or implied, oral or written, whether lawfully or unlawfully  
 280 employed, and includes, but is not limited to, aliens and  
 281 minors.

282 (b) "Employee" includes any person who is an officer of a  
 283 corporation and who performs services for remuneration for such  
 284 corporation within this state, whether or not such services are  
 285 continuous.

286 1. Any officer of a corporation may elect to be exempt  
 287 from this chapter by filing written notice of the election with  
 288 the department as provided in s. 440.05.

289 2. As to officers of a corporation who are ~~actively~~  
 290 engaged in the construction industry, no more than three  
 291 officers of a corporation or of any group of affiliated  
 292 corporations may elect to be exempt from this chapter by filing  
 293 written notice of the election with the department as provided  
 294 in s. 440.05. Officers must be shareholders, each owning at  
 295 least 10 percent of the stock of such corporation and listed as  
 296 an officer of such corporation with the Division of Corporations  
 297 of the Department of State, in order to elect exemptions under  
 298 this chapter. For purposes of this subparagraph, the term  
 299 "affiliated" means and includes one or more corporations or  
 300 entities, any one of which is a corporation engaged in the



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301 construction industry, under the same or substantially the same  
 302 control of a group of business entities which are connected or  
 303 associated so that one entity controls or has the power to  
 304 control each of the other business entities. The term  
 305 "affiliated" includes the officers, directors, executives,  
 306 shareholders active in management, employees, and agents of the  
 307 affiliated corporation. The ownership by one business entity of  
 308 a controlling interest in another business entity or a pooling  
 309 of equipment or income among business entities shall be prima  
 310 facie evidence that one business is affiliated with the other.

311 3. An officer of a corporation who elects to be exempt  
 312 from this chapter by filing a written notice of the election  
 313 with the department as provided in s. 440.05 is not an employee.

314  
 315 Services are presumed to have been rendered to the corporation  
 316 if the officer is compensated by other than dividends upon  
 317 shares of stock of the corporation which the officer owns.

318 (c) "Employee" includes:

319 1. A sole proprietor or a partner who is not engaged in  
 320 the construction industry, devotes full time to the  
 321 proprietorship or partnership, and, ~~except as provided in this~~  
 322 ~~paragraph,~~ elects to be included in the definition of employee  
 323 by filing notice thereof as provided in s. 440.05. ~~Partners or~~  
 324 ~~sole proprietors actively engaged in the construction industry~~  
 325 ~~are considered employees unless they elect to be excluded from~~  
 326 ~~the definition of employee by filing written notice of the~~  
 327 ~~election with the department as provided in s. 440.05. However,~~  
 328 ~~no more than three partners in a partnership that is actively~~  
 329 ~~engaged in the construction industry may elect to be excluded. A~~  
 330 ~~sole proprietor or partner who is actively engaged in the~~



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331 ~~construction industry and who elects to be exempt from this~~  
332 ~~chapter by filing a written notice of the election with the~~  
333 ~~department as provided in s. 440.05 is not an employee. For~~  
334 ~~purposes of this chapter, an independent contractor is an~~  
335 ~~employee unless he or she meets all of the conditions set forth~~  
336 ~~in subparagraph (d)1.~~

337 2. All persons who are being paid by a construction  
338 contractor as a subcontractor, unless the subcontractor has  
339 validly elected an exemption as permitted by this chapter, or  
340 has otherwise secured the payment of compensation coverage as a  
341 subcontractor, consistent with s. 440.10, for work performed by  
342 or as a subcontractor.

343 3. An independent contractor working or performing  
344 services in the construction industry.

345 4. A sole proprietor who engages in the construction  
346 industry and a partner or partnership that is engaged in the  
347 construction industry.

348 (d) "Employee" does not include:

349 1. An independent contractor who is not engaged in the  
350 construction industry., if:

351 a. In order to meet the definition of independent  
352 contractor, at least four of the following criteria must be met:

353 (I) The independent contractor maintains a separate  
354 business with his or her own work facility, truck, equipment,  
355 materials, or similar accommodations;

356 (II) The independent contractor holds or has applied for a  
357 federal employer identification number, unless the independent  
358 contractor is a sole proprietor who is not required to obtain a  
359 federal employer identification number under state or federal  
360 regulations;



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361 (III) The independent contractor receives compensation for  
362 services rendered or work performed and such compensation is  
363 paid to a business rather than to an individual;

364 (IV) The independent contractor holds one or more bank  
365 accounts in the name of the business entity for purposes of  
366 paying business expenses or other expenses related to services  
367 rendered or work performed for compensation;

368 (V) The independent contractor performs work or is able to  
369 perform work for any entity in addition to or besides the  
370 employer at his or her own election without the necessity of  
371 completing an employment application or process; or

372 (VI) The independent contractor receives compensation for  
373 work or services rendered on a competitive-bid basis or  
374 completion of a task or a set of tasks as defined by a  
375 contractual agreement, unless such contractual agreement  
376 expressly states that an employment relationship exists. The  
377 ~~independent contractor maintains a separate business with his or~~  
378 ~~her own work facility, truck, equipment, materials, or similar~~  
379 ~~accommodations;~~

380 b. If four of the above criteria do not exist, an  
381 individual may still be presumed to be an independent contractor  
382 and not an employee based on full consideration of the nature of  
383 the individual situation with regard to satisfying any of the  
384 following conditions:

385 (I) The independent contractor performs or agrees to  
386 perform specific services or work for a specific amount of money  
387 and controls the means of performing the services or work;

388 (II) The independent contractor incurs the principal  
389 expenses related to the service or work that he or she performs  
390 or agrees to perform;



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391 (III) The independent contractor is responsible for the  
392 satisfactory completion of the work or services that he or she  
393 performs or agrees to perform;

394 (IV) The independent contractor receives compensation for  
395 work or services performed for a commission or on a per-job  
396 basis and not on any other basis;

397 (V) The independent contractor may realize a profit or  
398 suffer a loss in connection with performing work or services;

399 (VI) The independent contractor has continuing or  
400 recurring business liabilities or obligations; and

401 (VII) The success or failure of the independent  
402 contractor's business depends on the relationship of business  
403 receipts to expenditures. ~~The independent contractor holds or~~  
404 ~~has applied for a federal employer identification number, unless~~  
405 ~~the independent contractor is a sole proprietor who is not~~  
406 ~~required to obtain a federal employer identification number~~  
407 ~~under state or federal requirements;~~

408 c. Notwithstanding anything to the contrary in this  
409 subparagraph, an individual claiming to be an independent  
410 contractor has the burden of proving that he or she is an  
411 independent contractor for purposes of this act. ~~The independent~~  
412 ~~contractor performs or agrees to perform specific services or~~  
413 ~~work for specific amounts of money and controls the means of~~  
414 ~~performing the services or work;~~

415 d. ~~The independent contractor incurs the principal~~  
416 ~~expenses related to the service or work that he or she performs~~  
417 ~~or agrees to perform;~~

418 e. ~~The independent contractor is responsible for the~~  
419 ~~satisfactory completion of work or services that he or she~~  
420 ~~performs or agrees to perform and is or could be held liable for~~



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421 ~~a failure to complete the work or services;~~

422 ~~f. The independent contractor receives compensation for~~  
423 ~~work or services performed for a commission or on a per-job or~~  
424 ~~competitive-bid basis and not on any other basis;~~

425 ~~g. The independent contractor may realize a profit or~~  
426 ~~suffer a loss in connection with performing work or services;~~

427 ~~h. The independent contractor has continuing or recurring~~  
428 ~~business liabilities or obligations; and~~

429 ~~i. The success or failure of the independent contractor's~~  
430 ~~business depends on the relationship of business receipts to~~  
431 ~~expenditures.~~

432  
433 ~~However, the determination as to whether an individual included~~  
434 ~~in the Standard Industrial Classification Manual of 1987,~~  
435 ~~Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782,~~  
436 ~~0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449,~~  
437 ~~or a newspaper delivery person, is an independent contractor is~~  
438 ~~governed not by the criteria in this paragraph but by common-law~~  
439 ~~principles, giving due consideration to the business activity of~~  
440 ~~the individual.~~

441 2. A real estate salesperson or agent, if that person  
442 agrees, in writing, to perform for remuneration solely by way of  
443 commission.

444 3. Bands, orchestras, and musical and theatrical  
445 performers, including disk jockeys, performing in licensed  
446 premises as defined in chapter 562, if a written contract  
447 evidencing an independent contractor relationship is entered  
448 into before the commencement of such entertainment.

449 4. An owner-operator of a motor vehicle who transports  
450 property under a written contract with a motor carrier which



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451 evidences a relationship by which the owner-operator assumes the  
 452 responsibility of an employer for the performance of the  
 453 contract, if the owner-operator is required to furnish the  
 454 necessary motor vehicle equipment and all costs incidental to  
 455 the performance of the contract, including, but not limited to,  
 456 fuel, taxes, licenses, repairs, and hired help; and the owner-  
 457 operator is paid a commission for transportation service and is  
 458 not paid by the hour or on some other time-measured basis.

459 5. A person whose employment is both casual and not in the  
 460 course of the trade, business, profession, or occupation of the  
 461 employer.

462 6. A volunteer, except a volunteer worker for the state or  
 463 a county, municipality, or other governmental entity. A person  
 464 who does not receive monetary remuneration for services is  
 465 presumed to be a volunteer unless there is substantial evidence  
 466 that a valuable consideration was intended by both employer and  
 467 employee. For purposes of this chapter, the term "volunteer"  
 468 includes, but is not limited to:

469 a. Persons who serve in private nonprofit agencies and who  
 470 receive no compensation other than expenses in an amount less  
 471 than or equivalent to the standard mileage and per diem expenses  
 472 provided to salaried employees in the same agency or, if such  
 473 agency does not have salaried employees who receive mileage and  
 474 per diem, then such volunteers who receive no compensation other  
 475 than expenses in an amount less than or equivalent to the  
 476 customary mileage and per diem paid to salaried workers in the  
 477 community as determined by the department; and

478 b. Volunteers participating in federal programs  
 479 established under Pub. L. No. 93-113.

480 7. Unless otherwise prohibited by this chapter, any





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481 officer of a corporation who elects to be exempt from this  
482 chapter.

483 8. An ~~a sole proprietor or~~ officer of a corporation ~~who~~  
484 ~~actively engages in the construction industry, and a partner in~~  
485 ~~a partnership~~ that is ~~actively~~ engaged in the construction  
486 industry, ~~who~~ elects to be exempt from the provisions of this  
487 chapter, as otherwise permitted by this chapter. Such ~~sole~~  
488 ~~proprietor, officer, or partner~~ is not an employee for any  
489 reason until the notice of revocation of election filed pursuant  
490 to s. 440.05 is effective.

491 9. An exercise rider who does not work for a single horse  
492 farm or breeder, and who is compensated for riding on a case-by-  
493 case basis, provided a written contract is entered into prior to  
494 the commencement of such activity which evidences that an  
495 employee/employer relationship does not exist.

496 10. A taxicab, limousine, or other passenger vehicle-for-  
497 hire driver who operates said vehicles pursuant to a written  
498 agreement with a company which provides any dispatch, marketing,  
499 insurance, communications, or other services under which the  
500 driver and any fees or charges paid by the driver to the company  
501 for such services are not conditioned upon, or expressed as a  
502 proportion of, fare revenues.

503 11. A person who performs services as a sports official  
504 for an entity sponsoring an interscholastic sports event or for  
505 a public entity or private, nonprofit organization that sponsors  
506 an amateur sports event. For purposes of this subparagraph, such  
507 a person is an independent contractor. For purposes of this  
508 subparagraph, the term "sports official" means any person who is  
509 a neutral participant in a sports event, including, but not  
510 limited to, umpires, referees, judges, linespersons,



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511 scorekeepers, or timekeepers. This subparagraph does not apply  
512 to any person employed by a district school board who serves as  
513 a sports official as required by the employing school board or  
514 who serves as a sports official as part of his or her  
515 responsibilities during normal school hours.

516 12. Medicaid-enrolled clients under chapter 393 who are  
517 excluded from the definition of employment under s.  
518 443.036(21)(d)5. and served by Adult Day Training Services under  
519 the Home and Community-Based Medicaid Waiver program in a  
520 sheltered workshop setting licensed by the United States  
521 Department of Labor for the purpose of training and earning less  
522 than the federal hourly minimum wage.

523 (16)(a) "Employer" means the state and all political  
524 subdivisions thereof, all public and quasi-public corporations  
525 therein, every person carrying on any employment, and the legal  
526 representative of a deceased person or the receiver or trustees  
527 of any person. If the employer is a corporation, parties in  
528 actual control of the corporation, including, but not limited  
529 to, the president, officers who exercise broad corporate powers,  
530 directors, and all shareholders who directly or indirectly own a  
531 controlling interest in the corporation, are considered the  
532 employer for the purposes of ss. 440.105 and 440.106.

533 (b) A landowner shall not be considered the employer of  
534 persons hired by the homeowner to carry out construction on the  
535 homeowner's own premises if those premises are not intended for  
536 immediate sale or resale.

537 (c) Facilities serving individuals under subparagraph  
538 (15)(d)12. shall be considered agents of the Agency for Health  
539 Care Administration as it relates to providing Adult Day  
540 Training Services under the Home and Community-Based Medicaid



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541 Waiver program and not employers or third parties for the  
 542 purpose of limiting or denying Medicaid benefits.

543 (38) "Catastrophic injury" means a permanent impairment  
 544 constituted by:

545 (a) Spinal cord injury involving severe paralysis of an  
 546 arm, a leg, or the trunk;

547 (b) Amputation of an arm, a hand, a foot, or a leg  
 548 involving the effective loss of use of that appendage;

549 (c) Severe brain or closed-head injury as evidenced by:

550 1. Severe sensory or motor disturbances;

551 2. Severe communication disturbances;

552 3. Severe complex integrated disturbances of cerebral  
 553 function;

554 4. Severe episodic neurological disorders; or

555 5. Other severe brain and closed-head injury conditions at  
 556 least as severe in nature as any condition provided in  
 557 subparagraphs 1.-4.;

558 (d) Second-degree or third-degree burns of 25 percent or  
 559 more of the total body surface or third-degree burns of 5  
 560 percent or more to the face and hands; or

561 (e) Total or industrial blindness; ~~or~~

562 ~~(f) Any other injury that would otherwise qualify under~~  
 563 ~~this chapter of a nature and severity that would qualify an~~  
 564 ~~employee to receive disability income benefits under Title II or~~  
 565 ~~supplemental security income benefits under Title XVI of the~~  
 566 ~~federal Social Security Act as the Social Security Act existed~~  
 567 ~~on July 1, 1992, without regard to any time limitations provided~~  
 568 ~~under that act.~~

569 Section 3. Effective January 1, 2004, subsections (3),

570 (6), (10), and (13) of section 440.05, Florida Statutes, are



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571 amended, and subsection (14) is added to said section, to read:

572 440.05 Election of exemption; revocation of election;  
573 notice; certification.--

574 (3) Each ~~sole proprietor, partner, or~~ officer of a  
575 corporation who is ~~actively~~ engaged in the construction industry  
576 and who elects an exemption from this chapter or who, after  
577 electing such exemption, revokes that exemption, must mail a  
578 written notice to such effect to the department on a form  
579 prescribed by the department. The notice of election to be  
580 exempt from the provisions of this chapter must be notarized and  
581 under oath. The notice of election to be exempt which is  
582 submitted to the department by the ~~sole proprietor, partner, or~~  
583 officer of a corporation who is allowed to claim an exemption as  
584 provided by this chapter must list the name, federal tax  
585 identification number, social security number, all certified or  
586 registered licenses issued pursuant to chapter 489 held by the  
587 person seeking the exemption, a copy of relevant documentation  
588 as to employment status filed with the Internal Revenue Service  
589 as specified by the department, a copy of the relevant  
590 occupational license in the primary jurisdiction of the  
591 business, and, ~~for corporate officers and partners,~~ the  
592 registration number of the corporation ~~or partnership~~ filed with  
593 the Division of Corporations of the Department of State along  
594 with a copy of the stock certificate evidencing the required  
595 ownership under this chapter. The notice of election to be  
596 exempt must identify each ~~sole proprietorship, partnership, or~~  
597 corporation that employs the person electing the exemption and  
598 must list the social security number or federal tax  
599 identification number of each such employer and the additional  
600 documentation required by this section. In addition, the notice



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601 of election to be exempt must provide that the ~~sole proprietor,~~  
 602 ~~partner, or~~ officer electing an exemption is not entitled to  
 603 benefits under this chapter, must provide that the election does  
 604 not exceed exemption limits for officers ~~and partnerships~~  
 605 provided in s. 440.02, and must certify that any employees of  
 606 the corporation whose ~~sole proprietor, partner, or~~ officer  
 607 elects ~~electing~~ an exemption are covered by workers'  
 608 compensation insurance. Upon receipt of the notice of the  
 609 election to be exempt, receipt of all application fees, and a  
 610 determination by the department that the notice meets the  
 611 requirements of this subsection, the department shall issue a  
 612 certification of the election to the ~~sole proprietor, partner,~~  
 613 ~~or~~ officer, unless the department determines that the  
 614 information contained in the notice is invalid. The department  
 615 shall revoke a certificate of election to be exempt from  
 616 coverage upon a determination by the department that the person  
 617 does not meet the requirements for exemption or that the  
 618 information contained in the notice of election to be exempt is  
 619 invalid. The certificate of election must list the name ~~names~~ of  
 620 the ~~sole proprietorship, partnership, or~~ corporation listed in  
 621 the request for exemption. A new certificate of election must be  
 622 obtained each time the person is employed by a new ~~sole~~  
 623 ~~proprietorship, partnership,~~ or different corporation that is  
 624 not listed on the certificate of election. A copy of the  
 625 certificate of election must be sent to each workers'  
 626 compensation carrier identified in the request for exemption.  
 627 Upon filing a notice of revocation of election, an ~~a~~ ~~sole~~  
 628 ~~proprietor, partner, or~~ officer who is a subcontractor or an  
 629 officer of a corporate subcontractor must notify her or his  
 630 contractor. Upon revocation of a certificate of election of



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631 exemption by the department, the department shall notify the  
632 workers' compensation carriers identified in the request for  
633 exemption.

634 (6) A construction industry certificate of election to be  
635 exempt which is issued in accordance with this section shall be  
636 valid for 2 years after the effective date stated thereon. Both  
637 the effective date and the expiration date must be listed on the  
638 face of the certificate by the department. The construction  
639 industry certificate must expire at midnight, 2 years from its  
640 issue date, as noted on the face of the exemption certificate.  
641 Any person who has received from the division a construction  
642 industry certificate of election to be exempt which is in effect  
643 on December 31, 1998, shall file a new notice of election to be  
644 exempt by the last day in his or her birth month following  
645 December 1, 1998. A construction industry certificate of  
646 election to be exempt may be revoked before its expiration by  
647 the ~~sole proprietor, partner, or~~ officer for whom it was issued  
648 or by the department for the reasons stated in this section. At  
649 least 60 days prior to the expiration date of a construction  
650 industry certificate of exemption issued after December 1, 1998,  
651 the department shall send notice of the expiration date and an  
652 application for renewal to the certificateholder at the address  
653 on the certificate.

654 (10) Each ~~sole proprietor, partner, or~~ officer of a  
655 corporation who is actively engaged in the construction industry  
656 and who elects an exemption from this chapter shall maintain  
657 business records as specified by the division by rule, which  
658 rules must include the provision that any corporation with  
659 exempt officers ~~and any partnership actively~~ engaged in the  
660 construction industry ~~with exempt partners~~ must maintain written



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661 statements of those exempted persons affirmatively acknowledging  
 662 each such individual's exempt status.

663 (13) Any corporate officer permitted by this chapter to  
 664 claim ~~claiming~~ an exemption ~~under this section~~ must be listed on  
 665 the records of this state's Secretary of State, Division of  
 666 Corporations, as a corporate officer. ~~If the person who claims~~  
 667 ~~an exemption as a corporate officer is not so listed on the~~  
 668 ~~records of the Secretary of State, the individual must provide~~  
 669 ~~to the division, upon request by the division, a notarized~~  
 670 ~~affidavit stating that the individual is a bona fide officer of~~  
 671 ~~the corporation and stating the date his or her appointment or~~  
 672 ~~election as a corporate officer became or will become effective.~~  
 673 ~~The statement must be signed under oath by both the officer and~~  
 674 ~~the president or chief operating officer of the corporation and~~  
 675 ~~must be notarized.~~ The division shall issue a stop-work order  
 676 under s. 440.107(1) to any corporation who employs a person who  
 677 claims to be exempt as a corporate officer but who fails or  
 678 refuses to produce the documents required under this subsection  
 679 to the division within 3 business days after the request is  
 680 made.

681 (14) An officer of a corporation who elects exemption from  
 682 this chapter by filing a certificate of election under this  
 683 section may not recover benefits or compensation under this  
 684 chapter. For purposes of determining the appropriate premium for  
 685 workers' compensation coverage, carriers may not consider any  
 686 officer of a corporation who validly meets the requirements of  
 687 this section to be an employee.

688 Section 4. Section 440.06, Florida Statutes, is amended to  
 689 read:

690 440.06 Failure to secure compensation; effect.--Every



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691 employer who fails to secure the payment of compensation, as  
 692 provided in s. 440.10, by failing to meet the requirements of  
 693 ~~under this chapter as provided in s. 440.38~~ may not, in any suit  
 694 brought against him or her by an employee subject to this  
 695 chapter to recover damages for injury or death, defend such a  
 696 suit on the grounds that the injury was caused by the negligence  
 697 of a fellow servant, that the employee assumed the risk of his  
 698 or her employment, or that the injury was due to the comparative  
 699 negligence of the employee.

700 Section 5. Effective January 1, 2004, section 440.077,  
 701 Florida Statutes, is amended to read:

702 440.077 When a corporate ~~sole proprietor, partner, or~~  
 703 ~~officer~~ rejects chapter, effect.--An A sole proprietor, partner,  
 704 ~~or~~ officer of a corporation who is permitted to elect an  
 705 exemption under this chapter ~~actively engaged in the~~  
 706 ~~construction industry~~ and who elects to be exempt from the  
 707 provisions of this chapter may not recover benefits under this  
 708 chapter.

709 Section 6. Subsection (1) of section 440.09, Florida  
 710 Statutes, is amended, and paragraph (e) is added to subsection  
 711 (7) of said section, to read:

712 440.09 Coverage.--

713 (1) The employer must ~~shall~~ pay compensation or furnish  
 714 benefits required by this chapter if the employee suffers an  
 715 accidental compensable injury or death arising out of work  
 716 performed in the course and the scope of employment. The injury,  
 717 its occupational cause, and any resulting manifestations or  
 718 disability must ~~shall~~ be established to a reasonable degree of  
 719 medical certainty, based on and by objective relevant medical  
 720 findings, and the compensable accident must be the major





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721 contributing cause of any resulting injuries. For purposes of  
722 this section, "major contributing cause" means the cause which  
723 is more than 50 percent responsible for the injury as compared  
724 to all other causes combined for which treatment or benefits are  
725 sought. In cases involving occupational disease or repetitive  
726 exposure, both causation and sufficient exposure to support  
727 causation must be proven by clear and convincing evidence. Pain  
728 or other subjective complaints alone, in the absence of  
729 objective relevant medical findings are not compensable. For  
730 purposes of this section, "objective relevant medical findings"  
731 are those objective findings that correlate to the subjective  
732 complaints of the injured employee and are confirmed by physical  
733 examination findings or diagnostic testing. Establishment of the  
734 causal relationship between a compensable accident and injuries  
735 for conditions that are not readily observable must be by  
736 medical evidence only, as demonstrated by physical examination  
737 findings or diagnostic testing. Major contributing cause must be  
738 demonstrated by medical evidence only. Mental or nervous  
739 injuries occurring as a manifestation of an injury compensable  
740 under this section shall be demonstrated by clear and convincing  
741 evidence.

742 (a) This chapter does not require any compensation or  
743 benefits for any subsequent injury the employee suffers as a  
744 result of an original injury arising out of and in the course of  
745 employment unless the original injury is the major contributing  
746 cause of the subsequent injury. Major contributing cause must be  
747 demonstrated by medical evidence only.

748 (b) If an injury arising out of and in the course of  
749 employment combines with a preexisting disease or condition to  
750 cause or prolong disability or need for treatment, the employer



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751 must pay compensation or benefits required by this chapter only  
752 to the extent that the injury arising out of and in the course  
753 of employment is and remains more than 50 percent responsible  
754 for the injury as compared to all other causes combined and  
755 thereafter remains the major contributing cause of the  
756 disability or need for treatment. Major contributing cause must  
757 be demonstrated by medical evidence only.

758 (c) Death resulting from an operation by a surgeon  
759 furnished by the employer for the cure of hernia as required in  
760 s. 440.15(6) shall for the purpose of this chapter be considered  
761 to be a death resulting from the accident causing the hernia.

762 (d) If an accident happens while the employee is employed  
763 elsewhere than in this state, which would entitle the employee  
764 or his or her dependents to compensation if it had happened in  
765 this state, the employee or his or her dependents are entitled  
766 to compensation if the contract of employment was made in this  
767 state, or the employment was principally localized in this  
768 state. However, if an employee receives compensation or damages  
769 under the laws of any other state, the total compensation for  
770 the injury may not be greater than is provided in this chapter.

771 (7)

772 (e) As a part of rebutting any presumptions under  
773 paragraph (b), the injured worker must prove the actual  
774 quantitative amounts of the drug or its metabolites as measured  
775 on the initial and confirmation post-accident drug tests of the  
776 injured worker's urine sample and provide additional evidence  
777 regarding the absence of drug influence other than the worker's  
778 denial of being under the influence of a drug. No drug test  
779 conducted on a urine sample shall be rejected as to its results  
780 or the presumption imposed under paragraph (b) on the basis of



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781 urine being bodily fluid tested.

782 Section 7. Effective January 1, 2004, subsection (1) of  
 783 section 440.10, Florida Statutes, is amended to read:

784 440.10 Liability for compensation.--

785 (1)(a) Every employer coming within the provisions of this  
 786 chapter, ~~including any brought within the chapter by waiver of~~  
 787 ~~exclusion or of exemption,~~ shall be liable for, and shall  
 788 secure, the payment to his or her employees, or any physician,  
 789 surgeon, or pharmacist providing services under the provisions  
 790 of s. 440.13, of the compensation payable under ss. 440.13,  
 791 440.15, and 440.16. Any contractor or subcontractor who engages  
 792 in any public or private construction in the state shall secure  
 793 and maintain compensation for his or her employees under this  
 794 chapter as provided in s. 440.38.

795 (b) In case a contractor sublets any part or parts of his  
 796 or her contract work to a subcontractor or subcontractors, all  
 797 of the employees of such contractor and subcontractor or  
 798 subcontractors engaged on such contract work shall be deemed to  
 799 be employed in one and the same business or establishment; and  
 800 the contractor shall be liable for, and shall secure, the  
 801 payment of compensation to all such employees, except to  
 802 employees of a subcontractor who has secured such payment.

803 (c) A contractor shall ~~may~~ require a subcontractor to  
 804 provide evidence of workers' compensation insurance ~~or a copy of~~  
 805 ~~his or her certificate of election.~~ A subcontractor that is a  
 806 corporation and that has an officer who elects ~~electing~~ to be  
 807 exempt as permitted under this chapter ~~a sole proprietor,~~  
 808 ~~partner, or officer of a corporation~~ shall provide a copy of his  
 809 or her certificate of exemption ~~election~~ to the contractor.



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810 (d)1. If a contractor becomes liable for the payment of  
811 compensation to the employees of a subcontractor who has failed  
812 to secure such payment in violation of s. 440.38, the contractor  
813 or other third-party payor shall be entitled to recover from the  
814 subcontractor all benefits paid or payable plus interest unless  
815 the contractor and subcontractor have agreed in writing that the  
816 contractor will provide coverage.

817 2. If a contractor or third-party payor becomes liable for  
818 the payment of compensation to the corporate officer ~~employee~~ of  
819 a subcontractor who is ~~actively~~ engaged in the construction  
820 industry and has elected to be exempt from the provisions of  
821 this chapter, but whose election is invalid, the contractor or  
822 third-party payor may recover from the claimant, ~~partnership,~~ or  
823 corporation all benefits paid or payable plus interest, unless  
824 the contractor and the subcontractor have agreed in writing that  
825 the contractor will provide coverage.

826 (e) A subcontractor providing services in conjunction with  
827 a contractor on the same project or contract work is not liable  
828 for the payment of compensation to the employees of another  
829 subcontractor or the contractor on such contract work and is ~~not~~  
830 protected by the exclusiveness-of-liability provisions of s.  
831 440.11 from any action at law or in admiralty on account of  
832 injury to an ~~of such~~ employee of another subcontractor, or of  
833 the contractor, provided that:

834 1. The subcontractor has secured workers' compensation  
835 insurance for its employees or the contractor has secured such  
836 insurance on behalf of the subcontractor and its employees in  
837 accordance with paragraph (b).

838 2. The subcontractor's own culpable negligence was not the  
839 major contributing cause of the injury.



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840 (f) If an employer fails to secure compensation as  
841 required by this chapter, the department shall ~~may~~ assess  
842 against the employer a penalty not to exceed \$5,000 for each  
843 employee of that employer who is classified by the employer as  
844 an independent contractor but who is found by the department to  
845 not meet the criteria for an independent contractor that are set  
846 forth in s. 440.02. The division shall adopt rules to administer  
847 the provisions of this paragraph.

848 ~~(g) For purposes of this section, a person is conclusively~~  
849 ~~presumed to be an independent contractor if:~~

850 ~~1. The independent contractor provides the general~~  
851 ~~contractor with an affidavit stating that he or she meets all~~  
852 ~~the requirements of s. 440.02; and~~

853 ~~2. The independent contractor provides the general~~  
854 ~~contractor with a valid certificate of workers' compensation~~  
855 ~~insurance or a valid certificate of exemption issued by the~~  
856 ~~department.~~

857  
858 ~~A sole proprietor, partner, or officer of a corporation who~~  
859 ~~elects exemption from this chapter by filing a certificate of~~  
860 ~~election under s. 440.05 may not recover benefits or~~  
861 ~~compensation under this chapter. An independent contractor who~~  
862 ~~provides the general contractor with both an affidavit stating~~  
863 ~~that he or she meets the requirements of s. 440.02 and a~~  
864 ~~certificate of exemption is not an employee under s. 440.02 and~~  
865 ~~may not recover benefits under this chapter. For purposes of~~  
866 ~~determining the appropriate premium for workers' compensation~~  
867 ~~coverage, carriers may not consider any person who meets the~~  
868 ~~requirements of this paragraph to be an employee.~~



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869 Section 8. Section 440.1025, Florida Statutes, is amended  
870 to read:

871 440.1025 ~~Consideration of public~~ Employer workplace safety  
872 program in rate-setting; program requirements; rulemaking.—

873 (1) For a public or private employer to be eligible for  
874 receipt of specific identifiable consideration under s. 627.0915  
875 for a workplace safety program in the setting of rates, the  
876 ~~public~~ employer must have a workplace safety program. At a  
877 minimum, the program must include a written safety policy and  
878 safety rules, and make provision for safety inspections,  
879 preventative maintenance, safety training, first-aid, accident  
880 investigation, and necessary recordkeeping. ~~For purposes of this~~  
881 ~~section, "public employer" means any agency within state,~~  
882 ~~county, or municipal government employing individuals for~~  
883 ~~salary, wages, or other remuneration.~~ The division may  
884 promulgate rules for insurers to utilize in determining ~~public~~  
885 employer compliance with the requirements of this section.

886 (2) The division shall publicize on the Internet, and  
887 shall encourage insurers to publicize, the availability of free  
888 safety consultation services and safety program resources.

889 Section 9. Subsections (1), (2), (3), and (5) and  
890 paragraph (f) of subsection (4) of section 440.105, Florida  
891 Statutes, are amended to read:

892 440.105 Prohibited activities; reports; penalties;  
893 limitations.--

894 (1)(a) Any insurance carrier, any individual self-insured,  
895 any commercial or group self-insurance fund, any professional  
896 practitioner licensed or regulated by the Department of Health  
897 ~~Business and Professional Regulation~~, except as otherwise  
898 provided by law, any medical review committee as defined in s.



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899 766.101, any private medical review committee, and any insurer,  
 900 agent, or other person licensed under the insurance code, or any  
 901 employee thereof, having knowledge or who believes that a  
 902 fraudulent act or any other act or practice which, upon  
 903 conviction, constitutes a felony or misdemeanor under this  
 904 chapter is being or has been committed shall send to the  
 905 Division of Insurance Fraud, Bureau of Workers' Compensation  
 906 Fraud, a report or information pertinent to such knowledge or  
 907 belief and such additional information relative thereto as the  
 908 bureau may require. The bureau shall review such information or  
 909 reports and select such information or reports as, in its  
 910 judgment, may require further investigation. It shall then cause  
 911 an independent examination of the facts surrounding such  
 912 information or report to be made to determine the extent, if  
 913 any, to which a fraudulent act or any other act or practice  
 914 which, upon conviction, constitutes a felony or a misdemeanor  
 915 under this chapter is being committed. The bureau shall report  
 916 any alleged violations of law which its investigations disclose  
 917 to the appropriate licensing agency and state attorney or other  
 918 prosecuting agency having jurisdiction with respect to any such  
 919 violations of this chapter. If prosecution by the state attorney  
 920 or other prosecuting agency having jurisdiction with respect to  
 921 such violation is not begun within 60 days of the bureau's  
 922 report, the state attorney or other prosecuting agency having  
 923 jurisdiction with respect to such violation shall inform the  
 924 bureau of the reasons for the lack of prosecution.

925 (b) In the absence of fraud or bad faith, a person is not  
 926 subject to civil liability for libel, slander, or any other  
 927 relevant tort by virtue of filing reports, without malice, or  
 928 furnishing other information, without malice, required by this



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929 section or required by the bureau, and no civil cause of action  
930 of any nature shall arise against such person:

931 1. For any information relating to suspected fraudulent  
932 acts furnished to or received from law enforcement officials,  
933 their agents, or employees;

934 2. For any information relating to suspected fraudulent  
935 acts furnished to or received from other persons subject to the  
936 provisions of this chapter; or

937 3. For any such information relating to suspected  
938 fraudulent acts furnished in reports to the bureau, or the  
939 National Association of Insurance Commissioners.

940 (2) Whoever violates any provision of this subsection  
941 commits a misdemeanor of the first ~~second~~ degree, punishable as  
942 provided in s. 775.082 or s. 775.083.

943 (a) It shall be unlawful for any employer to knowingly:

944 1. Coerce or attempt to coerce, as a precondition to  
945 employment or otherwise, an employee to obtain a certificate of  
946 election of exemption pursuant to s. 440.05.

947 2. Discharge or refuse to hire an employee or job  
948 applicant because the employee or applicant has filed a claim  
949 for benefits under this chapter.

950 3. Discharge, discipline, or take any other adverse  
951 personnel action against any employee for disclosing information  
952 to the department or any law enforcement agency relating to any  
953 violation or suspected violation of any of the provisions of  
954 this chapter or rules promulgated hereunder.

955 4. Violate a stop-work order issued by the department  
956 pursuant to s. 440.107.

957 (b) It shall be unlawful for any insurance entity to  
958 revoke or cancel a workers' compensation insurance policy or





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959 membership because an employer has returned an employee to work  
 960 or hired an employee who has filed a workers' compensation  
 961 claim.

962 (3) Whoever violates any provision of this subsection  
 963 commits a felony ~~misdemeanor~~ of the third ~~first~~ degree,  
 964 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.  
 965 775.084.

966 (a) It shall be unlawful for any employer to knowingly  
 967 fail to update applications for coverage as required by s.  
 968 440.381(1) and department ~~of Insurance~~ rules, or to post notice  
 969 of coverage pursuant to s. 440.40.

970 (b) It is unlawful for any attorney or other person, in  
 971 his or her individual capacity or in his or her capacity as a  
 972 public or private employee, or for any firm, corporation,  
 973 partnership, or association to receive any fee or other  
 974 consideration or any gratuity from a person on account of  
 975 services rendered for a person in connection with any  
 976 proceedings arising under this chapter, unless such fee,  
 977 consideration, or gratuity is approved by a judge of  
 978 compensation claims or by the Deputy Chief Judge of Compensation  
 979 Claims.

980 (4) Whoever violates any provision of this subsection  
 981 commits insurance fraud, punishable as provided in paragraph  
 982 (f).

983 (f) If the monetary value ~~amount~~ of any claim or workers'  
 984 compensation insurance premium involved in any violation of this  
 985 subsection:

986 1. Is less than \$20,000, the offender commits a felony of  
 987 the third degree, punishable as provided in s. 775.082, s.  
 988 775.083, or s. 775.084.



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989 2. Is \$20,000 or more, but less than \$100,000, the  
 990 offender commits a felony of the second degree, punishable as  
 991 provided in s. 775.082, s. 775.083, or s. 775.084.

992 3. Is \$100,000 or more, the offender commits a felony of  
 993 the first degree, punishable as provided in s. 775.082, s.  
 994 775.083, or s. 775.084.

995 (5) It shall be unlawful for any attorney or other person,  
 996 in his or her individual capacity or in his or her capacity as a  
 997 public or private employee or for any firm, corporation,  
 998 partnership, or association, to unlawfully solicit any business  
 999 in and about city or county hospitals, courts, or any public  
 1000 institution or public place; in and about private hospitals or  
 1001 sanitariums; in and about any private institution; or upon  
 1002 private property of any character whatsoever for the purpose of  
 1003 making workers' compensation claims. Whoever violates any  
 1004 provision of this subsection commits a felony of the second  
 1005 ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083,  
 1006 or s. 775.085.

1007 Section 10. Subsection (3) of section 440.1051, Florida  
 1008 Statutes, is amended to read:

1009 440.1051 Fraud reports; civil immunity; criminal  
 1010 penalties.--

1011 (3) A person who calls and, knowingly and falsely, reports  
 1012 workers' compensation fraud or who, in violation of subsection  
 1013 (2) retaliates against a person for making such report, commits  
 1014 ~~is guilty of a felony misdemeanor~~ of the third ~~first~~ degree,  
 1015 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or 775.084  
 1016 ~~both~~.

1017 Section 11. Subsections (1), (3), (5), and (6) of section  
 1018 440.107, Florida Statutes, are amended to read:



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1019 440.107 Department powers to enforce employer compliance  
 1020 with coverage requirements.--

1021 (1) The Legislature finds that the failure of an employer  
 1022 to comply with the workers' compensation coverage requirements  
 1023 under this chapter poses an immediate danger to public health,  
 1024 safety, and welfare. ~~The Legislature authorizes~~ The department  
 1025 shall ~~to~~ secure employer compliance with the workers'  
 1026 compensation coverage requirements under this chapter ~~and~~  
 1027 ~~authorizes the department to conduct investigations for the~~  
 1028 ~~purpose of ensuring employer compliance.~~

1029 (3) In addition to any other powers provided by this  
 1030 chapter, the department is authorized to:

1031 (a) Conduct investigations for the purpose of ensuring  
 1032 employer compliance;

1033 (b) Enter and inspect any place of business at any  
 1034 reasonable time for the purpose of investigating employer  
 1035 compliance;

1036 (c) Examine and copy business records;

1037 ~~(d) In discharging its duties, the department may~~  
 1038 Administer oaths and affirmations;~~;~~

1039 ~~(e) Certify to official acts;~~

1040 (f) Issue and serve subpoenas to compel the attendance of  
 1041 witnesses ~~or~~ and the production of business records, books,  
 1042 papers, correspondence, memoranda, and other records deemed  
 1043 necessary by the department as evidence in order to ensure  
 1044 proper compliance with the coverage provisions of this chapter;

1045 (g) Issue stop-work orders, penalty assessment orders, and  
 1046 any other orders necessary for the administration of this  
 1047 chapter;

1048 (h) Enforce the terms of a stop-work order;



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1049        (i) Levy and pursue actions to recover penalties; and  
 1050        (j) Seek injunctions and other appropriate relief.  
 1051        (5)(a) Whenever the department determines that an employer  
 1052 who is required to secure the payment to his or her employees of  
 1053 the compensation provided for by this chapter has failed to do  
 1054 so, has materially understated or concealed payroll, has  
 1055 materially misrepresented or concealed an employee's duties so  
 1056 as to avoid proper classification of the employee for premium  
 1057 calculations, or has materially misrepresented or concealed  
 1058 information pertinent to the computation and application of an  
 1059 experience rating modification factor, such failure,  
 1060 understatement, concealment, or misrepresentation shall subject  
 1061 the employer to the sanctions set forth in this section and  
 1062 shall be deemed an immediate serious danger to public health,  
 1063 safety, or welfare sufficient to justify service by the  
 1064 department of a stop-work order on the employer, requiring the  
 1065 cessation of all business operations at the place of employment  
 1066 or job site. If the division makes such a determination, the  
 1067 division shall issue a stop-work order within 72 hours. The  
 1068 order shall take effect upon the date of service upon the  
 1069 employer and shall remain in effect until the department issues  
 1070 an order releasing the stop-work order upon the finding that the  
 1071 employer has come into compliance with the coverage requirements  
 1072 of this chapter and paid any penalty assessed under this  
 1073 ~~section, unless the employer provides evidence satisfactory to~~  
 1074 ~~the department of having secured any necessary insurance or~~  
 1075 ~~self insurance and pays a civil penalty to the department, to be~~  
 1076 ~~deposited by the department into the Workers' Compensation~~  
 1077 ~~Administration Trust Fund, in the amount of \$100 per day for~~  
 1078 ~~each day the employer was not in compliance with this chapter.~~



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1079 The issuance of a stop-work order pursuant to this subsection  
 1080 shall have no effect upon an employer's or carrier's duty to  
 1081 provide benefits under this chapter, or the employer's and  
 1082 carrier's rights under this chapter, including exclusive remedy.

1083 (b) Stop-work orders and penalty assessment orders issued  
 1084 under this subsection against a corporation, partnership, or  
 1085 sole proprietorship shall be in effect against any successor  
 1086 corporation or business entity that has one or more of the same  
 1087 principals or officers as the corporation or partnership against  
 1088 which the stop-work order was issued and which is engaged in the  
 1089 same or a related enterprise.

1090 (c) The department shall assess a penalty of \$1,000 per  
 1091 day against an employer for each day that the employer conducts  
 1092 business operations that are in violation of a stop-work order.

1093 (6) In addition to the issuance of a stop-work order and  
 1094 any other penalties provided for in this chapter, the department  
 1095 may file a complaint in the circuit court in and for Leon County  
 1096 to enjoin any employer, who has failed to secure the payment of  
 1097 workers' compensation as required by this chapter, from  
 1098 employing individuals and from conducting business until the  
 1099 employer presents evidence satisfactory to the department of  
 1100 having secured the payment of workers' ~~for~~ compensation as  
 1101 required by this chapter and pays any administrative fine or a  
 1102 civil penalty assessed or owed to the department, to be  
 1103 deposited by the department into the Workers' Compensation  
 1104 Administration Trust Fund, ~~in the amount of \$100 per day for~~  
 1105 ~~each day the employer was not in compliance with this chapter.~~

1106 Section 12. Subsections (1) and (3) of section 440.11,  
 1107 Florida Statutes, are amended to read:

1108 440.11 Exclusiveness of liability.--



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1109 (1) The liability of an employer prescribed in s. 440.10  
1110 shall be exclusive and in place of all other liability,  
1111 including vicarious liability, of such employer to any third-  
1112 party tortfeasor and to the employee, the legal representative  
1113 thereof, husband or wife, parents, dependents, next of kin, and  
1114 anyone otherwise entitled to recover damages from such employer  
1115 at law or in admiralty on account of such injury or death,  
1116 except as follows: ~~that~~

1117 (a) If an employer fails to secure payment of compensation  
1118 as required by this chapter, an injured employee, or the legal  
1119 representative thereof in case death results from the injury,  
1120 may elect to claim compensation under this chapter or to  
1121 maintain an action at law or in admiralty for damages on account  
1122 of such injury or death. In such action the defendant may not  
1123 plead as a defense that the injury was caused by negligence of a  
1124 fellow employee, that the employee assumed the risk of the  
1125 employment, or that the injury was due to the comparative  
1126 negligence of the employee.

1127 (b) When an employer commits an intentional tort that  
1128 causes the injury or death of the employee. For purposes of this  
1129 exception, an employer's actions shall be deemed to constitute  
1130 an intentional tort and not an accident only when the employee  
1131 proves, by clear and convincing evidence, that:

1132 1. The employer deliberately intended to injure the  
1133 employee; or

1134 2. The employer engaged in conduct that the employer knew,  
1135 based on prior similar accidents or on explicit warnings  
1136 specifically identifying a known danger, was certain to result  
1137 in injury or death to the employee, and the employee was not  
1138 aware of the risk because the danger was not apparent and the



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1139 employer deliberately concealed or misrepresented the danger so  
1140 as to prevent the employee from exercising informed judgment  
1141 about whether to perform the work.

1142  
1143 The same immunities from liability enjoyed by an employer shall  
1144 extend as well to each employee of the employer when such  
1145 employee is acting in furtherance of the employer's business and  
1146 the injured employee is entitled to receive benefits under this  
1147 chapter. Such fellow-employee immunities shall not be applicable  
1148 to an employee who acts, with respect to a fellow employee, with  
1149 willful and wanton disregard or unprovoked physical aggression  
1150 or with gross negligence when such acts result in injury or  
1151 death or such acts proximately cause such injury or death, nor  
1152 shall such immunities be applicable to employees of the same  
1153 employer when each is operating in the furtherance of the  
1154 employer's business but they are assigned primarily to unrelated  
1155 works within private or public employment. The same immunity  
1156 provisions enjoyed by an employer shall also apply to any sole  
1157 proprietor, partner, corporate officer or director, supervisor,  
1158 or other person who in the course and scope of his or her duties  
1159 acts in a managerial or policymaking capacity and the conduct  
1160 which caused the alleged injury arose within the course and  
1161 scope of said managerial or policymaking duties and was not a  
1162 violation of a law, whether or not a violation was charged, for  
1163 which the maximum penalty which may be imposed does not exceed  
1164 60 days' imprisonment as set forth in s. 775.082. The immunity  
1165 from liability provided in this subsection extends to county  
1166 governments with respect to employees of county constitutional  
1167 officers whose offices are funded by the board of county  
1168 commissioners.



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1169 (3) An employer's workers' compensation carrier, service  
 1170 agent, or safety consultant shall not be liable as a third-party  
 1171 tortfeasor to employees of the employer or employees of its  
 1172 subcontractors for assisting the employer and its  
 1173 subcontractors, if any, in carrying out the employer's rights  
 1174 and responsibilities under this chapter by furnishing any safety  
 1175 inspection, safety consultative service, or other safety service  
 1176 incidental to the workers' compensation or employers' liability  
 1177 coverage or to the workers' compensation or employer's liability  
 1178 servicing contract. Without limitation, a safety consultant may  
 1179 include an owner, as defined in chapter 713, or an owner's  
 1180 related, affiliated, or subsidiary companies and the employees  
 1181 of each. The exclusion from liability under this subsection  
 1182 shall not apply in any case in which injury or death is  
 1183 proximately caused by the willful and unprovoked physical  
 1184 aggression, or by the negligent operation of a motor vehicle, by  
 1185 employees, officers, or directors of the employer's workers'  
 1186 compensation carrier, service agent, or safety consultant.

1187 Section 13. Paragraph (m) of subsection (1), subsection  
 1188 (12), and paragraph (a) of subsection (15) of section 440.13,  
 1189 Florida Statutes, are amended to read:

1190 440.13 Medical services and supplies; penalty for  
 1191 violations; limitations.--

1192 (1) DEFINITIONS.--As used in this section, the term:

1193 (m) "Medically necessary" means any medical service or  
 1194 medical supply which is used to identify or treat an illness or  
 1195 injury, is appropriate to the patient's diagnosis and status of  
 1196 recovery, and is consistent with the location of service, the  
 1197 level of care provided, and applicable practice parameters. The  
 1198 service should be widely accepted among practicing health care





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1199 providers, based on scientific criteria, and determined to be  
 1200 reasonably safe. The service must not be of an experimental,  
 1201 investigative, or research nature, except in those instances in  
 1202 which prior approval of the Agency for Health Care  
 1203 Administration has been obtained. The Agency for Health Care  
 1204 Administration shall adopt rules providing for such approval on  
 1205 a case-by-case basis when the service or supply is shown to have  
 1206 significant benefits to the recovery and well-being of the  
 1207 patient. The agency shall ensure that applicable practice  
 1208 parameters are established under subsection (15) for physician  
 1209 medical services, including, but not limited to, pain management  
 1210 and psychiatric treatment.

1211 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
 1212 REIMBURSEMENT ALLOWANCES.--

1213 (a) A three-member panel is created, consisting of the  
 1214 Insurance Commissioner, or the Insurance Commissioner's  
 1215 designee, and two members to be appointed by the Governor,  
 1216 subject to confirmation by the Senate, one member who, on  
 1217 account of present or previous vocation, employment, or  
 1218 affiliation, shall be classified as a representative of  
 1219 employers, the other member who, on account of previous  
 1220 vocation, employment, or affiliation, shall be classified as a  
 1221 representative of employees. The panel shall determine statewide  
 1222 schedules of maximum reimbursement allowances for medically  
 1223 necessary treatment, care, and attendance provided by  
 1224 physicians, hospitals, ambulatory surgical centers, work-  
 1225 hardening programs, pain programs, and durable medical  
 1226 equipment. The maximum reimbursement allowances for inpatient  
 1227 hospital care shall be based on a schedule of per diem rates, to  
 1228 be approved by the three-member panel ~~no later than March 1,~~



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1229 ~~1994~~, to be used in conjunction with a precertification manual  
1230 as determined by the agency. All compensable charges for  
1231 hospital outpatient care shall be reimbursed at 75 percent of  
1232 usual and customary charges, except as otherwise provided by  
1233 this subsection. ~~Until the three-member panel approves a~~  
1234 ~~schedule of per diem rates for inpatient hospital care and it~~  
1235 ~~becomes effective, all compensable charges for hospital~~  
1236 ~~inpatient care must be reimbursed at 75 percent of their usual~~  
1237 ~~and customary charges~~. Annually, the three-member panel shall  
1238 adopt schedules of maximum reimbursement allowances for  
1239 physicians, hospital inpatient care, hospital outpatient care,  
1240 ambulatory surgical centers, work-hardening programs, and pain  
1241 programs. ~~However, the maximum percentage of increase in the~~  
1242 ~~individual reimbursement allowance may not exceed the percentage~~  
1243 ~~of increase in the Consumer Price Index for the previous year.~~  
1244 An individual physician, hospital, ambulatory surgical center,  
1245 pain program, or work-hardening program shall be reimbursed  
1246 either ~~the usual and customary charge for treatment, care, and~~  
1247 ~~attendance~~, the agreed-upon contract price, or the maximum  
1248 reimbursement allowance in the appropriate schedule, ~~whichever~~  
1249 ~~is less~~.

1250 (b) Maximum reimbursement for physicians, freestanding  
1251 ambulatory surgical centers, pain programs, and work-hardening  
1252 programs shall be equal to 100 percent of the reimbursement  
1253 allowed by Medicare for the services provided or the medical  
1254 reimbursement level adopted by the three-member panel as of  
1255 January 1, 2003, whichever is greater. Effective January 1,  
1256 2005, the maximum reimbursement for physicians, freestanding  
1257 ambulatory surgical centers, pain programs, and work-hardening  
1258 programs shall increase 5 percent per year for 5 consecutive



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1259 years unless the three-member panel determines that the 5-  
1260 percent annual increase would result in significant rate  
1261 increases for carriers. Maximum reimbursement for surgical  
1262 procedures shall be equal to 140 percent of the reimbursement  
1263 allowed by Medicare for the service provided or the medical  
1264 reimbursement level adopted by the three-member panel as of  
1265 January 1, 2003, whichever is greater. Effective January 1,  
1266 2005, the maximum reimbursement for surgical procedures shall  
1267 increase 5 percent per year for 5 consecutive years unless the  
1268 three-member panel determines that the 5-percent annual increase  
1269 would result in significant rate increases for carriers. Payment  
1270 for outpatient physical, occupational, and speech therapy  
1271 provided by hospitals shall be reduced to the schedule of  
1272 maximum reimbursement allowances for those services which  
1273 applies to nonhospital providers. Payments for scheduled  
1274 outpatient nonemergency radiological and clinical laboratory  
1275 services that are not provided in conjunction with a surgical  
1276 procedure shall be reduced to the maximum reimbursement  
1277 allowances for those services which applies to nonhospital  
1278 providers.

1279 (c)(b) As to reimbursement for a prescription medication,  
1280 the reimbursement amount for a prescription shall be the average  
1281 wholesale price times 1.2 plus \$4.18 for the dispensing fee,  
1282 except where the carrier has contracted for a lower amount. Fees  
1283 for pharmaceuticals and pharmaceutical services shall be  
1284 reimbursable at the applicable fee schedule amount. Where the  
1285 employer or carrier has contracted for such services and the  
1286 employee elects to obtain them through a provider not a party to  
1287 the contract, the carrier shall reimburse at the schedule,  
1288 negotiated, or contract price, whichever is lower.



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1289        (d)~~(e)~~ Reimbursement for all fees and other charges for  
1290 such treatment, care, and attendance, including treatment, care,  
1291 and attendance provided by any hospital or other health care  
1292 provider, ambulatory surgical center, work-hardening program, or  
1293 pain program, must not exceed the amounts provided by the  
1294 uniform schedule of maximum reimbursement allowances as  
1295 determined by the panel or as otherwise provided in this  
1296 section. This subsection also applies to independent medical  
1297 examinations performed by health care providers under this  
1298 chapter. Until the three-member panel approves a uniform  
1299 schedule of maximum reimbursement allowances and it becomes  
1300 effective, all compensable charges for treatment, care, and  
1301 attendance provided by physicians, ambulatory surgical centers,  
1302 work-hardening programs, or pain programs shall be reimbursed at  
1303 the lowest maximum reimbursement allowance across all 1992  
1304 schedules of maximum reimbursement allowances for the services  
1305 provided regardless of the place of service. In determining the  
1306 uniform schedule, the panel shall first approve the data which  
1307 it finds representative of prevailing charges in the state for  
1308 similar treatment, care, and attendance of injured persons. Each  
1309 health care provider, health care facility, ambulatory surgical  
1310 center, work-hardening program, or pain program receiving  
1311 workers' compensation payments shall maintain records verifying  
1312 their usual charges. In establishing the uniform schedule of  
1313 maximum reimbursement allowances, the panel must consider:

- 1314            1. The levels of reimbursement for similar treatment,  
1315 care, and attendance made by other health care programs or  
1316 third-party providers;
- 1317            2. The impact upon cost to employers for providing a level  
1318 of reimbursement for treatment, care, and attendance which will



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1319 ensure the availability of treatment, care, and attendance  
1320 required by injured workers;

1321         3. The financial impact of the reimbursement allowances  
1322 upon health care providers and health care facilities, including  
1323 trauma centers as defined in s. 395.4001, and its effect upon  
1324 their ability to make available to injured workers such  
1325 medically necessary remedial treatment, care, and attendance.  
1326 The uniform schedule of maximum reimbursement allowances must be  
1327 reasonable, must promote health care cost containment and  
1328 efficiency with respect to the workers' compensation health care  
1329 delivery system, and must be sufficient to ensure availability  
1330 of such medically necessary remedial treatment, care, and  
1331 attendance to injured workers; and

1332         4. The most recent average maximum allowable rate of  
1333 increase for hospitals determined by the Health Care Board under  
1334 chapter 408.

1335         ~~(e)~~(d) In addition to establishing the uniform schedule of  
1336 maximum reimbursement allowances, the panel shall:

1337             1. Take testimony, receive records, and collect data to  
1338 evaluate the adequacy of the workers' compensation fee schedule,  
1339 nationally recognized fee schedules and alternative methods of  
1340 reimbursement to certified health care providers and health care  
1341 facilities for inpatient and outpatient treatment and care.

1342             2. Survey certified health care providers and health care  
1343 facilities to determine the availability and accessibility of  
1344 workers' compensation health care delivery systems for injured  
1345 workers.

1346             3. Survey carriers to determine the estimated impact on  
1347 carrier costs and workers' compensation premium rates by  
1348 implementing changes to the carrier reimbursement schedule or



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1349 implementing alternative reimbursement methods.

1350 4. Submit recommendations on or before January 1, 2003,  
 1351 and biennially thereafter, to the President of the Senate and  
 1352 the Speaker of the House of Representatives on methods to  
 1353 improve the workers' compensation health care delivery system.

1354  
 1355 The division shall provide data to the panel, including but not  
 1356 limited to, utilization trends in the workers' compensation  
 1357 health care delivery system. The division shall provide the  
 1358 panel with an annual report regarding the resolution of medical  
 1359 reimbursement disputes and any actions pursuant to s. 440.13(8).  
 1360 The division shall provide administrative support and service to  
 1361 the panel to the extent requested by the panel.

1362 (15) PRACTICE PARAMETERS.--

1363 (a) The Agency for Health Care Administration, in  
 1364 conjunction with the department and appropriate health  
 1365 professional associations and health-related organizations shall  
 1366 develop and shall ~~may~~ adopt by rule scientifically sound  
 1367 practice parameters for medical procedures relevant to workers'  
 1368 compensation claimants. Practice parameters developed under this  
 1369 section must focus on identifying effective remedial treatments  
 1370 and promoting the appropriate utilization of health care  
 1371 resources. Priority must be given to those procedures that  
 1372 involve the greatest utilization of resources either because  
 1373 they are the most costly or because they are the most frequently  
 1374 performed. Practice parameters for treatment of the 10 top  
 1375 procedures associated with workers' compensation injuries,  
 1376 including the remedial treatment of lower-back injuries, pain  
 1377 management, and psychiatry, must be developed by December 31,  
 1378 2003 ~~1994~~.



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1379 Section 14. Paragraph (i) of subsection (1) and subsection  
 1380 (10) of section 440.134, Florida Statutes, are amended to read:

1381 440.134 Workers' compensation managed care arrangement.--

1382 (1) As used in this section, the term:

1383 (i) "Medical care coordinator" means a primary care  
 1384 provider within a provider network who is responsible for  
 1385 managing the medical care of an injured worker including  
 1386 determining other health care providers and health care  
 1387 facilities to which the injured employee will be referred for  
 1388 evaluation or treatment. A medical care coordinator shall be a  
 1389 physician licensed under chapter 458, ~~or~~ an osteopathic  
 1390 physician licensed under chapter 459, a chiropractic physician  
 1391 licensed under chapter 460, or a podiatric physician licensed  
 1392 under chapter 461.

1393 (10) Written procedures and methods for the management of  
 1394 an injured worker's medical care by a medical care coordinator  
 1395 including:

1396 (a) Assignment of a medical care coordinator licensed  
 1397 under chapter 458 or chapter 459 to manage care by physicians  
 1398 licensed under chapter 458 or chapter 459, a medical care  
 1399 coordinator licensed under chapter 460 to manage care by  
 1400 physicians licensed under chapter 460, and a medical care  
 1401 coordinator licensed under chapter 461 to manage care by  
 1402 physicians licensed under chapter 461 upon request by an injured  
 1403 employee for care by a physician licensed under chapter 458,  
 1404 chapter 459, chapter 460, or chapter 461.

1405 ~~(b)(a)~~ The mechanism for assuring that covered employees  
 1406 receive all initial covered services from a primary care  
 1407 provider participating in the provider network, except for  
 1408 emergency care.



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1409        ~~(c)(b)~~ The mechanism for assuring that all continuing  
1410 covered services be received from the same primary care provider  
1411 participating in the provider network that provided the initial  
1412 covered services, except when services from another provider are  
1413 authorized by the medical care coordinator pursuant to paragraph  
1414 ~~(e)(d)~~.

1415        ~~(d)(e)~~ The policies and procedures for allowing an  
1416 employee one change to another provider within the same  
1417 specialty and provider network as the authorized treating  
1418 physician during the course of treatment for a work-related  
1419 injury, if a request is made to the medical care coordinator by  
1420 the employee; and requiring that special provision be made for  
1421 more than one such referral through the arrangement's grievance  
1422 procedures.

1423        ~~(e)(d)~~ The process for assuring that all referrals  
1424 authorized by a medical care coordinator are made to the  
1425 participating network providers, unless medically necessary  
1426 treatment, care, and attendance are not available and accessible  
1427 to the injured worker in the provider network.

1428        Section 15. Subsection (1) of section 440.14, Florida  
1429 Statutes, is amended to read:

1430        440.14 Determination of pay.--

1431        (1) Except as otherwise provided in this chapter, the  
1432 average weekly wages of the injured employee on the date of the  
1433 accident ~~at the time of the injury~~ shall be taken as the basis  
1434 upon which to compute compensation and shall be determined,  
1435 subject to the limitations of s. 440.12(2), as follows:

1436        (a) If the injured employee has worked in the employment  
1437 in which she or he was working on the date of the accident ~~at~~  
1438 ~~the time of the injury~~, whether for the same or another





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1439 employer, during substantially the whole of 13 weeks immediately  
 1440 preceding the accident injury, her or his average weekly wage  
 1441 shall be one-thirteenth of the total amount of wages earned in  
 1442 such employment during the 13 weeks. As used in this paragraph,  
 1443 the term "substantially the whole of 13 weeks" means the  
 1444 calendar ~~shall be deemed to mean and refer to a constructive~~  
 1445 period of 13 weeks as a whole, which shall be defined as the 13  
 1446 calendar weeks before the date of the accident, excluding the  
 1447 week during which the accident occurred. ~~a consecutive period of~~  
 1448 ~~91 days, and~~ The term "during substantially the whole of 13  
 1449 weeks" shall be deemed to mean during not less than 90 percent  
 1450 of the total customary ~~full-time~~ hours of employment within such  
 1451 period considered as a whole.

1452 (b) If the injured employee has not worked in such  
 1453 employment during substantially the whole of 13 weeks  
 1454 immediately preceding the accident injury, the wages of a  
 1455 similar employee in the same employment who has worked  
 1456 substantially the whole of such 13 weeks shall be used in making  
 1457 the determination under the preceding paragraph.

1458 (c) If an employee is a seasonal worker and the foregoing  
 1459 method cannot be fairly applied in determining the average  
 1460 weekly wage, then the employee may use, instead of the 13 weeks  
 1461 immediately preceding the accident injury, the calendar year or  
 1462 the 52 weeks immediately preceding the accident injury. The  
 1463 employee will have the burden of proving that this method will  
 1464 be more reasonable and fairer than the method set forth in  
 1465 paragraphs (a) and (b) and, further, must document prior  
 1466 earnings with W-2 forms, written wage statements, or income tax  
 1467 returns. The employer shall have 30 days following the receipt  
 1468 of this written proof to adjust the compensation rate, including



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1469 the making of any additional payment due for prior weekly  
1470 payments, based on the lower rate compensation.

1471 (d) If any of the foregoing methods cannot reasonably and  
1472 fairly be applied, the full-time weekly wages of the injured  
1473 employee shall be used, except as otherwise provided in  
1474 paragraph (e) or paragraph (f).

1475 (e) If it is established that the injured employee was  
1476 under 22 years of age when the accident occurred ~~injured~~ and  
1477 that under normal conditions her or his wages should be expected  
1478 to increase during the period of disability, the fact may be  
1479 considered in arriving at her or his average weekly wages.

1480 (f) If it is established that the injured employee was a  
1481 part-time worker on the date of the accident ~~at the time of the~~  
1482 ~~injury~~, that she or he had adopted part-time employment as a  
1483 customary practice, and that under normal working conditions she  
1484 or he probably would have remained a part-time worker during the  
1485 period of disability, these factors shall be considered in  
1486 arriving at her or his average weekly wages. For the purpose of  
1487 this paragraph, the term "part-time worker" means an individual  
1488 who customarily works less than the full-time hours or full-time  
1489 workweek of a similar employee in the same employment.

1490 (g) If compensation is due for a fractional part of the  
1491 week, the compensation for such fractional part shall be  
1492 determined by dividing the weekly compensation rate by the  
1493 number of days employed per week to compute the amount due for  
1494 each day.

1495 Section 16. Paragraphs (b) and (f) of subsection (1), and  
1496 paragraph (a) of subsection (3) of section 440.15, Florida  
1497 Statutes, are amended to read:



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1498 440.15 Compensation for disability.--Compensation for  
1499 disability shall be paid to the employee, subject to the limits  
1500 provided in s. 440.12(2), as follows:

1501 (1) PERMANENT TOTAL DISABILITY.--

1502 (b) ~~Only~~ A catastrophic injury as defined in s. 440.02(38)  
1503 shall, in the absence of conclusive proof of a substantial  
1504 earning capacity, constitute permanent total disability. In all  
1505 other cases, no compensation shall be payable under paragraph  
1506 (a) if the employee is engaged in, or is physically capable of  
1507 engaging in, employment, including sheltered employment. In  
1508 order to obtain permanent total disability benefits, the  
1509 employee must establish that he or she is not able  
1510 uninterruptedly to engage in any employment, including part-time  
1511 sedentary employment or available sheltered employment within a  
1512 50-mile radius of the employee's residence, due to his or her  
1513 physical limitation. "Sheltered employment" means work  
1514 unavailable in the open labor market that is offered to the  
1515 employee or which is actually performed by the employee as  
1516 offered by the employer in whose employment the injured worker  
1517 was engaged at the time of the accident. Such benefits shall be  
1518 payable until the employee reaches age 70, notwithstanding any  
1519 age limits. If the accident occurred on or after the employee  
1520 reaches age 65, benefits shall be payable during the continuance  
1521 of permanent total disability, not to exceed 5 years following  
1522 the determination of permanent total disability. Only claimants  
1523 with catastrophic injuries or who are incapable of engaging in  
1524 employment, including sheltered employment as described in this  
1525 paragraph, are eligible for permanent total benefits. In no  
1526 other case may permanent total disability be awarded.



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1527 (f)1. If permanent total disability results from injuries  
 1528 that occurred subsequent to June 30, 1955, and for which the  
 1529 liability of the employer for compensation has not been  
 1530 discharged under s. 440.20(11), the injured employee shall  
 1531 receive additional weekly compensation benefits equal to 5  
 1532 percent of her or his weekly compensation rate, as established  
 1533 pursuant to the law in effect on the date of her or his injury,  
 1534 multiplied by the number of calendar years since the date of  
 1535 injury. The weekly compensation payable and the additional  
 1536 benefits payable under this paragraph, when combined, may not  
 1537 exceed the maximum weekly compensation rate in effect at the  
 1538 time of payment as determined pursuant to s. 440.12(2).

1539 ~~Entitlement to~~ These supplemental payments shall not be paid or  
 1540 payable after the employee attains ~~cease at~~ age 62, regardless  
 1541 of whether or not if the employee has applied for or is  
 1542 ineligible to apply ~~is eligible~~ for social security benefits  
 1543 under 42 U.S.C. ss. 402 and 423, ~~whether or not the employee has~~  
 1544 ~~applied for such benefits~~. These supplemental benefits shall be  
 1545 paid by the department out of the Workers' Compensation  
 1546 Administration Trust Fund when the injury occurred subsequent to  
 1547 June 30, 1955, and before July 1, 1984. These supplemental  
 1548 benefits shall be paid by the employer when the injury occurred  
 1549 on or after July 1, 1984. Supplemental benefits are not payable  
 1550 for any period prior to October 1, 1974.

1551 2.a. The department shall provide by rule for the periodic  
 1552 reporting to the department of all earnings of any nature and  
 1553 social security income by the injured employee entitled to or  
 1554 claiming additional compensation under subparagraph 1. Neither  
 1555 the department nor the employer or carrier shall make any  
 1556 payment of those additional benefits provided by subparagraph 1.



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1557 for any period during which the employee willfully fails or  
1558 refuses to report upon request by the department in the manner  
1559 prescribed by such rules.

1560       b. The department shall provide by rule for the periodic  
1561 reporting to the employer or carrier of all earnings of any  
1562 nature and social security income by the injured employee  
1563 entitled to or claiming benefits for permanent total disability.  
1564 The employer or carrier is not required to make any payment of  
1565 benefits for permanent total disability for any period during  
1566 which the employee willfully fails or refuses to report upon  
1567 request by the employer or carrier in the manner prescribed by  
1568 such rules or if any employee who is receiving permanent total  
1569 disability benefits refuses to apply for or cooperate with the  
1570 employer or carrier in applying for social security benefits.

1571       3. When an injured employee receives a full or partial  
1572 lump-sum advance of the employee's permanent total disability  
1573 compensation benefits, the employee's benefits under this  
1574 paragraph shall be computed on the employee's weekly  
1575 compensation rate as reduced by the lump-sum advance.

1576       (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

1577       (a) *Impairment benefits*.--

1578       1. Once the employee has reached the date of maximum  
1579 medical improvement, impairment benefits are due and payable  
1580 within 20 days after the carrier has knowledge of the  
1581 impairment.

1582       2. The three-member panel, in cooperation with the  
1583 department, shall establish and use a uniform permanent  
1584 impairment rating schedule. This schedule must be based on  
1585 medically or scientifically demonstrable findings as well as the  
1586 systems and criteria set forth in the American Medical



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1587 Association's Guides to the Evaluation of Permanent Impairment;  
 1588 the Snellen Charts, published by American Medical Association  
 1589 Committee for Eye Injuries; and the Minnesota Department of  
 1590 Labor and Industry Disability Schedules. The schedule should be  
 1591 based upon objective findings. The schedule shall be more  
 1592 comprehensive than the AMA Guides to the Evaluation of Permanent  
 1593 Impairment and shall expand the areas already addressed and  
 1594 address additional areas not currently contained in the guides.  
 1595 On August 1, 1979, and pending the adoption, by rule, of a  
 1596 permanent schedule, Guides to the Evaluation of Permanent  
 1597 Impairment, copyright 1977, 1971, 1988, by the American Medical  
 1598 Association, shall be the temporary schedule and shall be used  
 1599 for the purposes hereof. For injuries after July 1, 1990,  
 1600 pending the adoption by rule of a uniform disability rating  
 1601 agency schedule, the Minnesota Department of Labor and Industry  
 1602 Disability Schedule shall be used unless that schedule does not  
 1603 address an injury. In such case, the Guides to the Evaluation of  
 1604 Permanent Impairment by the American Medical Association shall  
 1605 be used. Determination of permanent impairment under this  
 1606 schedule must be made by a physician licensed under chapter 458,  
 1607 a doctor of osteopathic medicine licensed under chapters 458 and  
 1608 459, a chiropractic physician licensed under chapter 460, a  
 1609 podiatric physician licensed under chapter 461, an optometrist  
 1610 licensed under chapter 463, or a dentist licensed under chapter  
 1611 466, as appropriate considering the nature of the injury. No  
 1612 other persons are authorized to render opinions regarding the  
 1613 existence of or the extent of permanent impairment.

1614         3. All impairment income benefits shall be based on an  
 1615 impairment rating using the impairment schedule referred to in  
 1616 subparagraph 2. Impairment income benefits are paid weekly at a



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1617 the rate equal to ~~of 50 percent of~~ the employee's average weekly  
1618 temporary total disability benefit not to exceed the maximum  
1619 weekly benefit under s. 440.12; provided, however, that such  
1620 benefits shall be reduced by 50 percent for each week in which  
1621 the employee has earned income equal to, or in excess of, the  
1622 employee's average weekly wage. An employee's entitlement to  
1623 impairment income benefits begins the day after the employee  
1624 reaches maximum medical improvement or the expiration of  
1625 temporary benefits, whichever occurs earlier, and continues  
1626 until the earlier of:

1627 a. The expiration of a period computed at the rate of 3  
1628 weeks for each percentage point of impairment; or

1629 b. The death of the employee.

1630 4. After the employee has been certified by a doctor as  
1631 having reached maximum medical improvement or 6 weeks before the  
1632 expiration of temporary benefits, whichever occurs earlier, the  
1633 certifying doctor shall evaluate the condition of the employee  
1634 and assign an impairment rating, using the impairment schedule  
1635 referred to in subparagraph 2. Compensation is not payable for  
1636 the mental, psychological, or emotional injury arising out of  
1637 depression from being out of work. If the certification and  
1638 evaluation are performed by a doctor other than the employee's  
1639 treating doctor, the certification and evaluation must be  
1640 submitted to the treating doctor, and the treating doctor must  
1641 indicate agreement or disagreement with the certification and  
1642 evaluation. The certifying doctor shall issue a written report  
1643 to the department, the employee, and the carrier certifying that  
1644 maximum medical improvement has been reached, stating the  
1645 impairment rating, and providing any other information required  
1646 by the department by rule. If the employee has not been



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1647 certified as having reached maximum medical improvement before  
 1648 the expiration of 102 weeks after the date temporary total  
 1649 disability benefits begin to accrue, the carrier shall notify  
 1650 the treating doctor of the requirements of this section.

1651 5. The carrier shall pay the employee impairment income  
 1652 benefits for a period based on the impairment rating.

1653 6. The department may by rule specify forms and procedures  
 1654 governing the method of payment of wage loss and impairment  
 1655 benefits for dates of accidents before January 1, 1994, and for  
 1656 dates of accidents on or after January 1, 1994.

1657 Section 17. Subsections (1) and (7) of section 440.16,  
 1658 Florida Statutes, are amended to read:

1659 440.16 Compensation for death.--

1660 (1) If death results from the accident within 1 year  
 1661 thereafter or follows continuous disability and results from the  
 1662 accident within 5 years thereafter, the employer shall pay:

1663 (a) Within 14 days after receiving the bill, actual  
 1664 funeral expenses not to exceed \$10,000 ~~\$5,000~~.

1665 (b) Compensation, in addition to the above, in the  
 1666 following percentages of the average weekly wages to the  
 1667 following persons entitled thereto on account of dependency upon  
 1668 the deceased, and in the following order of preference, subject  
 1669 to the limitation provided in subparagraph 2., but such  
 1670 compensation shall be subject to the limits provided in s.  
 1671 440.12(2), shall not exceed \$200,000 ~~\$100,000~~, and may be less  
 1672 than, but shall not exceed, for all dependents or persons  
 1673 entitled to compensation, 66<sup>2</sup>/<sub>3</sub> percent of the average wage:

1674 1. To the spouse, if there is no child, 50 percent of the  
 1675 average weekly wage, such compensation to cease upon the  
 1676 spouse's death.





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1677           2. To the spouse, if there is a child or children, the  
1678 compensation payable under subparagraph 1. and, in addition,  
1679  $16\frac{2}{3}$  percent on account of the child or children. However, when  
1680 the deceased is survived by a spouse and also a child or  
1681 children, whether such child or children are the product of the  
1682 union existing at the time of death or of a former marriage or  
1683 marriages, the judge of compensation claims may provide for the  
1684 payment of compensation in such manner as may appear to the  
1685 judge of compensation claims just and proper and for the best  
1686 interests of the respective parties and, in so doing, may  
1687 provide for the entire compensation to be paid exclusively to  
1688 the child or children; and, in the case of death of such spouse,  
1689  $33\frac{1}{3}$  percent for each child. However, upon the surviving  
1690 spouse's remarriage, the spouse shall be entitled to a lump-sum  
1691 payment equal to 26 weeks of compensation at the rate of 50  
1692 percent of the average weekly wage as provided in s. 440.12(2),  
1693 unless the \$200,000 ~~\$100,000~~ limit provided in this paragraph is  
1694 exceeded, in which case the surviving spouse shall receive a  
1695 lump-sum payment equal to the remaining available benefits in  
1696 lieu of any further indemnity benefits. In no case shall a  
1697 surviving spouse's acceptance of a lump-sum payment affect  
1698 payment of death benefits to other dependents.

1699           3. To the child or children, if there is no spouse,  $33\frac{1}{3}$   
1700 percent for each child.

1701           4. To the parents, 25 percent to each, such compensation  
1702 to be paid during the continuance of dependency.

1703           5. To the brothers, sisters, and grandchildren, 15 percent  
1704 for each brother, sister, or grandchild.

1705           (c) To the surviving spouse, payment of postsecondary  
1706 student fees for instruction at any area technical center



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1707 established under s. 1001.44 for up to 1,800 classroom hours or  
 1708 payment of student fees at any community college established  
 1709 under part III of chapter 1004 for up to 80 semester hours. The  
 1710 spouse of a deceased state employee shall be entitled to a full  
 1711 waiver of such fees as provided in ss. 1009.22 and 1009.23 in  
 1712 lieu of the payment of such fees. The benefits provided for in  
 1713 this paragraph shall be in addition to other benefits provided  
 1714 for in this section and shall terminate 7 years after the death  
 1715 of the deceased employee, or when the total payment in eligible  
 1716 compensation under paragraph (b) has been received. To qualify  
 1717 for the educational benefit under this paragraph, the spouse  
 1718 shall be required to meet and maintain the regular admission  
 1719 requirements of, and be registered at, such area technical  
 1720 center or community college, and make satisfactory academic  
 1721 progress as defined by the educational institution in which the  
 1722 student is enrolled.

1723 (7) Compensation under this chapter to aliens not  
 1724 residents (or about to become nonresidents) of the United States  
 1725 or Canada shall be the same in amount as provided for residents,  
 1726 except that dependents in any foreign country shall be limited  
 1727 to surviving spouse and child or children, or if there be no  
 1728 surviving spouse or child or children, to surviving father or  
 1729 mother whom the employee has supported, either wholly or in  
 1730 part, for the period of 1 year prior to the date of the injury,  
 1731 and except that the judge of compensation claims may, at the  
 1732 option of the judge of compensation claims, or upon the  
 1733 application of the insurance carrier, commute all future  
 1734 installments of compensation to be paid to such aliens by paying  
 1735 or causing to be paid to them one-half of the commuted amount of  
 1736 such future installments of compensation as determined by the



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1737 judge of compensation claims, and provided further that  
 1738 compensation to dependents referred to in this subsection shall  
 1739 in no case exceed \$100,000 ~~\$50,000~~.

1740 Section 18. Subsection (9) is added to section 440.192,  
 1741 Florida Statutes, to read:

1742 440.192 Procedure for resolving benefit disputes.--

1743 (9) A petition for benefits must contain claims for all  
 1744 benefits that are ripe, due, and owing on the date the petition  
 1745 is filed.

1746 Section 19. Section 440.25, Florida Statutes, is amended  
 1747 to read:

1748 440.25 Procedures for mediation and hearings.--

1749 (1) Within 150 ~~90~~ days after a petition for benefits is  
 1750 filed under s. 440.192, a mediation conference concerning such  
 1751 petition shall be held. ~~Within 40 days after such petition is~~  
 1752 ~~filed,~~ The judge of compensation claims shall notify the  
 1753 interested parties by order that a mediation conference  
 1754 concerning such petition will be held ~~unless the parties have~~  
 1755 ~~notified the Office of the Judges of Compensation Claims that a~~  
 1756 ~~mediation has been held.~~ Such order shall ~~must~~ give the date on  
 1757 by which a mandatory state ~~the~~ mediation conference shall ~~must~~  
 1758 be held. ~~Such order~~ and may be served personally upon the  
 1759 interested parties or may be sent to the interested parties by  
 1760 mail. The mediator may excuse the appearance of a represented  
 1761 party and the representative for the employer and carrier, and  
 1762 may permit the appearance of a party and the representative for  
 1763 the employer and carrier by telephone or, if agreed to by the  
 1764 parties, other electronic means, upon written request and at the  
 1765 mediator's discretion. It is the duty of the party requesting  
 1766 appearance by telephone or other electronic means to ensure that



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1767 facilities and all necessary electronic equipment are arranged  
1768 at its expense and that the means are readily available to  
1769 prepare, execute, and exchange documents, stipulations,  
1770 agreements, and other pleadings without unreasonable delay. If a  
1771 party or its counsel has a conflict with the date on which the  
1772 mandatory state mediation is scheduled by order of the judge of  
1773 compensation claims, counsel or the party alleging the conflict,  
1774 if unrepresented, shall, within 21 days after the date of the  
1775 initial notice, advise the state mediator's office in writing of  
1776 the conflict and contact the state mediator's office by  
1777 telephone to reschedule the mediation to a date within the  
1778 timeframe set forth in this subsection.

1779 (2)(a) The parties, upon request, shall exchange the  
1780 following documents within their actual or constructive control  
1781 within 30 days before the date of any mediation unless  
1782 previously produced:

1783 1. The employee's 13-week wage statement together with  
1784 information regarding the receipt and value of fringe benefits  
1785 and the date of any suspension of same.

1786 2. Payroll records since the date of the accident.

1787 3. All medical records and reports related to the work  
1788 injury or disability claimed which relate to the claim or  
1789 defenses.

1790 4. A payout sheet, excluding work product, investigative  
1791 information, and payment for attorney's fees.

1792 5. Statements, written or otherwise recorded, and not  
1793 privileged.

1794 6. All offers of employment and corresponding job  
1795 descriptions.

1796 7. Any and all documentation concerning the employer's



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1797 communication with the employee about returning to work.

1798 8. Any and all documents relating to recommended future  
1799 medical treatment based on medical opinions pursuant to s.  
1800 440.13(9)(b).

1801 (b) Failure to comply with the requirements of paragraph  
1802 (a) shall result in the exclusion at any future final hearing on  
1803 the issues contained in the petitions for benefits filed prior  
1804 to the date of the mediation of the documents not timely  
1805 provided and other sanctions deemed appropriate by the judge.  
1806 Mandatory exchange of documents is required unless a stipulation  
1807 is entered into that such documents are immaterial to the  
1808 disputed issue.

1809 (c) No less than 30 days prior to any mediation, the  
1810 employee shall make a specific written demand for settlement of  
1811 the issues which remain outstanding, and may make a written  
1812 demand for settlement of the case, which contains sufficient  
1813 explanation and supporting documentation to enable the employer  
1814 and carrier and its counsel, if any, to evaluate the demand for  
1815 settlement.

1816 (d) The employer and carrier and its counsel, if any,  
1817 receiving the demand shall respond in writing within 15 working  
1818 days to the specific written demand for settlement of the  
1819 issues.

1820 (3) Mediations, including those that have previously been  
1821 rescheduled due to conflict pursuant to subsection (1), may be  
1822 rescheduled one additional time to a date within the timeframe  
1823 set forth in subsection (1) or for no more than an additional 30  
1824 days beyond the timeframe set forth in subsection (1) by written  
1825 stipulation of the parties. Otherwise, all mediations may be  
1826 continued by order of the judge of compensation claims at his or



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1827 her discretion. To obtain such an order, a motion for  
1828 continuance must be filed stating the reason for the requested  
1829 continuance, the date that the order originally scheduling the  
1830 state mediation was mailed, and whether mediation had been  
1831 continued previously and, if so, the number of times. The  
1832 proposed order on the motion must contain a blank space so that  
1833 a new mediation conference date may be assigned. ~~The claimant or~~  
1834 the adjuster of the employer or carrier may, at the mediator's  
1835 discretion, attend the mediation conference by telephone or, if  
1836 agreed to by the parties, other electronic means. A continuance  
1837 may be granted if the requesting party demonstrates to the judge  
1838 of compensation claims that the reason for requesting the  
1839 continuance arises from circumstances beyond the party's  
1840 control. Any order granting a continuance must set forth the  
1841 date of the rescheduled mediation conference. A mediation  
1842 conference may not be used solely for the purpose of mediating  
1843 attorney's fees.

1844 (4) State and private mediations may be canceled if all  
1845 issues other than attorney's fees have been settled or resolved,  
1846 the petitions for benefits have been dismissed or withdrawn, or  
1847 the state mediation conference has been waived by order of the  
1848 chief judge. State mediations may also be canceled if the  
1849 parties have filed a notice with the judge of compensation  
1850 claims at least 15 days prior to the state mediation  
1851 substituting private mediation for the mandatory state  
1852 mediation. The notice shall include the name of the private  
1853 mediator and the date and time of the private mediation.

1854 (5)(a) The notice substituting private mediation for state  
1855 mediation shall include language stipulating that the parties  
1856 agree to be bound by the applicable rules and statutes



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1857 pertaining to state mediations, including the filing by the  
1858 private mediator of a mediator's report pursuant to rule  
1859 4.310(e), Florida Rules of Workers' Compensation Procedure. The  
1860 notice shall state that the private mediation may only be  
1861 continued or rescheduled pursuant to subsection (3) and that  
1862 claimant's counsel is responsible for ensuring that a mediator's  
1863 report is filed within 10 days after the conclusion of the  
1864 private mediation conference.

1865 (b) If a notice is filed substituting private mediation for  
1866 mandatory state mediation or the parties agree to hold a private  
1867 mediation conference, such private mediation conference shall be  
1868 at the carrier's expense. The mediation conference shall be  
1869 conducted by a mediator certified under s. 44.106. If the  
1870 parties do not agree upon a rescheduled mediation date pursuant  
1871 to the timeframe requirements set forth in subsections (1) and  
1872 (3) or the parties to not agree to a private mediator within 20  
1873 days after the date of a notice substituting private mediation  
1874 for mandatory state mediation, the employee or his or her  
1875 counsel shall notify the judge of compensation claims in writing  
1876 and the judge shall appoint a private mediator within 7 days  
1877 after the judge is notified. The terms and requirements for  
1878 state and private mediation, including the timeframe  
1879 requirements set forth in subsections (1) and (3), shall remain  
1880 in full force and effect and the parties shall comply with the  
1881 terms thereof.

1882 ~~(2) Any party who participates in a mediation conference~~  
1883 ~~shall not be precluded from requesting a hearing following the~~  
1884 ~~mediation conference should both parties not agree to be bound~~  
1885 ~~by the results of the mediation conference. A mediation~~  
1886 ~~conference is required to be held unless this requirement is~~



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1887 ~~waived by the Deputy Chief Judge. No later than 3 days prior to~~  
1888 ~~the mediation conference, all parties must submit any applicable~~  
1889 ~~motions, including, but not limited to, a motion to waive the~~  
1890 ~~mediation conference, to the judge of compensation claims.~~

1891 (6)(3)(a) Such mediation conference shall be conducted  
1892 informally and does not require the use of formal rules of  
1893 evidence or procedure. Any information from the files, reports,  
1894 case summaries, mediator's notes, or other communications or  
1895 materials, oral or written, relating to a mediation conference  
1896 under this section obtained by any person performing mediation  
1897 duties is privileged and confidential and may not be disclosed  
1898 without the written consent of all parties to the conference.  
1899 Any research or evaluation effort directed at assessing the  
1900 mediation program activities or performance must protect the  
1901 confidentiality of such information. Each party to a mediation  
1902 conference has a privilege during and after the conference to  
1903 refuse to disclose and to prevent another from disclosing  
1904 communications made during the conference whether or not the  
1905 contested issues are successfully resolved. This subsection and  
1906 paragraphs (9)(4)(a) and (b) shall not be construed to prevent  
1907 or inhibit the discovery or admissibility of any information  
1908 that is otherwise subject to discovery or that is admissible  
1909 under applicable law or rule of procedure, except that any  
1910 conduct or statements made during a mediation conference or in  
1911 negotiations concerning the conference are inadmissible in any  
1912 proceeding under this chapter.

1913 (a)1. Unless the parties conduct a private mediation ~~under~~  
1914 ~~subparagraph 2.~~, mediation shall be conducted by a mediator  
1915 selected by the Chief Judge of Compensation Claims Director ~~of~~  
1916 ~~the Division of Administrative Hearings~~ from among mediators





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1917 employed on a full-time basis by the Office of the Judges of  
 1918 Compensation Claims. A mediator must be a member of The Florida  
 1919 Bar for at least 5 years, ~~and~~ must complete a mediation training  
 1920 program approved by the Chief Judge of Compensation Claims, and  
 1921 must possess a minimum of 5 years' experience in the full-time  
 1922 practice of workers' compensation law ~~Director of the Division~~  
 1923 ~~of Administrative Hearings~~. Adjunct mediators may be employed by  
 1924 the Office of the Judges of Compensation Claims on an as-needed  
 1925 basis and shall be selected from a list prepared by the Chief  
 1926 Judge of Compensation Claims ~~Director of the Division of~~  
 1927 ~~Administrative Hearings~~. An adjunct mediator must be independent  
 1928 of all parties participating in the mediation conference. An  
 1929 adjunct mediator must be a member of The Florida Bar for at  
 1930 least 5 years, must possess a minimum of 5 years' experience in  
 1931 the full-time practice of Florida workers' compensation law, and  
 1932 must complete a mediation training program approved by the Chief  
 1933 Judge of Compensation Claims ~~Director of the Division of~~  
 1934 ~~Administrative Hearings~~. An adjunct mediator shall have access  
 1935 to the office, equipment, and supplies of the judge of  
 1936 compensation claims in each district.

1937 ~~(b)2. With respect to any mediation occurring on or after~~  
 1938 ~~January 1, 2003, if the parties agree or if mediators are not~~  
 1939 ~~available under subparagraph 1. to conduct the required~~  
 1940 ~~mediation within the period specified in this section, the~~  
 1941 ~~parties shall hold a mediation conference at the carrier's~~  
 1942 ~~expense within the 90-day period set for mediation. The~~  
 1943 ~~mediation conference shall be conducted by a mediator certified~~  
 1944 ~~under s. 44.106. If the parties do not agree upon a mediator~~  
 1945 ~~within 10 days after the date of the order, the claimant shall~~  
 1946 ~~notify the judge in writing and the judge shall appoint a~~



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1947 ~~mediator under this subparagraph within 7 days.~~ In the event  
1948 both parties agree, the results of the mediation conference  
1949 shall be binding and neither party shall have a right to appeal  
1950 the results. In the event either party refuses to agree to the  
1951 results of the mediation conference, the results of the  
1952 mediation conference as well as the testimony, witnesses, and  
1953 evidence presented at the conference shall not be admissible at  
1954 any subsequent proceeding on the claim. The mediator shall not  
1955 be called in to testify or give deposition to resolve any claim  
1956 for any hearing before the judge of compensation claims. The  
1957 employer may be represented by an attorney at the mediation  
1958 conference if the employee is also represented by an attorney at  
1959 the mediation conference.

1960 (7)(a) After receiving notice of impasse from the mediator, the  
1961 judge of compensation claims shall hold a live pretrial hearing.  
1962 The judge of compensation claims shall give the parties at least  
1963 7 days' notice of the pretrial hearing and, unless the judge of  
1964 compensation claims indicates otherwise, the pretrial hearing  
1965 shall be held in the county where the office of the judge of  
1966 compensation claims is located. A pretrial hearing may be  
1967 continued with prior approval of the judge of compensation  
1968 claims.

1969 (b) The parties may submit their pretrial stipulations by mail  
1970 when represented by counsel and with leave of the judge of  
1971 compensation claims; however, the parties or their legal counsel  
1972 shall appear at any live pretrial hearing.

1973 (c) If a party or a party's attorney fails to attend the  
1974 pretrial hearing without good cause, the judge may dismiss the  
1975 petition or claim, strike defenses, or take such other action as  
1976 may be authorized by law or rule 4.150, Florida Rules of



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1977 Workers' Compensation Procedure.

1978 (d) At the pretrial hearing, the parties shall:

1979 1. State and simplify the claims, defense, and issues.

1980 2. Stipulate and admit to such facts and documents as will  
1981 avoid unnecessary proof.

1982 3. Present, examine, and mark all exhibits for identification,  
1983 including all impeachment and rebuttal exhibits.

1984 4. Furnish the opposing party with the names and addresses of  
1985 all witnesses, including impeachment and rebuttal witnesses. A  
1986 party may be required by the judge of compensation claims to  
1987 provide a statement of subject matter of the expected testimony  
1988 of one or more witnesses.

1989 5. Exchange all available written reports of experts when  
1990 expert opinion is offered at trial. The reports shall clearly  
1991 disclose the expert opinion and its basis on all subjects on  
1992 which the expert will testify. If stipulated into evidence, the  
1993 reports shall be presented to the judge of compensation claims  
1994 to be so marked. The parties shall consider and determine a  
1995 limitation of the number of expert witnesses.

1996 6. Estimate time of trial and schedule the final hearing.

1997 7. Consider and determine, as appropriate, such other matters  
1998 as may aid in the disposition of the case, including, but not  
1999 limited to, referral to additional mediation or appointment of  
2000 an expert medical advisor pursuant to s. 440.13(9)(c).

2001 (e) Final witness lists, final exhibit lists, supplements, and  
2002 amendments to the pretrial stipulation shall be served no later  
2003 than 30 days before the final hearing. Witness lists, exhibit  
2004 lists, supplements, and amendments to be filed less than 30 days  
2005 before the final hearing must be approved by the judge or  
2006 stipulated to by the parties. A motion seeking such approval is



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2007 a procedural motion.

2008 (f) At the discretion of the judge and on filing and service of  
2009 motion and notice of hearing not less than 5 days before the  
2010 date of the pretrial hearing, procedural motions may also be  
2011 heard at the pretrial hearing.

2012 (g) The judge shall record the pretrial hearing by stenographer  
2013 or electronic means at the request of any party or by a written  
2014 stipulation signed by the parties.

2015 (h)1. At the request of any party, or by his or her own motion,  
2016 the judge promptly shall enter an order reciting the actions  
2017 taken at the pretrial hearing and the agreements made by the  
2018 parties about any of the matters considered and limiting the  
2019 issues for trial to those not disposed of by admissions or  
2020 stipulations of the parties.

2021 2. The order may control the subsequent course of action, in  
2022 the discretion of the judge, unless the judge modifies it to  
2023 prevent injustice.

2024 3. The judge shall serve the order on the attorneys for the  
2025 parties and on any party not represented by counsel.

2026 4. Unless otherwise specified in the notice of hearing, the  
2027 judge may consider and determine all issues pending as of the  
2028 date of the pretrial hearing.

2029 (8) Upon the motion of the judge of compensation claims or on  
2030 the motion of any party, the judge of compensation claims may  
2031 consolidate any petitions for benefits filed 30 days before the  
2032 scheduled mediation with any pending petitions for benefits for  
2033 purposes of a hearing or for any other purpose. Any hearing on a  
2034 consolidation must be held no later than 10 days before the  
2035 mediation. Only petitions for benefits filed 30 days before the  
2036 mediation date are ripe, due, and owing for the final hearing.



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2037 ~~(b) The parties shall complete the pretrial stipulations~~  
2038 ~~before the conclusion of the mediation conference if the claims,~~  
2039 ~~except for attorney's fees and costs, have not been settled and~~  
2040 ~~if any claims in any filed petition remain unresolved. The judge~~  
2041 ~~of compensation claims may impose sanctions against a party or~~  
2042 ~~both parties for failing to complete the pretrial stipulations~~  
2043 ~~before the conclusion of the mediation conference.~~

2044 ~~(9)(4)(a) If the parties fail to agree upon written~~  
2045 ~~submission of pretrial stipulations at the mediation conference,~~  
2046 ~~the judge of compensation claims shall order a pretrial hearing~~  
2047 ~~to occur within 14 days after the date of mediation ordered by~~  
2048 ~~the judge of compensation claims. The judge of compensation~~  
2049 ~~claims shall give the interested parties at least 7 days'~~  
2050 ~~advance notice of the pretrial hearing by mail. At the pretrial~~  
2051 ~~hearing, the judge of compensation claims shall, subject to~~  
2052 ~~paragraph (b), set a date for the final hearing that allows the~~  
2053 ~~parties at least 60 days to conduct discovery unless the parties~~  
2054 ~~consent to an earlier hearing date.~~

2055 ~~(b) A continuance of the final hearing must be held and~~  
2056 ~~concluded within 90 days after the mediation conference is held.~~  
2057 ~~Continuances may be granted when the reason for requesting the~~  
2058 ~~continuance arises from circumstances beyond the party's~~  
2059 ~~control, when appropriate in the discretion of only if the~~  
2060 ~~requesting party demonstrates to the judge of compensation~~  
2061 ~~claims, or by agreement of the parties; however, any continuance~~  
2062 ~~to a date greater than 150 days after the date of initial~~  
2063 ~~mediation shall require the written consent of the claimant that~~  
2064 ~~the reason for requesting the continuance arises from~~  
2065 ~~circumstances beyond the party's control.~~ The written consent of  
2066 the claimant must be obtained before any request from a



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2067 claimant's attorney is granted for an additional continuance  
2068 after the initial continuance has been granted. Any order  
2069 granting a continuance must set forth the date and time of the  
2070 rescheduled hearing. ~~A continuance may be granted only if the~~  
2071 ~~requesting party demonstrates to the judge of compensation~~  
2072 ~~claims that the reason for requesting the continuance arises~~  
2073 ~~from circumstances beyond the control of the parties. The judge~~  
2074 ~~of compensation claims shall report any grant of two or more~~  
2075 ~~continuances to the Deputy Chief Judge.~~

2076 (c) The judge of compensation claims shall give the  
2077 interested parties at least 7 days' advance notice of the final  
2078 hearing, served upon the interested parties by mail.

2079 (d) The final hearing shall be held ~~within 210 days after~~  
2080 ~~receipt of the petition for benefits~~ in the county where the  
2081 injury occurred, if the injury occurred in this state, unless  
2082 otherwise agreed to between the parties and authorized by the  
2083 judge of compensation claims in the county where the injury  
2084 occurred. If the injury occurred outside the state and is one  
2085 for which compensation is payable under this chapter, then the  
2086 final hearing may be held in the county of the employer's  
2087 residence or place of business, or in any other county of the  
2088 state that will, in the discretion of the ~~Deputy~~ Chief Judge, be  
2089 the most convenient for a hearing. If the employee has been  
2090 involved in one or more claimed injuries in different venues  
2091 that have been the subject of a motion to consolidate, the  
2092 hearing shall be held in the county in which the employer of the  
2093 first injury in time resides, in any other county of the state  
2094 that will, in the discretion of the Chief Judge, be the most  
2095 convenient for a hearing, or in the county agreed upon by the  
2096 parties. The final hearing shall be conducted by a judge of



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2097 compensation claims, who shall, within 30 days after final  
 2098 hearing or closure of the hearing record, unless otherwise  
 2099 agreed by the parties, enter a final order on the merits of the  
 2100 disputed issues. The judge of compensation claims may enter an  
 2101 abbreviated final order in cases in which compensability is not  
 2102 disputed. Either party may request separate findings of fact and  
 2103 conclusions of law. At the final hearing, the claimant and  
 2104 employer may each present evidence with respect to the claims  
 2105 presented by the petition for benefits and may be represented by  
 2106 any attorney authorized in writing for such purpose. When there  
 2107 is a conflict in the medical evidence submitted at the hearing,  
 2108 the provisions of s. 440.13 shall apply. The report or testimony  
 2109 of the expert medical advisor shall be made a part of the record  
 2110 of the proceeding and shall be given the same consideration by  
 2111 the judge of compensation claims as is accorded other medical  
 2112 evidence submitted in the proceeding; and all costs incurred in  
 2113 connection with such examination and testimony may be assessed  
 2114 as costs in the proceeding, subject to the provisions of s.  
 2115 440.13. No judge of compensation claims may make a finding of a  
 2116 degree of permanent impairment that is greater than the greatest  
 2117 permanent impairment rating given the claimant by any examining  
 2118 or treating physician, except upon stipulation of the parties.  
 2119 ~~Any benefit due but not raised at the final hearing which was~~  
 2120 ~~ripe, due, or owing at the time of the final hearing is waived.~~

2121 (e) Co-counsel or any successor attorney shall file a  
 2122 notice of appearance in accordance with the Florida Rules of  
 2123 Workers' Compensation Procedure. Substitution of counsel may be  
 2124 made:

2125 1. By the filing and service of a stipulation, which does  
 2126 not require the approval of the judge; or



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2127        2. By motion, which requires approval of the judge.

2128        (f) An attorney of record shall remain the attorney of

2129 record and not be permitted to withdraw unless:

2130        1. The attorney files a written motion for withdrawal

2131 setting forth the reasons for the motion.

2132        2. The motion is served on the client and counsel for all

2133 parties.

2134        3. An order is entered granting the motion of withdrawal.

2135        (g)(e) The order making an award or rejecting the claim,

2136 referred to in this chapter as a "compensation order," shall set

2137 forth the findings of ultimate facts and the mandate; and the

2138 order need not include any other reason or justification for

2139 such mandate. The compensation order shall be filed in the

2140 Office of the Judges of Compensation Claims at Tallahassee. A

2141 copy of such compensation order shall be sent by mail to the

2142 parties and attorneys of record at the last known address of

2143 each, with the date of mailing noted thereon.

2144        (h)(f) Each judge of compensation claims is required to

2145 submit a special report to the ~~Deputy~~ Chief Judge in each

2146 contested workers' compensation case in which the case is not

2147 determined within 30 days of final hearing or closure of the

2148 hearing record. Said form shall be provided by the Secretary

2149 ~~director~~ of Management Services ~~the Division of Administrative~~

2150 ~~Hearings~~ and shall contain the names of the judge of

2151 compensation claims and of the attorneys involved and a brief

2152 explanation by the judge of compensation claims as to the reason

2153 for such a delay in issuing a final order.

2154        ~~(g) Notwithstanding any other provision of this section,~~

2155 ~~the judge of compensation claims may require the appearance of~~

2156 ~~the parties and counsel before her or him without written notice~~





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2157 ~~for an emergency conference where there is a bona fide emergency~~  
2158 ~~involving the health, safety, or welfare of an employee. An~~  
2159 ~~emergency conference under this section may result in the entry~~  
2160 ~~of an order or the rendering of an adjudication by the judge of~~  
2161 ~~compensation claims.~~

2162 ~~(h) To expedite dispute resolution and to enhance the~~  
2163 ~~self-executing features of the Workers' Compensation Law, the~~  
2164 ~~Deputy Chief Judge shall make provision by rule or order for the~~  
2165 ~~resolution of appropriate motions by judges of compensation~~  
2166 ~~claims without oral hearing upon submission of brief written~~  
2167 ~~statements in support and opposition, and for expedited~~  
2168 ~~discovery and docketing. Unless the judge of compensation~~  
2169 ~~claims, for good cause, orders a hearing under paragraph (i),~~  
2170 ~~each claim in a petition relating to the determination of pay~~  
2171 ~~under s. 440.14 shall be resolved under this paragraph without~~  
2172 ~~oral hearing.~~

2173 ~~(i) To further expedite dispute resolution and to enhance~~  
2174 ~~the self-executing features of the system, those petitions filed~~  
2175 ~~in accordance with s. 440.192 that involve a claim for benefits~~  
2176 ~~of \$5,000 or less shall, in the absence of compelling evidence~~  
2177 ~~to the contrary, be presumed to be appropriate for expedited~~  
2178 ~~resolution under this paragraph; and any other claim filed in~~  
2179 ~~accordance with s. 440.192, upon the written agreement of both~~  
2180 ~~parties and application by either party, may similarly be~~  
2181 ~~resolved under this paragraph. A claim in a petition or \$5,000~~  
2182 ~~or less for medical benefits only or a petition for~~  
2183 ~~reimbursement for mileage for medical purposes shall, in the~~  
2184 ~~absence of compelling evidence to the contrary, be resolved~~  
2185 ~~through the expedited dispute resolution process provided in~~  
2186 ~~this paragraph. For purposes of expedited resolution pursuant to~~



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2187 ~~this paragraph, the Deputy Chief Judge shall make provision by~~  
2188 ~~rule or order for expedited and limited discovery and expedited~~  
2189 ~~docketing in such cases. At least 15 days prior to hearing, the~~  
2190 ~~parties shall exchange and file with the judge of compensation~~  
2191 ~~claims a pretrial outline of all issues, defenses, and witnesses~~  
2192 ~~on a form adopted by the Deputy Chief Judge; provided, in no~~  
2193 ~~event shall such hearing be held without 15 days' written notice~~  
2194 ~~to all parties. No pretrial hearing shall be held. The judge of~~  
2195 ~~compensation claims shall limit all argument and presentation of~~  
2196 ~~evidence at the hearing to a maximum of 30 minutes, and such~~  
2197 ~~hearings shall not exceed 30 minutes in length. Neither party~~  
2198 ~~shall be required to be represented by counsel. The employer or~~  
2199 ~~carrier may be represented by an adjuster or other qualified~~  
2200 ~~representative. The employer or carrier and any witness may~~  
2201 ~~appear at such hearing by telephone. The rules of evidence shall~~  
2202 ~~be liberally construed in favor of allowing introduction of~~  
2203 ~~evidence.~~

2204 (i)~~(j)~~ A judge of compensation claims may, upon the motion  
2205 of a party or the judge's own motion, dismiss a petition for  
2206 lack of prosecution if a petition, response, motion, order,  
2207 request for hearing, or notice of deposition has not been filed  
2208 during the previous 12 months unless good cause is shown. A  
2209 dismissal for lack of prosecution is without prejudice and does  
2210 not require a hearing.

2211 (j)~~(k)~~ A judge of compensation claims may not award  
2212 interest on unpaid medical bills and the amount of such bills  
2213 may not be used to calculate the amount of interest awarded.  
2214 Regardless of the date benefits were initially requested,  
2215 attorney's fees do not attach under this subsection until 30  
2216 days after the date the carrier or self-insured employer



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2217 receives the petition.

2218 (10)~~(5)~~(a) Procedures with respect to appeals from orders  
2219 of judges of compensation claims shall be governed by rules  
2220 adopted by the Supreme Court. Such an order shall become final  
2221 30 days after mailing of copies of such order to the parties,  
2222 unless appealed pursuant to such rules.

2223 (b) An appellant may be relieved of any necessary filing  
2224 fee by filing a verified petition of indigency for approval as  
2225 provided in s. 57.081(1) and may be relieved in whole or in part  
2226 from the costs for preparation of the record on appeal if,  
2227 within 15 days after the date notice of the estimated costs for  
2228 the preparation is served, the appellant files with the judge of  
2229 compensation claims a copy of the designation of the record on  
2230 appeal, and a verified petition to be relieved of costs. A  
2231 verified petition filed prior to the date of service of the  
2232 notice of the estimated costs shall be deemed not timely filed.  
2233 The verified petition relating to record costs shall contain a  
2234 sworn statement that the appellant is insolvent and a complete,  
2235 detailed, and sworn financial affidavit showing all the  
2236 appellant's assets, liabilities, and income. Failure to state in  
2237 the affidavit all assets and income, including marital assets  
2238 and income, shall be grounds for denying the petition with  
2239 prejudice. The Office of the Judges of Compensation Claims shall  
2240 adopt rules as may be required pursuant to this subsection,  
2241 including forms for use in all petitions brought under this  
2242 subsection. The appellant's attorney, or the appellant if she or  
2243 he is not represented by an attorney, shall include as a part of  
2244 the verified petition relating to record costs an affidavit or  
2245 affirmation that, in her or his opinion, the notice of appeal  
2246 was filed in good faith and that there is a probable basis for



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2247 the District Court of Appeal, First District, to find reversible  
2248 error, and shall state with particularity the specific legal and  
2249 factual grounds for the opinion. Failure to so affirm shall be  
2250 grounds for denying the petition. A copy of the verified  
2251 petition relating to record costs shall be served upon all  
2252 interested parties. The judge of compensation claims shall  
2253 promptly conduct a hearing on the verified petition relating to  
2254 record costs, giving at least 15 days' notice to the appellant,  
2255 the department, and all other interested parties, all of whom  
2256 shall be parties to the proceedings. The judge of compensation  
2257 claims may enter an order without such hearing if no objection  
2258 is filed by an interested party within 20 days from the service  
2259 date of the verified petition relating to record costs. Such  
2260 proceedings shall be conducted in accordance with the provisions  
2261 of this section and with the workers' compensation rules of  
2262 procedure, to the extent applicable. In the event an insolvency  
2263 petition is granted, the judge of compensation claims shall  
2264 direct the department to pay record costs and filing fees from  
2265 the Workers' Compensation Administration Trust Fund pending  
2266 final disposition of the costs of appeal. The department may  
2267 transcribe or arrange for the transcription of the record in any  
2268 proceeding for which it is ordered to pay the cost of the  
2269 record.

2270 (c) As a condition of filing a notice of appeal to the  
2271 District Court of Appeal, First District, an employer who has  
2272 not secured the payment of compensation under this chapter in  
2273 compliance with s. 440.38 shall file with the notice of appeal a  
2274 good and sufficient bond, as provided in s. 59.13, conditioned  
2275 to pay the amount of the demand and any interest and costs  
2276 payable under the terms of the order if the appeal is dismissed,



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2277 or if the District Court of Appeal, First District, affirms the  
 2278 award in any amount. Upon the failure of such employer to file  
 2279 such bond with the judge of compensation claims or the District  
 2280 Court of Appeal, First District, along with the notice of  
 2281 appeal, the District Court of Appeal, First District, shall  
 2282 dismiss the notice of appeal.

2283 (11)~~(6)~~ An award of compensation for disability may be  
 2284 made after the death of an injured employee.

2285 (12)~~(7)~~ An injured employee claiming or entitled to  
 2286 compensation shall submit to such physical examination by a  
 2287 certified expert medical advisor approved by the agency or the  
 2288 judge of compensation claims as the agency or the judge of  
 2289 compensation claims may require. The place or places shall be  
 2290 reasonably convenient for the employee. Such physician or  
 2291 physicians as the employee, employer, or carrier may select and  
 2292 pay for may participate in an examination if the employee,  
 2293 employer, or carrier so requests. Proceedings shall be suspended  
 2294 and no compensation shall be payable for any period during which  
 2295 the employee may refuse to submit to examination. Any interested  
 2296 party shall have the right in any case of death to require an  
 2297 autopsy, the cost thereof to be borne by the party requesting  
 2298 it; and the judge of compensation claims shall have authority to  
 2299 order and require an autopsy and may, in her or his discretion,  
 2300 withhold her or his findings and award until an autopsy is held.

2301 Section 20. Subsections (1), (2), and (3) of section  
 2302 440.34, Florida Statutes, are amended to read:

2303 440.34 Attorney's fees; costs.--

2304 (1) A fee, gratuity, or other consideration may not be  
 2305 paid for services rendered for a claimant in connection with any  
 2306 proceedings arising under this chapter, unless approved as



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2307 reasonable by the judge of compensation claims or court having  
2308 jurisdiction over such proceedings. Except as provided by this  
2309 section subsection, any attorney's fee approved by a judge of  
2310 compensation claims for services rendered to a claimant must be  
2311 equal to 20 percent ~~of the first \$5,000 of the amount~~ of the  
2312 benefits secured, ~~15 percent of the next \$5,000 of the amount of~~  
2313 ~~the benefits secured, 10 percent of the remaining amount of the~~  
2314 ~~benefits secured to be provided during the first 10 years after~~  
2315 ~~the date the petition for benefits claim is filed, and 5 percent~~  
2316 ~~of the benefits secured after 10 years. However, The judge of~~  
2317 compensation claims shall consider the following factors in each  
2318 case in which an hourly fee may be awarded as set forth in  
2319 subsection (3), and may increase or decrease the attorney's fee  
2320 if, in her or his judgment, the circumstances of the particular  
2321 case warrant such action:

2322 (a) The time and labor required, the novelty and  
2323 difficulty of the questions involved, and the skill requisite to  
2324 perform the legal service properly.

2325 (b) The fee customarily charged in the locality for  
2326 similar legal services.

2327 (c) The amount involved in the controversy and the  
2328 benefits resulting to the claimant.

2329 (d) The time limitation imposed by the claimant or the  
2330 circumstances.

2331 (e) The experience, reputation, and ability of the lawyer  
2332 or lawyers performing services.

2333 (f) The contingency or certainty of a fee.

2334 (2) In awarding a reasonable claimant's attorney's fee,  
2335 the judge of compensation claims shall consider only those  
2336 benefits to the claimant that the attorney is responsible for



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2337 securing. The amount, statutory basis, and type of benefits  
2338 obtained through legal representation shall be listed on all  
2339 attorney's fees awarded by the judge of compensation claims. For  
2340 purposes of this section, the term "benefits secured" means  
2341 benefits obtained as a result of the claimant's attorney's legal  
2342 services rendered in connection with the claim for benefits.  
2343 ~~However, such term does not include future medical benefits to~~  
2344 ~~be provided on any date more than 5 years after the date the~~  
2345 ~~claim is filed.~~

2346 (3) If the claimant should prevail in any proceedings  
2347 before a judge of compensation claims or court, there shall be  
2348 taxed against the employer the reasonable costs of such  
2349 proceedings, not to include the attorney's fees of the claimant.  
2350 A claimant shall be responsible for the payment of her or his  
2351 own attorney's fees, except that a claimant shall be entitled to  
2352 recover a reasonable attorney's fee from a carrier or employer:

2353 (a) Against whom she or he successfully asserts a petition  
2354 for medical benefits only, which may be enhanced by an  
2355 additional hourly fee not to exceed \$5,000 ~~if the claimant has~~  
2356 ~~not filed or is not entitled to file at such time a claim for~~  
2357 ~~disability, permanent impairment, wage loss, or death benefits,~~  
2358 ~~arising out of the same accident;~~

2359 (b) In any case in which the employer or carrier files a  
2360 response to petition denying benefits with the Office of the  
2361 Judges of Compensation Claims and the injured person has  
2362 employed an attorney in the successful prosecution of the  
2363 petition;

2364 (c) In a proceeding in which a carrier or employer denies  
2365 that an accident occurred for which compensation benefits are  
2366 payable, and the claimant prevails on the issue of



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2367 compensability, either the amount set forth in subsection (1)  
2368 or, upon showing to the judge of compensation claims, an hourly  
2369 fee not to exceed \$20,000, whichever is greater; or

2370 (d) In cases where the claimant successfully prevails in  
2371 proceedings filed under s. 440.24 or s. 440.28.

2372

2373 Regardless of the date benefits were initially requested,  
2374 attorney's fees shall not attach under this subsection until 30  
2375 days after the date the carrier or employer, if self-insured,  
2376 receives the petition. In applying the factors set forth in  
2377 subsection (1) to cases arising under paragraphs (a), (b), (c),  
2378 and (d), the judge of compensation claims must only consider  
2379 only such benefits and the time reasonably spent in obtaining  
2380 them as were secured for the claimant within the scope of  
2381 paragraphs (a), (b), (c), and (d).

2382 Section 21. Subsection (7) is added to section 440.38,  
2383 Florida Statutes, to read:

2384 440.38 Security for compensation; insurance carriers and  
2385 self-insurers.—

2386 (7) Any employer who meets the requirements of subsection  
2387 (1) through a policy of insurance issued outside of this state  
2388 must at all times, with respect to all employees working in this  
2389 state, maintain the required coverage under a Florida  
2390 endorsement using Florida rates and rules pursuant to payroll  
2391 reporting that accurately reflects the work performed in this  
2392 state by such employees.

2393 Section 22. Subsection (2) of section 440.381, Florida  
2394 Statutes, is amended to read:

2395 440.381 Application for coverage; reporting payroll;  
2396 payroll audit procedures; penalties.--





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2397           (2) Submission of an application that contains false,  
2398 misleading, or incomplete information provided with the purpose  
2399 of avoiding or reducing the amount of premiums for workers'  
2400 compensation coverage is a felony of the second degree,  
2401 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2402 The application must contain a statement that the filing of an  
2403 application containing false, misleading, or incomplete  
2404 information provided with the purpose of avoiding or reducing  
2405 the amount of premiums for workers' compensation coverage is a  
2406 felony of the third degree, punishable as provided in s.  
2407 775.082, s. 775.083, or s. 775.084. The application must contain  
2408 a sworn statement by the employer attesting to the accuracy of  
2409 the information submitted and acknowledging the provisions of  
2410 former s. 440.37(4). The application must contain a sworn  
2411 statement by the agent attesting that the agent explained to the  
2412 employer or officer the classification codes that are used for  
2413 premium calculations.

2414           Section 23. Paragraphs (c) and (d) of subsection (4) of  
2415 section 627.311, Florida Statutes, are amended to read  
2416           627.311 Joint underwriters and joint reinsurers.--

2417           (4)

2418           (c) The operation of the plan shall be governed by a plan  
2419 of operation that is prepared at the direction of the board of  
2420 governors. The plan of operation may be changed at any time by  
2421 the board of governors or upon request of the department. The  
2422 plan of operation and all changes thereto are subject to the  
2423 approval of the department. The plan of operation shall:

2424           1. Authorize the board to engage in the activities  
2425 necessary to implement this subsection, including, but not  
2426 limited to, borrowing money.



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2427           2. Develop criteria for eligibility for coverage by the  
2428 plan, including, but not limited to, documented rejection by at  
2429 least two insurers which reasonably assures that insureds  
2430 covered under the plan are unable to acquire coverage in the  
2431 voluntary market. Any insured may voluntarily elect to accept  
2432 coverage from an insurer for a premium equal to or greater than  
2433 the plan premium if the insurer writing the coverage adheres to  
2434 the provisions of s. 627.171.

2435           3. Require notice from the agent to the insured at the  
2436 time of the application for coverage that the application is for  
2437 coverage with the plan and that coverage may be available  
2438 through an insurer, group self-insurers' fund, commercial self-  
2439 insurance fund, or assessable mutual insurer through another  
2440 agent at a lower cost.

2441           4. Establish programs to encourage insurers to provide  
2442 coverage to applicants of the plan in the voluntary market and  
2443 to insureds of the plan, including, but not limited to:

2444           a. Establishing procedures for an insurer to use in  
2445 notifying the plan of the insurer's desire to provide coverage  
2446 to applicants to the plan or existing insureds of the plan and  
2447 in describing the types of risks in which the insurer is  
2448 interested. The description of the desired risks must be on a  
2449 form developed by the plan.

2450           b. Developing forms and procedures that provide an insurer  
2451 with the information necessary to determine whether the insurer  
2452 wants to write particular applicants to the plan or insureds of  
2453 the plan.

2454           c. Developing procedures for notice to the plan and the  
2455 applicant to the plan or insured of the plan that an insurer  
2456 will insure the applicant or the insured of the plan, and notice



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2457 of the cost of the coverage offered; and developing procedures  
2458 for the selection of an insuring entity by the applicant or  
2459 insured of the plan.

2460 d. Provide for a market-assistance plan to assist in the  
2461 placement of employers. All applications for coverage in the  
2462 plan received 45 days before the effective date for coverage  
2463 shall be processed through the market-assistance plan. A market-  
2464 assistance plan specifically designed to serve the needs of  
2465 small good policyholders as defined by the board must be  
2466 finalized by January 1, 1994.

2467 5. Provide for policy and claims services to the insureds  
2468 of the plan of the nature and quality provided for insureds in  
2469 the voluntary market.

2470 6. Provide for the review of applications for coverage  
2471 with the plan for reasonableness and accuracy, using any  
2472 available historic information regarding the insured.

2473 7. Provide for procedures for auditing insureds of the  
2474 plan which are based on reasonable business judgment and are  
2475 designed to maximize the likelihood that the plan will collect  
2476 the appropriate premiums.

2477 8. Authorize the plan to terminate the coverage of and  
2478 refuse future coverage for any insured that submits a fraudulent  
2479 application to the plan or provides fraudulent or grossly  
2480 erroneous records to the plan or to any service provider of the  
2481 plan in conjunction with the activities of the plan.

2482 9. Establish service standards for agents who submit  
2483 business to the plan.

2484 10. Establish criteria and procedures to prohibit any  
2485 agent who does not adhere to the established service standards  
2486 from placing business with the plan or receiving, directly or



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2487 indirectly, any commissions for business placed with the plan.

2488 11. Provide for the establishment of reasonable safety  
 2489 programs for all insureds in the plan. All insureds of the plan  
 2490 must participate in the safety program.

2491 12. Authorize the plan to terminate the coverage of and  
 2492 refuse future coverage to any insured who fails to pay premiums  
 2493 or surcharges when due; who, at the time of application, is  
 2494 delinquent in payments of workers' compensation or employer's  
 2495 liability insurance premiums or surcharges owed to an insurer,  
 2496 group self-insurers' fund, commercial self-insurance fund, or  
 2497 assessable mutual insurer licensed to write such coverage in  
 2498 this state; or who refuses to substantially comply with any  
 2499 safety programs recommended by the plan.

2500 13. Authorize the board of governors to provide the  
 2501 services required by the plan through staff employed by the  
 2502 plan, through reasonably compensated service providers who  
 2503 contract with the plan to provide services as specified by the  
 2504 board of governors, or through a combination of employees and  
 2505 service providers.

2506 14. Provide for service standards for service providers,  
 2507 methods of determining adherence to those service standards,  
 2508 incentives and disincentives for service, and procedures for  
 2509 terminating contracts for service providers that fail to adhere  
 2510 to service standards.

2511 15. Provide procedures for selecting service providers and  
 2512 standards for qualification as a service provider that  
 2513 reasonably assure that any service provider selected will  
 2514 continue to operate as an ongoing concern and is capable of  
 2515 providing the specified services in the manner required.

2516 16. Provide for reasonable accounting and data-reporting



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2517 practices.

2518 17. Provide for annual review of costs associated with the  
2519 administration and servicing of the policies issued by the plan  
2520 to determine alternatives by which costs can be reduced.

2521 18. Authorize the acquisition of such excess insurance or  
2522 reinsurance as is consistent with the purposes of the plan.

2523 19. Provide for an annual report to the department on a  
2524 date specified by the department and containing such information  
2525 as the department reasonably requires.

2526 20. Establish multiple rating plans for various  
2527 classifications of risk which reflect risk of loss, hazard  
2528 grade, actual losses, size of premium, and compliance with loss  
2529 control. At least one of such plans must be a preferred-rating  
2530 plan to accommodate small-premium policyholders with good  
2531 experience as defined in sub-subparagraph 22.a.

2532 21. Establish agent commission schedules.

2533 22. Establish four ~~three~~ subplans as follows:

2534 a. Subplan "A" must include those insureds whose annual  
2535 premium does not exceed \$2,500 and who have neither incurred any  
2536 lost-time claims nor incurred medical-only claims exceeding 50  
2537 percent of their premium for the immediate 2 years.

2538 b. Subplan "B" must include insureds that are employers  
2539 identified by the board of governors as high-risk employers due  
2540 solely to the nature of the operations being performed by those  
2541 insureds and for whom no market exists in the voluntary market,  
2542 and whose experience modifications are less than 1.00.

2543 c. Subplan "C" must include all ~~other~~ insureds within the  
2544 plan that are not eligible for subplan "A," subplan "B," or  
2545 subplan "D."

2546 d. Subplan "D" must include any employer with 50 or fewer



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2547 employees, except that an employer who is eligible for subplan  
2548 "D" and another subplan may elect the subplan in which it will  
2549 participate. The rate plan for subplan "D" shall be the same  
2550 rate plan as the plan approved under ss. 627.091-627.151, and  
2551 each participant in subplan "D" shall pay the premium determined  
2552 under such rate plan, plus a surcharge determined by the board  
2553 to be sufficient to ensure that the plan does not compete with  
2554 the voluntary market but not to exceed 25 percent.

2555 (d)1. The plan must be funded through actuarially sound  
2556 premiums charged to insureds of the plan.

2557 2. The plan may issue assessable policies only to those  
2558 insureds in subplan "C-" and subplan "D." Assessments levied  
2559 against subplan "C" participants shall cover only the excess  
2560 losses attributable to subplan "C," and assessments levied  
2561 against subplan "D" participants shall cover only the excess  
2562 losses attributable to subplan "D." In no event may the plan  
2563 levy assessments against any person or entity except as  
2564 authorized by this paragraph. Those assessable policies must be  
2565 clearly identified as assessable by containing, in contrasting  
2566 color and in not less than 10-point type, the following  
2567 statements: "This is an assessable policy. If the plan is unable  
2568 to pay its obligations, policyholders will be required to  
2569 contribute on a pro rata earned premium basis the money  
2570 necessary to meet any assessment levied."

2571 3. The plan may issue assessable policies with differing  
2572 terms and conditions to different groups within subplan "C" and  
2573 subplan "D" ~~the plan~~ when a reasonable basis exists for the  
2574 differentiation.

2575 4. The plan may offer rating, dividend plans, and other  
2576 plans to encourage loss prevention programs.



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2577 Section 24. Paragraphs (c) and (e) of Subsection (3) of  
 2578 section 921.0022, Florida Statutes, are amended to read:  
 2579 921.0022 Criminal Punishment Code; offense severity  
 2580 ranking chart.--

2581 (3) OFFENSE SEVERITY RANKING CHART

Florida	Felony	
Statute	Degree	Description

2582

(c) LEVEL 3

2583

316.193(2)(b) 3rd Felony DUI, 3rd conviction.

2584

316.1935(2) 3rd Fleeing or attempting to elude law  
 enforcement officer in marked patrol  
 vehicle with siren and lights  
 activated.

2585

319.30(4) 3rd Possession by junkyard of motor vehicle  
 with identification number plate  
 removed.

2586

319.33(1)(a) 3rd Alter or forge any certificate of title  
 to a motor vehicle or mobile home.

2587

319.33(1)(c) 3rd Procure or pass title on stolen  
 vehicle.

2588

319.33(4) 3rd With intent to defraud, possess, sell,  
 etc., a blank, forged, or unlawfully  
 obtained title or registration.

2589

327.35(2)(b) 3rd Felony BUI.

2590



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2591	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
2592	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
2593	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
2594	<u>440.105(3)(a)</u>	<u>3rd</u>	<u>Failure to update workers' compensation insurance coverage application or to post notice of coverage.</u>
2595	<u>440.105(3)(b)</u>	<u>3rd</u>	<u>Receipt of fee or consideration without approval by judge of compensation claims.</u>
2596	<u>440.1051(3)</u>	<u>3rd</u>	<u>False report of workers' compensation fraud or retaliation for making such a report.</u>
2597	697.08	3rd	Equity skimming.
2598	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
2599	796.05(1)	3rd	Live on earnings of a prostitute.
	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment





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used in firefighting.

2600

806.10(2) 3rd Interferes with or assaults firefighter in performance of duty.

2601

810.09(2)(c) 3rd Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

2602

812.014(2)(c)2. 3rd Grand theft; \$5,000 or more but less than \$10,000.

2603

812.0145(2)(c) 3rd Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

2604

815.04(4)(b) 2nd Computer offense devised to defraud or obtain property.

2605

817.034(4)(a)3. 3rd Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.

2606

817.233 3rd Burning to defraud insurer.

2607

817.234(8)& 3rd Unlawful solicitation of persons  
(9) involved in motor vehicle accidents.

2608

817.234(11)(a) 3rd Insurance fraud; property value less than \$20,000.

2609

817.505(4) 3rd Patient brokering.

2610

828.12(2) 3rd Tortures any animal with intent to



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inflict intense pain, serious physical injury, or death.

2611

831.28(2)(a) 3rd

Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

2612

831.29 2nd

Possession of instruments for counterfeiting drivers' licenses or identification cards.

2613

838.021(3)(b) 3rd

Threatens unlawful harm to public servant.

2614

843.19 3rd

Injure, disable, or kill police dog or horse.

2615

870.01(2) 3rd

Riot; inciting or encouraging.

2616

893.13(1)(a)2. 3rd

Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

2617

893.13(1)(d)2. 2nd

Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park.

2618

893.13(1)(f)2. 3rd

Sell, manufacture, or deliver s.



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893.03(1)(c), (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3), or (4) drugs  
 within 200 feet of public housing  
 facility.

2619

893.13(6)(a) 3rd Possession of any controlled substance  
 other than felony possession of  
 cannabis.

2620

893.13(7)(a)8. 3rd Withhold information from practitioner  
 regarding previous receipt of or  
 prescription for a controlled  
 substance.

2621

893.13(7)(a)9. 3rd Obtain or attempt to obtain controlled  
 substance by fraud, forgery,  
 misrepresentation, etc.

2622

893.13(7)(a)10. 3rd Affix false or forged label to package  
 of controlled substance.

2623

893.13(7)(a)11. 3rd Furnish false or fraudulent material  
 information on any document or record  
 required by chapter 893.

2624

893.13(8)(a)1. 3rd Knowingly assist a patient, other  
 person, or owner of an animal in  
 obtaining a controlled substance  
 through deceptive, untrue, or  
 fraudulent representations in or  
 related to the practitioner's practice.

2625



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2626	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
2627	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
2628	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
2629	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
2630	944.47(1)(a)1.- 2.	3rd	Introduce contraband to correctional facility.
2631	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
2632	985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
2633	316.027(1)(a)	3rd	(e) LEVEL 5 Accidents involving personal injuries, failure to stop; leaving scene.



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2634	316.1935(4)	2nd	Aggravated fleeing or eluding.
2635	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
2636	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
2637	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
2638	<u>440.105(5)</u>	<u>2nd</u>	<u>Unlawful solicitation for the purpose of making workers' compensation claims.</u>
2639	<u>440.381(2)</u>	<u>2nd</u>	<u>Submission of information with the purpose of avoiding or reducing workers' compensation premiums.</u>
2640	790.01(2)	3rd	Carrying a concealed firearm.
2641	790.162	2nd	Threat to throw or discharge destructive device.
2642	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
2643	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
2644	790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
2645	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender



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less than 18 years.

2646

800.04(7)(c) 2nd Lewd or lascivious exhibition; offender  
18 years or older.

2647

806.111(1) 3rd Possess, manufacture, or dispense fire  
bomb with intent to damage any  
structure or property.

2648

812.0145(2)(b) 2nd Theft from person 65 years of age or  
older; \$10,000 or more but less than  
\$50,000.

2649

812.015(8) 3rd Retail theft; property stolen is valued  
at \$300 or more and one or more  
specified acts.

2650

812.019(1) 2nd Stolen property; dealing in or  
trafficking in.

2651

812.131(2)(b) 3rd Robbery by sudden snatching.

2652

812.16(2) 3rd Owning, operating, or conducting a chop  
shop.

2653

817.034(4)(a)2. 2nd Communications fraud, value \$20,000 to  
\$50,000.

2654

817.234(11)(b) 2nd Insurance fraud; property value \$20,000  
or more but less than \$100,000.

2655

817.568(2)(b) 2nd Fraudulent use of personal  
identification information; value of  
benefit, services received, payment



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avoided, or amount of injury or fraud,  
\$75,000 or more.

2656

817.625(2)(b) 2nd

Second or subsequent fraudulent use of  
scanning device or reencoder.

2657

825.1025(4) 3rd

Lewd or lascivious exhibition in the  
presence of an elderly person or  
disabled adult.

2658

827.071(4) 2nd

Possess with intent to promote any  
photographic material, motion picture,  
etc., which includes sexual conduct by  
a child.

2659

839.13(2)(b) 2nd

Falsifying records of an individual in  
the care and custody of a state agency  
involving great bodily harm or death.

2660

843.01 3rd

Resist officer with violence to person;  
resist arrest with violence.

2661

874.05(2) 2nd

Encouraging or recruiting another to  
join a criminal street gang; second or  
subsequent offense.

2662

893.13(1)(a)1. 2nd

Sell, manufacture, or deliver cocaine  
(or other s. 893.03(1)(a), (1)(b),  
(1)(d), (2)(a), (2)(b), or (2)(c)4.  
drugs).

2663

893.13(1)(c)2. 2nd

Sell, manufacture, or deliver cannabis  
(or other s. 893.03(1)(c), (2)(c)1.,



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(2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 (2)(c)7., (2)(c)8., (2)(c)9., (3), or  
 (4) drugs) within 1,000 feet of a child  
 care facility or school.

2664

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine  
 (or other s. 893.03(1)(a), (1)(b),  
 (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 drugs) within 200 feet of university or  
 public park.

2665

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis  
 or other drug prohibited under s.  
 893.03(1)(c), (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3), or (4) within  
 1,000 feet of property used for  
 religious services or a specified  
 business site.

2666

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine  
 (or other s. 893.03(1)(a), (1)(b),  
 (1)(d), or (2)(a), (2)(b), or (2)(c)4.  
 drugs) within 200 feet of public  
 housing facility.

2667

893.13(4)(b) 2nd Deliver to minor cannabis (or other s.  
 893.03(1)(c), (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3), or (4) drugs).

2668

Section 25. Report to the Legislature regarding

2669

outstanding enforcement issues.--The Department of Financial





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2670 Services shall, no later than January 1, 2004, provide a report  
 2671 to the President of the Senate, the Speaker of the House of  
 2672 Representatives, the minority leaders of the Senate and the  
 2673 House of Representatives, and the chairs of the standing  
 2674 committees of the Senate and the House of Representatives having  
 2675 jurisdiction over insurance issues, containing the following  
 2676 information:

2677 (1) Any provision of chapter 440, Florida Statutes,  
 2678 relating to workers' compensation carrier compliance and  
 2679 enforcement, that the department finds it is unable to enforce.

2680 (2) Any administrative rule relating to workers'  
 2681 compensation carrier compliance and enforcement that the  
 2682 department finds it is unable to enforce.

2683 (3) Any other impediment to enforcement of chapter 440,  
 2684 Florida Statutes, resulting from the transfer of activities from  
 2685 the former Department of Labor and Employment Security to the  
 2686 department or the reorganization of the former Department of  
 2687 Insurance into the department.

2688 Section 26. Except as otherwise provided herein, this act  
 2689 shall take effect upon becoming a law.