

By Senator Alexander

17-2589-03

1                                   A bill to be entitled  
2           An act relating to motor vehicle insurance  
3           costs; providing a short title; providing  
4           legislative findings and purpose; amending s.  
5           119.105, F.S.; prohibiting disclosure of  
6           confidential police reports for purposes of  
7           commercial solicitation; amending s. 316.066,  
8           F.S.; requiring the filing of a sworn statement  
9           as a condition to accessing a crash report  
10          stating the report will not be used for  
11          commercial solicitation; providing a penalty;  
12          creating part XIII of ch. 400, F.S., entitled  
13          the Health Care Clinic Act; providing for  
14          definitions and exclusions; providing for the  
15          licensure, inspection, and regulation of health  
16          care clinics by the Agency for Health Care  
17          Administration; requiring licensure and  
18          background screening; providing for clinic  
19          inspections; providing rulemaking authority;  
20          providing licensure fees; providing fines and  
21          penalties for operating an unlicensed clinic;  
22          providing for clinic responsibilities with  
23          respect to personnel and operations; providing  
24          accreditation requirements; providing for  
25          injunctive proceedings and agency actions;  
26          providing administrative penalties; amending s.  
27          456.0375, F.S.; excluding certain entities from  
28          clinic registration requirements; providing  
29          retroactive application; amending s. 456.072,  
30          F.S.; providing that making a claim with  
31          respect to personal injury protection which is

1           upcoded or which is submitted for payment of  
2           services not rendered constitutes grounds for  
3           disciplinary action; amending s. 626.7451,  
4           F.S.; providing a per-policy fee to be remitted  
5           to the insurer's Special Investigations Unit,  
6           the Division of Insurance Fraud of the  
7           Department of Financial Services, and the  
8           Office of Statewide Prosecution for purposes of  
9           preventing, detecting, and prosecuting motor  
10          vehicle insurance fraud; amending s. 627.732,  
11          F.S.; providing definitions; providing that  
12          benefits are void if fraud is committed;  
13          providing for award of attorney's fees in  
14          actions to recover benefits; providing that  
15          consideration shall be given to certain factors  
16          regarding the reasonableness of charges;  
17          specifying claims or charges that an insurer is  
18          not required to pay; requiring the Department  
19          of Health, in consultation with medical boards,  
20          to identify certain diagnostic tests as  
21          non-compensable; specifying effective dates;  
22          deleting certain provisions governing  
23          arbitration; providing for compliance with  
24          billing procedures; requiring certain providers  
25          to require an insured to sign a disclosure  
26          form; prohibiting insurers from authorizing  
27          physicians to change opinion in reports;  
28          providing requirements for physicians with  
29          respect to maintaining such reports; limiting  
30          the application of contingency risk multipliers  
31          for awards of attorney's fees; expanding

1 provisions providing for a demand letter;  
2 authorizing the Financial Services Commission  
3 to determine cost savings under personal injury  
4 protection benefits under specified conditions;  
5 allowing a person who elects a deductible or  
6 modified coverage to claim the amount deducted  
7 from a person legally responsible; amending s.  
8 627.739, F.S.; specifying application of a  
9 deductible amount; amending s. 817.234, F.S.;  
10 providing that it is a material omission and  
11 insurance fraud for a physician or other  
12 provider to waive a deductible or copayment or  
13 not collect the total amount of a charge;  
14 increasing the penalties for certain acts of  
15 solicitation of accident victims; providing  
16 mandatory minimum penalties; prohibiting  
17 certain solicitation of accident victims;  
18 providing penalties; prohibiting a person from  
19 participating in an intentional motor vehicle  
20 accident for the purpose of making motor  
21 vehicle tort claims; providing penalties,  
22 including mandatory minimum penalties; amending  
23 s. 817.236, F.S.; increasing penalties for  
24 false and fraudulent motor vehicle insurance  
25 application; creating s. 817.2361, F.S.;  
26 prohibiting the creation or use of false or  
27 fraudulent motor vehicle insurance cards;  
28 providing penalties; amending s. 921.0022,  
29 F.S.; revising the offense severity ranking  
30 chart of the Criminal Punishment Code to  
31 reflect changes in penalties and the creation

1 of additional offenses under the act; providing  
2 legislative intent with respect to the  
3 retroactive application of certain provisions;  
4 repealing s. 456.0375, F.S., relating to the  
5 regulation of clinics by the Department of  
6 Health; requiring certain insurers to make a  
7 rate filing to conform the per-policy fee to  
8 the requirements of the act; specifying the  
9 application of any increase in benefits  
10 approved by the Financial Services Commission;  
11 providing for application of other provisions  
12 of the act; requiring reports; providing an  
13 appropriation and authorizing additional  
14 positions; repealing of ss. 627.730, 627.731,  
15 627.732, 627.733, 627.734, 627.736, 627.737,  
16 627.739, 627.7401, 627.7403, and 627.7405,  
17 F.S., relating to the Florida Motor Vehicle  
18 No-Fault Law, unless reenacted by the 2005  
19 Regular Session, and specifying certain effect;  
20 authorizing insurers to include in policies a  
21 notice of termination relating to such repeal;  
22 providing for construction of the act in pari  
23 materia with laws enacted during the Regular  
24 Session of the Legislature; providing effective  
25 dates.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Florida Motor Vehicle Insurance  
30 Affordability Reform Act; legislative findings; purpose.--  
31

1           (1) This act may be cited as the "Florida Motor  
2 Vehicle Insurance Affordability Reform Act."

3           (2) The Legislature finds and declares that:

4           (a) The Florida Motor Vehicle No-Fault Law, enacted 32  
5 years ago, has provided valuable benefits over the years to  
6 consumers in this state. The principle underlying the  
7 philosophical basis of the no-fault or personal injury  
8 protection (PIP) insurance system is that of a trade-off of  
9 one benefit for another, specifically providing medical and  
10 other benefits in return for a limitation on the right to sue  
11 for nonserious injuries.

12           (b) The PIP insurance system has provided benefits in  
13 the form of medical payments, lost wages, replacement  
14 services, funeral payments, and other benefits, without regard  
15 to fault, to consumers injured in automobile accidents.

16           (c) However, the goals behind the adoption of the  
17 no-fault law in 1971, which were to quickly and efficiently  
18 compensate accident victims regardless of fault, to reduce the  
19 volume of lawsuits by eliminating minor injuries from the tort  
20 system, and to reduce overall motor vehicle insurance costs,  
21 have been significantly compromised due to the fraud and abuse  
22 that has permeated the PIP insurance market.

23           (d) Motor vehicle insurance fraud and abuse, other  
24 than in the hospital setting, whether in the form of  
25 inappropriate medical treatments, inflated claims, staged  
26 accidents, solicitation of accident victims, falsification of  
27 records, or in any other form, has increased premiums for  
28 consumers and must be uncovered and vigorously prosecuted. The  
29 problem of inappropriate medical treatment and inflated claims  
30 for PIP have generally not occurred in the hospital setting.

31

1           (e) The no-fault system has been weakened in part due  
2 to certain insurers not adequately or timely compensating  
3 injured accident victims or health care providers. In  
4 addition, the system has become increasingly litigious with  
5 attorneys obtaining large fees by litigating, in certain  
6 instances, over relatively small amounts that are in dispute.

7           (f) It is a matter of great public importance that, in  
8 order to provide a healthy and competitive automobile  
9 insurance market, consumers be able to obtain affordable  
10 coverage, insurers be entitled to earn an adequate rate of  
11 return, and providers of services be compensated fairly.

12           (g) It is further a matter of great public importance  
13 that, in order to protect the public's health, safety, and  
14 welfare, it is necessary to enact the provisions contained in  
15 this act in order to prevent PIP insurance fraud and abuse and  
16 to curb escalating medical, legal, and other related costs,  
17 and the Legislature finds that the provisions of this act are  
18 the least restrictive actions necessary to achieve this goal.

19           (h) Therefore, the purpose of this act is to restore  
20 the health of the PIP insurance market in Florida by  
21 addressing these issues, preserving the no-fault system, and  
22 realizing cost-savings for all people in this state.

23           Section 2. Section 119.105, Florida Statutes, is  
24 amended to read:

25           119.105 Protection of victims of crimes or  
26 accidents.--Police reports are public records except as  
27 otherwise made exempt or confidential by general or special  
28 law. Every person is allowed to examine nonexempt or  
29 nonconfidential police reports. A No person who comes into  
30 possession of exempt or confidential information contained in  
31 police reports may not ~~inspect or copies~~ police reports for

1 ~~the purpose of obtaining the names and addresses of the~~  
2 ~~victims of crimes or accidents shall use that any~~ information  
3 ~~contained therein~~ for any commercial solicitation of the  
4 victims or relatives of the victims of the reported crimes or  
5 accidents and may not knowingly disclose such information to  
6 any third party for the purpose of such solicitation during  
7 the period of time that information remains exempt or  
8 confidential. This section does not ~~Nothing herein shall~~  
9 prohibit the publication of such information to the general  
10 public by any news media legally entitled to possess that  
11 information or the use of such information for any other data  
12 collection or analysis purposes by those entitled to possess  
13 that information.

14 Section 3. Paragraph (c) of subsection (3) of section  
15 316.066, Florida Statutes, is amended, and paragraph (f) is  
16 added to that subsection, to read:

17 316.066 Written reports of crashes.--

18 (3)

19 (c) Crash reports required by this section which  
20 reveal the identity, home or employment telephone number or  
21 home or employment address of, or other personal information  
22 concerning the parties involved in the crash and which are  
23 received or prepared by any agency that regularly receives or  
24 prepares information from or concerning the parties to motor  
25 vehicle crashes are confidential and exempt from s. 119.07(1)  
26 and s. 24(a), Art. I of the State Constitution for a period of  
27 60 days after the date the report is filed. However, such  
28 reports may be made immediately available to the parties  
29 involved in the crash, their legal representatives, their  
30 licensed insurance agents, their insurers or insurers to which  
31 they have applied for coverage, persons under contract with

1 such insurers to provide claims or underwriting information,  
2 prosecutorial authorities, radio and television stations  
3 licensed by the Federal Communications Commission, newspapers  
4 qualified to publish legal notices under ss. 50.011 and  
5 50.031, and free newspapers of general circulation, published  
6 once a week or more often, available and of interest to the  
7 public generally for the dissemination of news. For the  
8 purposes of this section, the following products or  
9 publications are not newspapers as referred to in this  
10 section: those intended primarily for members of a particular  
11 profession or occupational group; those with the primary  
12 purpose of distributing advertising; and those with the  
13 primary purpose of publishing names and other personally  
14 identifying information concerning parties to motor vehicle  
15 crashes. Any local, state, or federal agency, agent, or  
16 employee that is authorized to have access to such reports by  
17 any provision of law shall be granted such access in the  
18 furtherance of the agency's statutory duties notwithstanding  
19 the provisions of this paragraph. Any local, state, or federal  
20 agency, agent, or employee receiving such crash reports shall  
21 maintain the confidential and exempt status of those reports  
22 and shall not disclose such crash reports to any person or  
23 entity. As a condition precedent to accessing a ~~Any person~~  
24 ~~attempting to access~~ crash report reports within 60 days after  
25 the date the report is filed, a person must present a valid  
26 driver's license or other photographic identification, proof  
27 of status ~~legitimate credentials~~ or identification that  
28 demonstrates his or her qualifications to access that  
29 information, and file a written sworn statement with the state  
30 or local agency in possession of the information stating that  
31 information from a crash report made confidential by this



1 section will not be used for any commercial solicitation of  
2 accident victims, or knowingly disclosed to any third party  
3 for the purpose of such solicitation, during the period of  
4 time that the information remains confidential. In lieu of  
5 requiring the written sworn statement, an agency may provide  
6 crash reports by electronic means to third-party vendors under  
7 contract with one or more insurers, but only when such  
8 contract states that information from a crash report made  
9 confidential by this section will not be used for any  
10 commercial solicitation of accident victims by the vendors, or  
11 knowingly disclosed by the vendors to any third party for the  
12 purpose of such solicitation, during the period of time that  
13 the information remains confidential, and only when a copy of  
14 such contract is furnished to the agency as proof of the  
15 vendor's claimed status. This subsection does not prevent the  
16 dissemination or publication of news to the general public by  
17 any legitimate media entitled to access confidential  
18 information pursuant to this section. A law enforcement  
19 officer as defined in s. 943.10(1) may enforce this  
20 subsection. This exemption is subject to the Open Government  
21 Sunset Review Act of 1995 in accordance with s. 119.15, and  
22 shall stand repealed on October 2, 2006, unless reviewed and  
23 saved from repeal through reenactment by the Legislature.

24 (d) Any employee of a state or local agency in  
25 possession of information made confidential by this section  
26 who knowingly discloses such confidential information to a  
27 person not entitled to access such information under this  
28 section is guilty of a felony of the third degree, punishable  
29 as provided in s. 775.082, s. 775.083, or s. 775.084.

30 (e) Any person, knowing that he or she is not entitled  
31 to obtain information made confidential by this section, who

1 obtains or attempts to obtain such information is guilty of a  
2 felony of the third degree, punishable as provided in s.  
3 775.082, s. 775.083, or s. 775.084.

4 (f) Any person who knowingly uses confidential  
5 information in violation of a filed written sworn statement or  
6 contractual agreement required by this section commits a  
7 felony of the third degree, punishable as provided in s.  
8 775.082, s. 775.083, or s. 775.084.

9 Section 4. Effective October 1, 2003, part XIII of  
10 chapter 400, Florida Statutes, consisting of sections 400.901,  
11 400.903, 400.905, 400.907, 400.909, 400.911, 400.913, 400.915,  
12 400.917, 400.919, and 400.921 is created to read:

13 400.901 Short title; legislative findings.--

14 (1) This part, consisting of ss. 400.901-400.921, may  
15 be cited as the "Health Care Clinic Act."

16 (2) The Legislature finds that the regulation of  
17 health care clinics must be strengthened to prevent  
18 significant cost and harm to consumers. The purpose of this  
19 part is to provide for the licensure, establishment, and  
20 enforcement of basic standards for health care clinics and to  
21 provide administrative oversight by the Agency for Health Care  
22 Administration.

23 400.903 Definitions.--

24 (1) "Agency" means the Agency for Health Care  
25 Administration.

26 (2) "Applicant" means an individual owner,  
27 corporation, partnership, firm, business, association, or  
28 other entity that owns or controls, directly or indirectly, 5  
29 percent or more of an interest in the clinic and that applies  
30 for a clinic license.

31

1           (3) "Clinic" means an entity at which health care  
2 services are provided to individuals and which tenders charges  
3 for reimbursement for such services. For purposes of this part  
4 the term does not include and the licensure requirements of  
5 this part do not apply to:

6           (a) Entities licensed or registered by the state under  
7 chapter 390, chapter 394, chapter 395, chapter 397, this  
8 chapter, chapter 463, chapter 465, chapter 466, chapter 478,  
9 chapter 480, chapter 484, or chapter 651.

10           (b) Entities that own, directly or indirectly,  
11 entities licensed or registered by the state pursuant to  
12 chapter 390, chapter 394, chapter 395, chapter 397, this  
13 chapter, chapter 463, chapter 465, chapter 466, chapter 478,  
14 chapter 480, chapter 484, or chapter 651.

15           (c) Entities that are owned, directly or indirectly,  
16 by an entity licensed or registered by the state pursuant to  
17 chapter 390, chapter 394, chapter, 395, chapter 397, this  
18 chapter, chapter 463, chapter 465, chapter 466, chapter 478,  
19 chapter 480, chapter 484, or chapter 651.

20           (d) Entities that are under common ownership, directly  
21 or indirectly, with an entity licensed or registered by the  
22 state pursuant to chapter 390, chapter 394, chapter 395,  
23 chapter 397, this chapter, chapter 463, chapter 465, chapter  
24 466, chapter 478, chapter 480, chapter 484, or chapter 651.

25           (e) An entity that is exempt from federal taxation  
26 under 26 U.S.C. s. 501(c)(3) and any community college or  
27 university clinic.

28           (f) A sole proprietorship, group practice,  
29 partnership, or corporation that provides health care services  
30 by licensed health care practitioners under chapter 457,  
31 chapter 458, chapter 459, chapter 460, chapter 461, chapter

1 462, chapter 463, chapter 466, chapter 467, chapter 484,  
2 chapter 486, chapter 490, chapter 491, or part I, part III,  
3 part X, part XIII, or part XIV of chapter 468, or s. 464.012,  
4 which are wholly owned by a licensed health care practitioner,  
5 or the licensed health care practitioner and the spouse,  
6 parent, or child of a licensed health care practitioner, so  
7 long as one of the owners who is a licensed health care  
8 practitioner is supervising the services performed therein and  
9 is legally responsible for the entity's compliance with all  
10 federal and state laws. However, a health care practitioner  
11 may not supervise services beyond the scope of the  
12 practitioner's license.

13 (g) Clinical facilities affiliated with an accredited  
14 medical school at which training is provided for medical  
15 students, residents, or fellows.

16 (4) "Medical director" means a physician who is  
17 employed or under contract with a clinic and who maintains a  
18 full and unencumbered physician license in accordance with  
19 chapter 458, chapter 459, chapter 460, or chapter 461.  
20 However, if the clinic is limited to providing health care  
21 services pursuant to chapter 457, chapter 484, chapter 486,  
22 chapter 490, or chapter 491 or part I, part III, part X, part  
23 XIII, or part XIV of chapter 468, the clinic may appoint a  
24 health care practitioner licensed under that chapter to serve  
25 as a clinic director who is responsible for the clinic's  
26 activities. A health care practitioner may not serve as the  
27 clinic director if the services provided at the clinic are  
28 beyond the scope of that practitioner's license.

29 400.905 License requirements; background screenings;  
30 prohibitions.--

31

1       (1) Each clinic, as defined in s. 400.903, must be  
2 licensed and shall at all times maintain a valid license with  
3 the agency. Each clinic location shall be licensed separately  
4 regardless of whether the clinic is operated under the same  
5 business name or management as another clinic. Mobile clinics  
6 must provide to the agency, at least quarterly, their  
7 projected street locations to enable the agency to locate and  
8 inspect such clinics.

9       (2) The initial clinic license application shall be  
10 filed with the agency by all clinics, as defined in s.  
11 400.903, on or before March 1, 2004. A clinic license must be  
12 renewed biennially.

13       (3) Applicants that submit an application on or before  
14 March 1, 2004, which meets all requirements for initial  
15 licensure as specified in this section shall receive a  
16 temporary license until the completion of an initial  
17 inspection verifying that the applicant meets all requirements  
18 in rules authorized by s. 400.911. However, a clinic engaged  
19 in magnetic resonance imaging services may not receive a  
20 temporary license unless it presents evidence satisfactory to  
21 the agency that such clinic is making a good-faith effort and  
22 substantial progress in seeking accreditation required under  
23 s. 400.915.

24       (4) Application for an initial clinic license or for  
25 renewal of an existing license shall be notarized on forms  
26 furnished by the agency and must be accompanied by the  
27 appropriate license fee as provided in s. 400.911. The agency  
28 shall take final action on an initial license application  
29 within 60 days after receipt of all required documentation.

30       (5) The application shall contain information that  
31 includes, but need not be limited to, information pertaining

1 to the name, residence and business address, phone number,  
2 social security number, and license number of the medical or  
3 clinic director, of the licensed medical providers employed or  
4 under contract with the clinic, and of each person who,  
5 directly or indirectly, owns or controls 5 percent or more of  
6 an interest in the clinic, or general partners in limited  
7 liability partnerships.

8 (6) The applicant must file with the application  
9 satisfactory proof that the clinic is in compliance with this  
10 part and applicable rules, including:

11 (a) A listing of services to be provided either  
12 directly by the applicant or through contractual arrangements  
13 with existing providers;

14 (b) The number and discipline of each professional  
15 staff member to be employed; and

16 (c) Proof of financial ability to operate. An  
17 applicant must demonstrate financial ability to operate a  
18 clinic by submitting a balance sheet and an income and expense  
19 statement for the first year of operation which provide  
20 evidence of the applicant's having sufficient assets, credit,  
21 and projected revenues to cover liabilities and expenses. The  
22 applicant shall have demonstrated financial ability to operate  
23 if the applicant's assets, credit, and projected revenues meet  
24 or exceed projected liabilities and expenses. All documents  
25 required under this subsection must be prepared in accordance  
26 with generally accepted accounting principles, may be in a  
27 compilation form, and the financial statement must be signed  
28 by a certified public accountant. As an alternative to  
29 submitting a balance sheet and an income and expense statement  
30 for the first year of operation, the applicant may file a  
31 surety bond of at least \$500,000 which guarantees that the

1 clinic will act in full conformity with all legal requirements  
2 for operating a clinic, payable to the agency. The agency may  
3 adopt rules to specify related requirements for such surety  
4 bond.

5 (7) Each applicant for licensure shall comply with the  
6 following requirements:

7 (a) As used in this subsection, the term "applicant"  
8 means individuals owning or controlling, directly or  
9 indirectly, 5 percent or more of an interest in a clinic; the  
10 medical or clinic director, or a similarly titled person who  
11 is responsible for the day-to-day operation of the licensed  
12 clinic; the financial officer or similarly titled individual  
13 who is responsible for the financial operation of the clinic;  
14 and licensed medical providers at the clinic.

15 (b) Upon receipt of a completed, signed, and dated  
16 application, the agency shall require background screening of  
17 the applicant, in accordance with the level 2 standards for  
18 screening set forth in chapter 435. Proof of compliance with  
19 the level 2 background screening requirements of chapter 435  
20 which has been submitted within the previous 5 years in  
21 compliance with any other health care licensure requirements  
22 of this state is acceptable in fulfillment of this paragraph.

23 (c) Each applicant must submit to the agency, with the  
24 application, a description and explanation of any exclusions,  
25 permanent suspensions, or terminations of an applicant from  
26 the Medicare or Medicaid programs. Proof of compliance with  
27 the requirements for disclosure of ownership and control  
28 interest under the Medicaid or Medicare programs may be  
29 accepted in lieu of this submission. The description and  
30 explanation may indicate whether such exclusions, suspensions,

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1 or terminations were voluntary or not voluntary on the part of  
2 the applicant.

3 (d) A license may not be granted to a clinic if the  
4 applicant has been found guilty of, regardless of  
5 adjudication, or has entered a plea of nolo contendere or  
6 guilty to, any offense prohibited under the level 2 standards  
7 for screening set forth in chapter 435, or a violation of  
8 insurance fraud under s. 817.234, within the past 5 years. If  
9 the applicant has been convicted of an offense prohibited  
10 under the level 2 standards or insurance fraud in any  
11 jurisdiction, the applicant must show that his or her civil  
12 rights have been restored prior to submitting an application.

13 (e) The agency may deny or revoke licensure if the  
14 applicant has falsely represented any material fact or omitted  
15 any material fact from the application required by this part.

16 (8) Requested information omitted from an application  
17 for licensure, license renewal, or transfer of ownership must  
18 be filed with the agency within 21 days after receipt of the  
19 agency's request for omitted information, or the application  
20 shall be deemed incomplete and shall be withdrawn from further  
21 consideration.

22 (9) The failure to file a timely renewal application  
23 shall result in a late fee charged to the facility in an  
24 amount equal to 50 percent of the current license fee.

25 400.907 Clinic inspections; emergency suspension;  
26 costs.--

27 (1) Any authorized officer or employee of the agency  
28 shall make inspections of the clinic as part of the initial  
29 license application or renewal application. The application  
30 for a clinic license issued under this part or for a renewal  
31 license constitutes permission for an appropriate agency



1 inspection to verify the information submitted on or in  
2 connection with the application or renewal.

3 (2) An authorized officer or employee of the agency  
4 may make unannounced inspections of clinics licensed pursuant  
5 to this part as are necessary to determine that the clinic is  
6 in compliance with this part and with applicable rules. A  
7 licensed clinic shall allow full and complete access to the  
8 premises and to billing records or information to any  
9 representative of the agency who makes an inspection to  
10 determine compliance with this part and with applicable rules.

11 (3) Failure by a clinic licensed under this part to  
12 allow full and complete access to the premises and to billing  
13 records or information to any representative of the agency who  
14 makes a request to inspect the clinic to determine compliance  
15 with this part or failure by a clinic to employ a qualified  
16 medical director or clinic director constitutes a ground for  
17 emergency suspension of the license by the agency pursuant to  
18 s. 120.60(6).

19 (4) In addition to any administrative fines imposed,  
20 the agency may assess a fee equal to the cost of conducting a  
21 complaint investigation.

22 400.909 License renewal; transfer of ownership;  
23 provisional license.--

24 (1) An application for license renewal must contain  
25 information as required by the agency.

26 (2) Ninety days before the expiration date, an  
27 application for renewal must be submitted to the agency.

28 (3) The clinic must file with the renewal application  
29 satisfactory proof that it is in compliance with this part and  
30 applicable rules. If there is evidence of financial  
31 instability, the clinic must submit satisfactory proof of its

1 financial ability to comply with the requirements of this  
2 part.

3 (4) When transferring the ownership of a clinic, the  
4 transferee must submit an application for a license at least  
5 60 days before the effective date of the transfer. An  
6 application for change of ownership of a license is required  
7 only when 45 percent or more of the ownership, voting shares,  
8 or controlling interest of a clinic is transferred or  
9 assigned, including the final transfer or assignment of  
10 multiple transfers or assignments over a 2-year period that  
11 cumulatively total 45 percent or greater.

12 (5) The license may not be sold, leased, assigned, or  
13 otherwise transferred, voluntarily or involuntarily, and is  
14 valid only for the clinic owners and location for which  
15 originally issued.

16 (6) A clinic against whom a revocation or suspension  
17 proceeding is pending at the time of license renewal may be  
18 issued a provisional license effective until final disposition  
19 by the agency of such proceedings. If judicial relief is  
20 sought from the final disposition, the agency that has  
21 jurisdiction may issue a temporary permit for the duration of  
22 the judicial proceeding.

23 400.911 Rulemaking authority; license fees.--

24 (1) The agency shall adopt rules necessary to  
25 administer the clinic administration, regulation, and  
26 licensure program, including rules establishing the specific  
27 licensure requirements, procedures, forms, and fees. It shall  
28 adopt rules establishing a procedure for the biennial renewal  
29 of licenses. The rules shall specify the expiration dates of  
30 licenses, the process of tracking compliance with financial  
31

1 responsibility requirements, and any other conditions of  
2 renewal required by law or rule.

3 (2) The agency shall adopt rules specifying  
4 limitations on the number of licensed clinics and licensees  
5 for which a medical director or a clinic director may assume  
6 responsibility for purposes of this part. In determining the  
7 quality of supervision a medical director or a clinic director  
8 can provide, the agency shall consider the number of clinic  
9 employees, the clinic location, and the health care services  
10 provided by the clinic.

11 (3) License application and renewal fees must be  
12 reasonably calculated by the agency to cover its costs in  
13 carrying out its responsibilities under this part, including  
14 the cost of licensure, inspection, and regulation of clinics,  
15 and must be of such amount that the total fees collected do  
16 not exceed the cost of administering and enforcing compliance  
17 with this part. Clinic licensure fees are nonrefundable and  
18 may not exceed \$2,000. The agency shall adjust the license fee  
19 annually by not more than the change in the Consumer Price  
20 Index based on the 12 months immediately preceding the  
21 increase. All fees collected under this part must be deposited  
22 in the Health Care Trust Fund for the administration of this  
23 part.

24 400.913 Unlicensed clinics; penalties; fines;  
25 verification of licensure status.--

26 (1) It is unlawful to own, operate, or maintain a  
27 clinic without obtaining a license under this part.

28 (2) Any person who owns, operates, or maintains an  
29 unlicensed clinic commits a felony of the third degree,  
30 punishable as provided in s. 775.082, s. 775.083, or s.  
31

1 775.084. Each day of continued operation is a separate  
2 offense.

3 (3) Any person found guilty of violating subsection  
4 (2) a second or subsequent time commits a felony of the second  
5 degree, punishable as provided under s. 775.082, s. 775.083,  
6 or s. 775.084. Each day of continued operation is a separate  
7 offense.

8 (4) Any person who owns, operates, or maintains an  
9 unlicensed clinic due to a change in this part or a  
10 modification in agency rules within 6 months after the  
11 effective date of such change or modification and who, within  
12 10 working days after receiving notification from the agency,  
13 fails to cease operation or apply for a license under this  
14 part commits a felony of the third degree, punishable as  
15 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of  
16 continued operation is a separate offense.

17 (5) Any clinic that fails to cease operation after  
18 agency notification may be fined for each day of noncompliance  
19 pursuant to this part.

20 (6) When a person has an interest in more than one  
21 clinic, and fails to obtain a license for any one of these  
22 clinics, the agency may revoke the license, impose a  
23 moratorium, or impose a fine pursuant to this part on any or  
24 all of the licensed clinics until such time as the unlicensed  
25 clinic is licensed or ceases operation.

26 (7) Any person aware of the operation of an unlicensed  
27 clinic must report that facility to the agency.

28 (8) Any health care provider who is aware of the  
29 operation of an unlicensed clinic shall report that facility  
30 to the agency. Failure to report a clinic that the provider  
31

1 knows or has reasonable cause to suspect is unlicensed shall  
2 be reported to the provider's licensing board.

3 (9) The agency may not issue a license to a clinic  
4 that has any unpaid fines assessed under this part.

5 400.915 Clinic responsibilities.--

6 (1) Each clinic shall appoint a medical director or  
7 clinic director who shall agree in writing to accept legal  
8 responsibility for the following activities on behalf of the  
9 clinic. The medical director or the clinic director shall:

10 (a) Have signs identifying the medical director or  
11 clinic director posted in a conspicuous location within the  
12 clinic readily visible to all patients.

13 (b) Ensure that all practitioners providing health  
14 care services or supplies to patients maintain a current  
15 active and unencumbered Florida license.

16 (c) Review any patient referral contracts or  
17 agreements executed by the clinic.

18 (d) Ensure that all health care practitioners at the  
19 clinic have active appropriate certification or licensure for  
20 the level of care being provided.

21 (e) Serve as the clinic records owner as defined in s.  
22 456.057.

23 (f) Ensure compliance with the recordkeeping, office  
24 surgery, and adverse incident reporting requirements of  
25 chapter 456, the respective practice acts, and rules adopted  
26 under this part.

27 (g) Conduct systematic reviews of clinic billings to  
28 ensure that the billings are not fraudulent or unlawful. Upon  
29 discovery of an unlawful charge, the medical director or  
30 clinic director shall take immediate corrective action.

31

1           (2) Any business that becomes a clinic after  
2 commencing operations must, within 5 days after becoming a  
3 clinic, file a license application under this part and shall  
4 be subject to all provisions of this part applicable to a  
5 clinic.

6           (3) Any contract to serve as a medical director or a  
7 clinic director entered into or renewed by a physician or a  
8 licensed health care practitioner in violation of this part is  
9 void as contrary to public policy. This subsection shall apply  
10 to contracts entered into or renewed on or after March 1,  
11 2004.

12           (4) All charges or reimbursement claims made by or on  
13 behalf of a clinic that is required to be licensed under this  
14 part, but that is not so licensed, or that is otherwise  
15 operating in violation of this part, are unlawful charges, and  
16 therefore are noncompensable and unenforceable.

17           (5) Any person establishing, operating, or managing an  
18 unlicensed clinic otherwise required to be licensed under this  
19 part, or any person who knowingly files a false or misleading  
20 license application or license renewal application, or false  
21 or misleading information related to such application or  
22 department rule, commits a felony of the third degree,  
23 punishable as provided in s. 775.082, s. 775.083, or s.  
24 775.084.

25           (6) Any licensed health care provider who violates  
26 this part is subject to discipline in accordance with this  
27 chapter and his or her respective practice act.

28           (7) The agency may fine, or suspend or revoke the  
29 license of, any clinic licensed under this part for operating  
30 in violation of the requirements of this part or the rules  
31 adopted by the agency.

1           (8) The agency shall investigate allegations of  
2 noncompliance with this part and the rules adopted under this  
3 part.

4           (9) Any person or entity providing health care  
5 services which is not a clinic, as defined under s. 400.903,  
6 may voluntarily apply for licensure under its exempt status  
7 with the agency on a form that sets forth its name or names  
8 and addresses, a statement of the reasons why it cannot be  
9 defined as a clinic, and other information deemed necessary by  
10 the agency.

11           (10) The clinic shall display its license in a  
12 conspicuous location within the clinic readily visible to all  
13 patients.

14           (11)(a) Each clinic engaged in magnetic resonance  
15 imaging services must be accredited by the Joint Commission on  
16 Accreditation of Healthcare Organizations, the American  
17 College of Radiology, or the Accreditation Association for  
18 Ambulatory Health Care, within 1 year after licensure.  
19 However, a clinic may request a single, 6-month extension if  
20 it provides evidence to the agency establishing that, for good  
21 cause shown, such clinic can not be accredited within 1 year  
22 after licensure, and that such accreditation will be completed  
23 within the 6-month extension. After obtaining accreditation as  
24 required by this subsection, each such clinic must maintain  
25 accreditation as a condition of renewal of its license.

26           (b) The agency may disallow the application of any  
27 entity formed for the purpose of avoiding compliance with the  
28 accreditation provisions of this subsection and whose  
29 principals were previously principals of an entity that was  
30 unable to meet the accreditation requirements within the  
31

1 specified timeframes. The agency may adopt rules as to the  
2 accreditation of magnetic resonance imaging clinics.

3 (12) The agency shall give full faith and credit  
4 pertaining to any past variance and waiver granted to a  
5 magnetic resonance imaging clinic from Rule 64-2002, Florida  
6 Administrative Code, by the Department of Health, until  
7 September 2004. After that date, such clinic must request a  
8 variance and waiver from the agency under s. 120.542.

9 400.917 Injunctions.--

10 (1) The agency may institute injunctive proceedings in  
11 a court of competent jurisdiction in order to:

12 (a) Enforce the provisions of this part or any minimum  
13 standard, rule, or order issued or entered into pursuant to  
14 this part if the attempt by the agency to correct a violation  
15 through administrative fines has failed; if the violation  
16 materially affects the health, safety, or welfare of clinic  
17 patients; or if the violation involves any operation of an  
18 unlicensed clinic.

19 (b) Terminate the operation of a clinic if a violation  
20 of any provision of this part, or any rule adopted pursuant to  
21 this part, materially affects the health, safety, or welfare  
22 of clinic patients.

23 (2) Such injunctive relief may be temporary or  
24 permanent.

25 (3) If action is necessary to protect clinic patients  
26 from life-threatening situations, the court may allow a  
27 temporary injunction without bond upon proper proof being  
28 made. If it appears by competent evidence or a sworn,  
29 substantiated affidavit that a temporary injunction should  
30 issue, the court, pending the determination on final hearing,  
31 shall enjoin operation of the clinic.



1           400.919 Agency actions.--Administrative proceedings  
2 challenging agency licensure enforcement action shall be  
3 reviewed on the basis of the facts and conditions that  
4 resulted in the agency action.

5           400.921 Agency administrative penalties.--

6           (1) The agency may impose administrative penalties  
7 against clinics of up to \$5,000 per violation for violations  
8 of the requirements of this part. In determining if a penalty  
9 is to be imposed and in fixing the amount of the fine, the  
10 agency shall consider the following factors:

11           (a) The gravity of the violation, including the  
12 probability that death or serious physical or emotional harm  
13 to a patient will result or has resulted, the severity of the  
14 action or potential harm, and the extent to which the  
15 provisions of the applicable laws or rules were violated.

16           (b) Actions taken by the owner, medical director, or  
17 clinic director to correct violations.

18           (c) Any previous violations.

19           (d) The financial benefit to the clinic of committing  
20 or continuing the violation.

21           (2) Each day of continuing violation after the date  
22 fixed for termination of the violation, as ordered by the  
23 agency, constitutes an additional, separate, and distinct  
24 violation.

25           (3) Any action taken to correct a violation shall be  
26 documented in writing by the owner, medical director, or  
27 clinic director of the clinic and verified through followup  
28 visits by agency personnel. The agency may impose a fine and,  
29 in the case of an owner-operated clinic, revoke or deny a  
30 clinic's license when a clinic medical director or clinic

31

1 director fraudulently misrepresents actions taken to correct a  
2 violation.

3 (4) For fines that are upheld following administrative  
4 or judicial review, the violator shall pay the fine, plus  
5 interest at the rate as specified in s. 55.03, for each day  
6 beyond the date set by the agency for payment of the fine.

7 (5) Any unlicensed clinic that continues to operate  
8 after agency notification is subject to a \$1,000 fine per day.

9 (6) Any licensed clinic whose owner, medical director,  
10 or clinic director concurrently operates an unlicensed clinic  
11 shall be subject to an administrative fine of \$5,000 per day.

12 (7) Any clinic whose owner fails to apply for a  
13 change-of-ownership license in accordance with s. 400.909 and  
14 operates the clinic under the new ownership is subject to a  
15 fine of \$5,000.

16 (8) The agency, as an alternative to or in conjunction  
17 with an administrative action against a clinic for violations  
18 of this part and adopted rules, shall make a reasonable  
19 attempt to discuss each violation and recommended corrective  
20 action with the owner, medical director, or clinic director of  
21 the clinic, prior to written notification. The agency, instead  
22 of fixing a period within which the clinic shall enter into  
23 compliance with standards, may request a plan of corrective  
24 action from the clinic which demonstrates a good-faith effort  
25 to remedy each violation by a specific date, subject to the  
26 approval of the agency.

27 (9) Administrative fines paid by any clinic under this  
28 section shall be deposited into the Health Care Trust Fund.

29 Section 5. Paragraph (b) of subsection (1) of section  
30 456.0375, Florida Statutes, is amended to read:

31

1           456.0375 Registration of certain clinics;  
2 requirements; discipline; exemptions.--

3           (1)

4           (b) For purposes of this section, the term "clinic"  
5 does not include and the registration requirements herein do  
6 not apply to:

7           1. Entities licensed or registered by the state  
8 pursuant to chapter 390, chapter 394, chapter 395, chapter  
9 397, chapter 400, chapter 463, chapter 465, chapter 466,  
10 chapter 478, chapter 480, ~~or~~ chapter 484, or chapter 651.

11           2. Entities that own, directly or indirectly, entities  
12 licensed or registered by the state pursuant to chapter 390,  
13 chapter 394, chapter 395, chapter 397, chapter 400, chapter  
14 463, chapter 465, chapter 466, chapter 478, chapter 480,  
15 chapter 484, or chapter 651.

16           3. Entities that are owned, directly or indirectly, by  
17 an entity licensed or registered by the state pursuant to  
18 chapter 390, chapter 394, chapter 395, chapter 397, chapter  
19 400, chapter 463, chapter 465, chapter 466, chapter 478,  
20 chapter 480, chapter 484, or chapter 651.

21           4. Entities that are under common ownership, directly  
22 or indirectly, with an entity licensed or registered by the  
23 state pursuant to chapter 390, chapter 394, chapter 395,  
24 chapter 397, chapter 400, chapter 463, chapter 465, chapter  
25 466, chapter 478, chapter 480, chapter 484, or chapter 651.

26           ~~5.2.~~ Entities exempt from federal taxation under 26  
27 U.S.C. s. 501(c)(3) and community college and university  
28 clinics.

29           ~~6.3.~~ Sole proprietorships, group practices,  
30 partnerships, or corporations that provide health care  
31 services by licensed health care practitioners pursuant to

1 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484,  
2 486, 490, 491, or part I, part III, part X, part XIII, or part  
3 XIV of chapter 468, or s. 464.012, which are wholly owned by  
4 licensed health care practitioners or the licensed health care  
5 practitioner and the spouse, parent, or child of a licensed  
6 health care practitioner, so long as one of the owners who is  
7 a licensed health care practitioner is supervising the  
8 services performed therein and is legally responsible for the  
9 entity's compliance with all federal and state laws. However,  
10 no health care practitioner may supervise services beyond the  
11 scope of the practitioner's license.

12 7. Clinical facilities affiliated with an accredited  
13 medical school at which training is provided for medical  
14 students, residents, or fellows.

15 Section 6. Paragraphs (dd) and (ee) are added to  
16 subsection (1) of section 456.072, Florida Statutes, to read:

17 456.072 Grounds for discipline; penalties;  
18 enforcement.--

19 (1) The following acts shall constitute grounds for  
20 which the disciplinary actions specified in subsection (2) may  
21 be taken:

22 (dd) With respect to making a personal injury  
23 protection claim as required by s. 627.736, intentionally  
24 submitting a claim statement, or bill that has been "upcoded"  
25 as defined in s. 627.732.

26 (ee) With respect to making a personal injury  
27 protection claim as required by s. 627.736, intentionally  
28 submitting a claim, statement, or bill for payment of services  
29 that were not rendered.

30 Section 7. Subsection (11) of section 626.7451,  
31 Florida Statutes, is amended to read:

1           626.7451 Managing general agents; required contract  
2 provisions.--No person acting in the capacity of a managing  
3 general agent shall place business with an insurer unless  
4 there is in force a written contract between the parties which  
5 sets forth the responsibility for a particular function,  
6 specifies the division of responsibilities, and contains the  
7 following minimum provisions:

8           (11) A licensed managing general agent, when placing  
9 business with an insurer under this code, may charge a  
10 per-policy fee not to exceed~~\$40~~\$25. In no instance shall  
11 the aggregate of per-policy fees for a placement of business  
12 authorized under this section, when combined with any other  
13 per-policy fee charged by the insurer, result in per-policy  
14 fees which exceed the aggregate amount of~~\$40~~\$25. The  
15 per-policy fee shall be a component of the insurer's rate  
16 filing and shall be fully earned. A managing general agent  
17 that collects a per-policy fee shall remit a minimum of \$5 per  
18 policy to the Division of Insurance Fraud of the Department of  
19 Financial Services, which shall be dedicated to the prevention  
20 and detection of motor vehicle insurance fraud, and an  
21 additional \$5 per policy, 95 percent of which shall be  
22 remitted to the Justice Administration Commission, which shall  
23 distribute the collected fees to the state attorneys of the 20  
24 judicial circuits for investigating and prosecuting cases of  
25 motor vehicle insurance fraud. The state attorneys must adopt  
26 an allocation formula that ensures equitable distribution  
27 among the 20 circuits which includes, but is not limited to,  
28 the population area served. The remaining 5 percent shall be  
29 remitted to the Office of Statewide Prosecution for  
30 investigating and prosecuting cases of motor vehicle insurance  
31 fraud. An insurer that writes directly without a managing

1 general agent and that charges a per-policy fee shall charge  
2 an additional policy fee of \$5 per policy to be remitted to  
3 the Division of Insurance Fraud of the Department of Financial  
4 Services, which shall be dedicated to the prevention and  
5 detection of motor vehicle insurance fraud, and an additional  
6 per-policy fee of \$5, 95 percent of which is to be remitted to  
7 the Justice Administration Commission, to be distributed as  
8 provided in this subsection. The remaining 5 percent shall be  
9 remitted to the Office of Statewide Prosecution for  
10 investigating and prosecuting cases of motor vehicle insurance  
11 fraud. No later than July 1, 2005, the state attorneys and the  
12 Office of Statewide Prosecutor must provide a report to the  
13 President of the Senate and the Speaker of the House of  
14 Representatives evaluating the effectiveness of the  
15 investigation, detection, and prosecution of motor vehicle  
16 insurance fraud as it related to the moneys generated by the  
17 per-policy fee.

18  
19 For the purposes of this section and ss. 626.7453 and  
20 626.7454, the term "controlling person" or "controlling" has  
21 the meaning set forth in s. 625.012(5)(b)1., and the term  
22 "controlled person" or "controlled" has the meaning set forth  
23 in s. 625.012(5)(b)2.

24 Section 8. Subsection (1) of section 627.732, Florida  
25 Statutes, as amended by chapter 2003-2, Laws of Florida, is  
26 amended, and subsections (8) through (16) are added to that  
27 section, to read:

28 627.732 Definitions.--As used in ss. 627.730-627.7405,  
29 the term:

30 (1) "Broker" means any person not possessing a license  
31 under chapter 395, chapter 400, chapter 458, chapter 459,

1 chapter 460, chapter 461, or chapter 641 who charges or  
2 receives compensation for any use of medical equipment and is  
3 not the 100-percent owner or the 100-percent lessee of such  
4 equipment. For purposes of this section, such owner or lessee  
5 may be an individual, a corporation, a partnership, or any  
6 other entity and any of its 100-percent-owned affiliates and  
7 subsidiaries. For purposes of this subsection, the term  
8 "lessee" means a long-term lessee under a capital or operating  
9 lease, but does not include a part-time lessee. The term  
10 "broker" does not include a hospital or physician management  
11 company whose medical equipment is ancillary to the practices  
12 managed, a debt collection agency, or an entity that has  
13 contracted with the insurer to obtain a discounted rate for  
14 such services; nor does the term include a management company  
15 that has contracted to provide general management services for  
16 a licensed physician or health care facility and whose  
17 compensation is not materially affected by the usage or  
18 frequency of usage of medical equipment or an entity that is  
19 100-percent owned by one or more hospitals or physicians. The  
20 term "broker" does not include a person or entity that  
21 certifies, upon request of an insurer, that:

22 (a) It is a clinic registered under s. 456.0375 or  
23 licensed under ss. 400.901-400.921;

24 (b) It is a 100-percent owner of medical equipment;  
25 and

26 (c) The owner's only part-time lease of medical  
27 equipment for personal injury protection patients is on a  
28 temporary basis not to exceed 30 days in a 12-month period,  
29 and such lease is solely for the purposes of necessary repair  
30 or maintenance of the 100-percent-owned medical equipment or  
31 pending the arrival and installation of the newly purchased or

1 a replacement for the 100-percent-owned medical equipment, or  
2 for patients for whom, because of physical size or  
3 claustrophobia, it is determined by the medical director or  
4 clinical director to be medically necessary that the test be  
5 performed in medical equipment that is open-style. The leased  
6 medical equipment cannot be used by patients who are not  
7 patients of the registered clinic for medical treatment of  
8 services. Any person or entity making a false certification  
9 under this subsection commits insurance fraud as defined in s.  
10 817.234. However, the 30-day period provided in this paragraph  
11 may be extended for an additional 60 days as applicable to  
12 magnetic resonance imaging equipment if the owner certifies  
13 that the extension otherwise complies with this paragraph.

14 (8) "Certify" means to swear or attest to being true  
15 or represented in writing.

16 (9) "Immediate personal supervision," as it relates to  
17 the performance of medical services by nonphysicians not in a  
18 hospital, means that an individual licensed to perform the  
19 medical service or provide the medical supplies must be  
20 present within the confines of the physical structure where  
21 the medical services are performed or where the medical  
22 supplies are provided such that the licensed individual can  
23 respond immediately to any emergencies if needed.

24 (10) "Incident," with respect to services considered  
25 as incident to a physician's professional service, for a  
26 physician licensed under chapter 458, chapter 459, chapter  
27 460, or chapter 461, if not furnished in a hospital, means  
28 such services must be an integral, even if incidental, part of  
29 a covered physician's service.

30 (11) "Knowingly" means that a person, with respect to  
31 information, has actual knowledge of the information; acts in



1 deliberate ignorance of the truth or falsity of the  
2 information; or acts in reckless disregard of the information,  
3 and proof of specific intent to defraud is not required.

4 (12) "Lawful" or "lawfully" means in substantial  
5 compliance with all relevant applicable criminal, civil, and  
6 administrative requirements of state and federal law related  
7 to the provision of medical services or treatment.

8 (13) "Hospital" means a facility that, at the time  
9 services or treatment were rendered, was licensed under  
10 chapter 395.

11 (14) "Properly completed" means providing truthful,  
12 substantially complete, and substantially accurate responses  
13 as to all material elements to each applicable request for  
14 information or statement by a means that may lawfully be  
15 provided and that complies with this section, or as agreed by  
16 the parties.

17 (15) "Upcoding" means an action that submits a billing  
18 code that would result in payment greater in amount than would  
19 be paid using a billing code that accurately describes the  
20 services performed. The term does not include an otherwise  
21 lawful bill by a magnetic resonance imaging facility, which  
22 globally combines both technical and professional components  
23 for services listed in that definition, if the amount of the  
24 global bill is not more than the components if billed  
25 separately; however, payment of such a bill constitutes  
26 payment in full for all components of such service.

27 (16) "Unbundling" means an action that submits a  
28 billing code that is properly billed under one billing code,  
29 but that has been separated into two or more billing codes,  
30 and would result in payment greater in amount than would be  
31 paid using one billing code.

1           Section 9. Subsections (3), (4), (5), (6), (7), (8),  
2 (10), (11), and (12) of section 627.736, Florida Statutes, are  
3 amended, present subsection (13) of that section is  
4 redesignated as subsection (14), and amended, and a new  
5 subsection (13) is added to that section, to read:

6           627.736 Required personal injury protection benefits;  
7 exclusions; priority; claims.--

8           (3) INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN  
9 TORT CLAIMS.--No insurer shall have a lien on any recovery in  
10 tort by judgment, settlement, or otherwise for personal injury  
11 protection benefits, whether suit has been filed or settlement  
12 has been reached without suit. An injured party who is  
13 entitled to bring suit under the provisions of ss.

14 627.730-627.7405, or his or her legal representative, shall  
15 have no right to recover any damages for which personal injury  
16 protection benefits are paid or payable. The plaintiff may  
17 prove all of his or her special damages notwithstanding this  
18 limitation, but if special damages are introduced in evidence,  
19 the trier of facts, whether judge or jury, shall not award  
20 damages for personal injury protection benefits paid or  
21 payable. In all cases in which a jury is required to fix  
22 damages, the court shall instruct the jury that the plaintiff  
23 shall not recover such special damages for personal injury  
24 protection benefits paid or payable.

25           (4) BENEFITS; WHEN DUE.--Benefits due from an insurer  
26 under ss. 627.730-627.7405 shall be primary, except that  
27 benefits received under any workers' compensation law shall be  
28 credited against the benefits provided by subsection (1) and  
29 shall be due and payable as loss accrues, upon receipt of  
30 reasonable proof of such loss and the amount of expenses and  
31 loss incurred which are covered by the policy issued under ss.

1 627.730-627.7405. When the Agency for Health Care  
2 Administration provides, pays, or becomes liable for medical  
3 assistance under the Medicaid program related to injury,  
4 sickness, disease, or death arising out of the ownership,  
5 maintenance, or use of a motor vehicle, benefits under ss.  
6 627.730-627.7405 shall be subject to the provisions of the  
7 Medicaid program.

8 (a) An insurer may require written notice to be given  
9 as soon as practicable after an accident involving a motor  
10 vehicle with respect to which the policy affords the security  
11 required by ss. 627.730-627.7405.

12 (b) Personal injury protection insurance benefits paid  
13 pursuant to this section shall be overdue if not paid within  
14 30 days after the insurer is furnished written notice of the  
15 fact of a covered loss and of the amount of same. If such  
16 written notice is not furnished to the insurer as to the  
17 entire claim, any partial amount supported by written notice  
18 is overdue if not paid within 30 days after such written  
19 notice is furnished to the insurer. Any part or all of the  
20 remainder of the claim that is subsequently supported by  
21 written notice is overdue if not paid within 30 days after  
22 such written notice is furnished to the insurer. When an  
23 insurer pays only a portion of a claim or rejects a claim, the  
24 insurer shall provide at the time of the partial payment or  
25 rejection an itemized specification of each item that the  
26 insurer had reduced, omitted, or declined to pay and any  
27 information that the insurer desires the claimant to consider  
28 related to the medical necessity of the denied treatment or to  
29 explain the reasonableness of the reduced charge, provided  
30 that this shall not limit the introduction of evidence at  
31 trial; and the insurer shall include the name and address of

1 the person to whom the claimant should respond and a claim  
2 number to be referenced in future correspondence. However,  
3 notwithstanding the fact that written notice has been  
4 furnished to the insurer, any payment shall not be deemed  
5 overdue when the insurer has reasonable proof to establish  
6 that the insurer is not responsible for the payment. For the  
7 purpose of calculating the extent to which any benefits are  
8 overdue, payment shall be treated as being made on the date a  
9 draft or other valid instrument which is equivalent to payment  
10 was placed in the United States mail in a properly addressed,  
11 postpaid envelope or, if not so posted, on the date of  
12 delivery. This paragraph does not preclude or limit the  
13 ability of the insurer to assert that the claim was unrelated,  
14 was not medically necessary, or was unreasonable or that the  
15 amount of the charge was in excess of that permitted under, or  
16 in violation of, subsection (5). Such assertion by the insurer  
17 may be made at any time, including after payment of the claim  
18 or after the 30-day time period for payment set forth in this  
19 paragraph.

20 (c) All overdue payments shall bear simple interest at  
21 the rate established ~~by the Comptroller~~ under s. 55.03 or the  
22 rate established in the insurance contract, whichever is  
23 greater, for the year in which the payment became overdue,  
24 calculated from the date the insurer was furnished with  
25 written notice of the amount of covered loss. Interest shall  
26 be due at the time payment of the overdue claim is made.

27 (d) The insurer of the owner of a motor vehicle shall  
28 pay personal injury protection benefits for:

29 1. Accidental bodily injury sustained in this state by  
30 the owner while occupying a motor vehicle, or while not an  
31

1 occupant of a self-propelled vehicle if the injury is caused  
2 by physical contact with a motor vehicle.

3 2. Accidental bodily injury sustained outside this  
4 state, but within the United States of America or its  
5 territories or possessions or Canada, by the owner while  
6 occupying the owner's motor vehicle.

7 3. Accidental bodily injury sustained by a relative of  
8 the owner residing in the same household, under the  
9 circumstances described in subparagraph 1. or subparagraph 2.,  
10 provided the relative at the time of the accident is domiciled  
11 in the owner's household and is not himself or herself the  
12 owner of a motor vehicle with respect to which security is  
13 required under ss. 627.730-627.7405.

14 4. Accidental bodily injury sustained in this state by  
15 any other person while occupying the owner's motor vehicle or,  
16 if a resident of this state, while not an occupant of a  
17 self-propelled vehicle, if the injury is caused by physical  
18 contact with such motor vehicle, provided the injured person  
19 is not himself or herself:

20 a. The owner of a motor vehicle with respect to which  
21 security is required under ss. 627.730-627.7405; or

22 b. Entitled to personal injury benefits from the  
23 insurer of the owner or owners of such a motor vehicle.

24 (e) If two or more insurers are liable to pay personal  
25 injury protection benefits for the same injury to any one  
26 person, the maximum payable shall be as specified in  
27 subsection (1), and any insurer paying the benefits shall be  
28 entitled to recover from each of the other insurers an  
29 equitable pro rata share of the benefits paid and expenses  
30 incurred in processing the claim.

31

1 (f) It is a violation of the insurance code for an  
2 insurer to fail to timely provide benefits as required by this  
3 section with such frequency as to constitute a general  
4 business practice.

5 (g) Benefits shall not be due or payable to or on the  
6 behalf of an insured person if that person has committed, by a  
7 material act or omission, any insurance fraud relating to  
8 personal injury protection coverage under his or her policy,  
9 if the fraud is admitted to in a sworn statement by the  
10 insured or if it is established in a court of competent  
11 jurisdiction. Any insurance fraud shall void all coverage  
12 arising from the claim related to such fraud under the  
13 personal injury protection coverage of the insured person who  
14 committed the fraud, irrespective of whether a portion of the  
15 insured person's claim may be legitimate, and any benefits  
16 paid prior to the discovery of the insured person's insurance  
17 fraud shall be recoverable by the insurer from the person who  
18 committed insurance fraud in their entirety. The prevailing  
19 party is entitled to its costs and attorney's fees in any  
20 action in which it prevails in an insurer's action to enforce  
21 its right of recovery under this paragraph.

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

23 (a) Any physician, hospital, clinic, or other person  
24 or institution lawfully rendering treatment to an injured  
25 person for a bodily injury covered by personal injury  
26 protection insurance may charge the insurer and injured party  
27 only a reasonable amount pursuant to this section for the  
28 services and supplies rendered, and the insurer providing such  
29 coverage may pay for such charges directly to such person or  
30 institution lawfully rendering such treatment, if the insured  
31 receiving such treatment or his or her guardian has

1 countersigned the properly completed invoice, bill, or claim  
2 form approved by the Department of Insurance upon which such  
3 charges are to be paid for as having actually been rendered,  
4 to the best knowledge of the insured or his or her guardian.  
5 In no event, however, may such a charge be in excess of the  
6 amount the person or institution customarily charges for like  
7 services or supplies ~~in cases involving no insurance~~. With  
8 respect to a determination of whether a charge for a  
9 particular service, treatment, or otherwise is reasonable,  
10 consideration may be given to evidence of usual and customary  
11 charges and payments accepted by the provider involved in the  
12 dispute, and reimbursement levels in the community and various  
13 federal and state medical fee schedules applicable to  
14 automobile and other insurance coverages, and other  
15 information relevant to the reasonableness of the  
16 reimbursement for the service, treatment or supply.

17 (b)1. An insurer or insured is not required to pay a  
18 claim or charges:

19 a. Made by a broker or by a person making a claim on  
20 behalf of a broker;

21 b. For any service or treatment that was not lawful at  
22 the time rendered;

23 c. To any person who knowingly submits a false or  
24 misleading statement relating to the claim or charges;

25 d. With respect to a bill or statement that does not  
26 substantially meet the applicable requirements of paragraph

27 (d);

28 e. For any treatment or service that is upcoded, or  
29 that is unbundled when such treatment or services should be  
30 bundled, in accordance with paragraph (d). To facilitate  
31 prompt payment of lawful services, an insurer may change codes

1 that it determines to have been improperly or incorrectly  
2 upcoded or unbundled, and may make payment based on the  
3 changed codes, without affecting the right of the provider to  
4 dispute the change by the insurer, provided that before doing  
5 so, the insurer must contact the health care provider and  
6 discuss the reasons for the insurer's change and the health  
7 care provider's reason for the coding, or make a reasonable  
8 good-faith effort to do so, as documented in the insurer's  
9 file; and

10 f. For medical services or treatment billed by a  
11 physician and not provided in a hospital unless such services  
12 are rendered by the physician or are incident to his or her  
13 professional services and are included on the physician's  
14 bill, including documentation verifying that the physician is  
15 responsible for the medical services that were rendered and  
16 billed.

17 2. Charges for medically necessary cephalic  
18 thermograms, peripheral thermograms, spinal ultrasounds,  
19 extremity ultrasounds, video fluoroscopy, and surface  
20 electromyography shall not exceed the maximum reimbursement  
21 allowance for such procedures as set forth in the applicable  
22 fee schedule or other payment methodology established pursuant  
23 to s. 440.13.

24 3. Allowable amounts that may be charged to a personal  
25 injury protection insurance insurer and insured for medically  
26 necessary nerve conduction testing when done in conjunction  
27 with a needle electromyography procedure and both are  
28 performed and billed solely by a physician licensed under  
29 chapter 458, chapter 459, chapter 460, or chapter 461 who is  
30 also certified by the American Board of Electrodiagnostic  
31 Medicine or by a board recognized by the American Board of



1 Medical Specialties or the American Osteopathic Association or  
2 who holds diplomate status with the American Chiropractic  
3 Neurology Board or its predecessors shall not exceed 200  
4 percent of the allowable amount under the participating  
5 physician fee schedule of Medicare Part B for year 2001, for  
6 the area in which the treatment was rendered, adjusted  
7 annually on July 1 to reflect the prior calendar year's  
8 changes in the annual Medical Care Item of the Consumer Price  
9 Index for All Urban Consumers in the South Region as  
10 determined by the Bureau of Labor Statistics of the United  
11 States Department of Labor ~~by an additional amount equal to~~  
12 ~~the medical Consumer Price Index for Florida.~~

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

19           5. Effective upon this act becoming a law and before  
20 November 1, 2001, allowable amounts that may be charged to a  
21 personal injury protection insurance insurer and insured for  
22 magnetic resonance imaging services shall not exceed 200  
23 percent of the allowable amount under Medicare Part B for year  
24 2001, for the area in which the treatment was rendered.  
25 Beginning November 1, 2001, allowable amounts that may be  
26 charged to a personal injury protection insurance insurer and  
27 insured for magnetic resonance imaging services shall not  
28 exceed 175 percent of the allowable amount under Medicare Part  
29 B for year 2001, for the area in which the treatment was  
30 rendered, adjusted annually to reflect the changes in the  
31 annual Medical Care Item of the Consumer Price Index for All

1 Urban Consumers in the South Region as determined by the  
2 Bureau of Labor Statistics of the United States Department of  
3 Labor for the 12-month period ending June 30 of that year by  
4 ~~an additional amount equal to the medical Consumer Price Index~~  
5 ~~for Florida~~, except that allowable amounts that may be charged  
6 to a personal injury protection insurance insurer and insured  
7 for magnetic resonance imaging services provided in facilities  
8 accredited by the American College of Radiology or the Joint  
9 Commission on Accreditation of Healthcare Organizations shall  
10 not exceed 200 percent of the allowable amount under Medicare  
11 Part B for year 2001, for the area in which the treatment was  
12 rendered, adjusted annually to reflect the changes in the  
13 annual Medical Care Item of the Consumer Price Index for All  
14 Urban Consumers in the South Region as determined by the  
15 Bureau of Labor Statistics of the United States Department of  
16 Labor for the 12-month period ending June 30 of that year by  
17 ~~an additional amount equal to the medical Consumer Price Index~~  
18 ~~for Florida~~. This paragraph does not apply to charges for  
19 magnetic resonance imaging services and nerve conduction  
20 testing for inpatients and emergency services and care as  
21 defined in chapter 395 rendered by facilities licensed under  
22 chapter 395.

23 6. The Department of Health, in consultation with the  
24 appropriate professional licensing boards, shall adopt, by  
25 rule, a list of diagnostic tests deemed not be medically  
26 necessary for use in the treatment of persons sustaining  
27 bodily injury covered by personal injury protection benefits  
28 under this section. The initial list shall be adopted by  
29 January 1, 2004, and shall be revised from time to time as  
30 determined by the Department of Health, in consultation with  
31 the respective professional licensing boards. Inclusion of a

1 test on the list of invalid diagnostic tests shall be based on  
2 lack of demonstrated medical value and a level of general  
3 acceptance by the relevant provider community and shall not be  
4 dependent for results entirely upon subjective patient  
5 response. Notwithstanding its inclusion on a fee schedule in  
6 this subsection, an insurer or insured is not required to pay  
7 any charges or reimburse claims for any invalid diagnostic  
8 test as determined by the Department of Health.

9 (c)1. With respect to any treatment or service, other  
10 than medical services billed by a hospital or other provider  
11 for emergency services as defined in s. 395.002 or inpatient  
12 services rendered at a hospital-owned facility, the statement  
13 of charges must be furnished to the insurer by the provider  
14 and may not include, and the insurer is not required to pay,  
15 charges for treatment or services rendered more than 35 days  
16 before the postmark date of the statement, except for past due  
17 amounts previously billed on a timely basis under this  
18 paragraph, and except that, if the provider submits to the  
19 insurer a notice of initiation of treatment within 21 days  
20 after its first examination or treatment of the claimant, the  
21 statement may include charges for treatment or services  
22 rendered up to, but not more than, 75 days before the postmark  
23 date of the statement. The injured party is not liable for,  
24 and the provider shall not bill the injured party for, charges  
25 that are unpaid because of the provider's failure to comply  
26 with this paragraph. Any agreement requiring the injured  
27 person or insured to pay for such charges is unenforceable.

28 2. If, however, the insured fails to furnish the  
29 provider with the correct name and address of the insured's  
30 personal injury protection insurer, the provider has 35 days  
31 from the date the provider obtains the correct information to

1 furnish the insurer with a statement of the charges. The  
2 insurer is not required to pay for such charges unless the  
3 provider includes with the statement documentary evidence that  
4 was provided by the insured during the 35-day period  
5 demonstrating that the provider reasonably relied on erroneous  
6 information from the insured and either:

7 a.1. A denial letter from the incorrect insurer; or

8 b.2. Proof of mailing, which may include an affidavit  
9 under penalty of perjury, reflecting timely mailing to the  
10 incorrect address or insurer.

11 3. For emergency services and care as defined in s.  
12 395.002 rendered in a hospital emergency department or for  
13 transport and treatment rendered by an ambulance provider  
14 licensed pursuant to part III of chapter 401, the provider is  
15 not required to furnish the statement of charges within the  
16 time periods established by this paragraph; and the insurer  
17 shall not be considered to have been furnished with notice of  
18 the amount of covered loss for purposes of paragraph (4)(b)  
19 until it receives a statement complying with paragraph (d)  
20 ~~(e)~~, or copy thereof, which specifically identifies the place  
21 of service to be a hospital emergency department or an  
22 ambulance in accordance with billing standards recognized by  
23 the Health Care Finance Administration.

24 4. Each notice of insured's rights under s. 627.7401  
25 must include the following statement in type no smaller than  
26 12 points:

27 BILLING REQUIREMENTS.--Florida Statutes provide  
28 that with respect to any treatment or services,  
29 other than certain hospital and emergency  
30 services, the statement of charges furnished to  
31 the insurer by the provider may not include,

1 and the insurer and the injured party are not  
2 required to pay, charges for treatment or  
3 services rendered more than 35 days before the  
4 postmark date of the statement, except for past  
5 due amounts previously billed on a timely  
6 basis, and except that, if the provider submits  
7 to the insurer a notice of initiation of  
8 treatment within 21 days after its first  
9 examination or treatment of the claimant, the  
10 statement may include charges for treatment or  
11 services rendered up to, but not more than, 75  
12 days before the postmark date of the statement.

13 ~~(d) Every insurer shall include a provision in its~~  
14 ~~policy for personal injury protection benefits for binding~~  
15 ~~arbitration of any claims dispute involving medical benefits~~  
16 ~~arising between the insurer and any person providing medical~~  
17 ~~services or supplies if that person has agreed to accept~~  
18 ~~assignment of personal injury protection benefits. The~~  
19 ~~provision shall specify that the provisions of chapter 682~~  
20 ~~relating to arbitration shall apply. The prevailing party~~  
21 ~~shall be entitled to attorney's fees and costs. For purposes~~  
22 ~~of the award of attorney's fees and costs, the prevailing~~  
23 ~~party shall be determined as follows:~~

24 1. ~~When the amount of personal injury protection~~  
25 ~~benefits determined by arbitration exceeds the sum of the~~  
26 ~~amount offered by the insurer at arbitration plus 50 percent~~  
27 ~~of the difference between the amount of the claim asserted by~~  
28 ~~the claimant at arbitration and the amount offered by the~~  
29 ~~insurer at arbitration, the claimant is the prevailing party.~~

30 2. ~~When the amount of personal injury protection~~  
31 ~~benefits determined by arbitration is less than the sum of the~~

1 ~~amount offered by the insurer at arbitration plus 50 percent~~  
2 ~~of the difference between the amount of the claim asserted by~~  
3 ~~the claimant at arbitration and the amount offered by the~~  
4 ~~insurer at arbitration, the insurer is the prevailing party.~~

5 ~~3. When neither subparagraph 1. nor subparagraph 2.~~  
6 ~~applies, there is no prevailing party. For purposes of this~~  
7 ~~paragraph, the amount of the offer or claim at arbitration is~~  
8 ~~the amount of the last written offer or claim made at least 30~~  
9 ~~days prior to the arbitration.~~

10 ~~4. In the demand for arbitration, the party requesting~~  
11 ~~arbitration must include a statement specifically identifying~~  
12 ~~the issues for arbitration for each examination or treatment~~  
13 ~~in dispute. The other party must subsequently issue a~~  
14 ~~statement specifying any other examinations or treatment and~~  
15 ~~any other issues that it intends to raise in the arbitration.~~  
16 ~~The parties may amend their statements up to 30 days prior to~~  
17 ~~arbitration, provided that arbitration shall be limited to~~  
18 ~~those identified issues and neither party may add additional~~  
19 ~~issues during arbitration.~~

20 ~~(d)(e)~~ All statements and bills for medical services  
21 rendered by any physician, hospital, clinic, or other person  
22 or institution shall be submitted to the insurer on a properly  
23 completed Centers for Medicare and Medicaid Services (CMS)  
24 Health Care Finance Administration 1500 form, UB 92 forms, or  
25 any other standard form approved by the department for  
26 purposes of this paragraph. All billings for such services  
27 rendered by providers shall, to the extent applicable, follow  
28 the Physicians' Current Procedural Terminology (CPT) or  
29 Healthcare Correct Procedural Coding System (HCPCS), or ICD-9  
30 in effect for the year in which services are rendered and  
31 comply with the Centers for Medicare and Medicaid Services

1 (CMS) 1500 form instructions and the American Medical  
2 Association Current Procedural Terminology (CPT) Editorial  
3 Panel and Healthcare Correct Procedural Coding System (HCPCS).  
4 All providers other than hospitals shall include on the  
5 applicable claim form the professional license number of the  
6 provider in the line or space provided for "Signature of  
7 Physician or Supplier, Including Degrees or Credentials." In  
8 determining compliance with applicable CPT and HCPCS coding,  
9 guidance shall be provided by the Physicians' Current  
10 Procedural Terminology (CPT) or the Healthcare Correct  
11 Procedural Coding System (HCPCS) in effect for the year in  
12 which services were rendered, the Office of the Inspector  
13 General (OIG), Physicians Compliance Guidelines, and other  
14 authoritative treatises designated by rule by the Agency for  
15 Health Care Administration. No statement of medical services  
16 may include charges for medical services of a person or entity  
17 that performed such services without possessing the valid  
18 licenses required to perform such services. For purposes of  
19 paragraph (4)(b), an insurer shall not be considered to have  
20 been furnished with notice of the amount of covered loss or  
21 medical bills due unless the statements or bills comply with  
22 this paragraph, and unless the statements or bills are  
23 properly completed in their entirety as to all material  
24 provisions, with all relevant information being provided  
25 therein.

26 (e)1. At the initial treatment or service provided,  
27 each physician, other licensed professional, clinic, or other  
28 medical institution providing medical services upon which a  
29 claim for personal injury protection benefits is based shall  
30 require an insured person, or his or her guardian, to execute  
31

1 a disclosure and acknowledgment form, which reflects at a  
2 minimum that:  
3 a. The insured, or his or her guardian, must  
4 countersign the form attesting to the fact that the services  
5 set forth therein were actually rendered;  
6 b. The insured, or his or her guardian, has both the  
7 right and affirmative duty to confirm that the services were  
8 actually rendered;  
9 c. The insured, or his or her guardian, was not  
10 solicited by any person to seek any services from the medical  
11 provider;  
12 d. That the physician, other licensed professional,  
13 clinic, or other medical institution rendering services for  
14 which payment is being claimed explained the services to the  
15 insured or his or her guardian; and  
16 e. If the insured notifies the insurer in writing of a  
17 billing error, the insured may be entitled to a certain  
18 percentage of a reduction in the amounts paid by the insured's  
19 motor vehicle insurer.  
20 2. The physician, other licensed professional, clinic,  
21 or other medical institution rendering services for which  
22 payment is being claimed has the affirmative duty to explain  
23 the services rendered to the insured, or his or her guardian,  
24 so that the insured, or his or her guardian, countersigns the  
25 form with informed consent.  
26 3. Countersignature by the insured, or his or her  
27 guardian, is not required for the reading of diagnostic tests  
28 or other services that are of such a nature that they are not  
29 required to be performed in the presence of the insured.  
30  
31



1           4. The licensed medical professional rendering  
2 treatment for which payment is being claimed must sign, by his  
3 or her own hand, the form complying with this paragraph.

4           5. The original completed disclosure and  
5 acknowledgement form shall be furnished to the insurer  
6 pursuant to paragraph (4)(b) and may not be electronically  
7 furnished.

8           6. This disclosure and acknowledgement form is not  
9 required for services billed by a provider for emergency  
10 services as defined in s. 395.002, for emergency services and  
11 care as defined in s. 395.002 rendered in a hospital emergency  
12 department, or for transport and treatment rendered by an  
13 ambulance provider licensed pursuant to part III of chapter  
14 401.

15           7. The Financial Services Commission shall adopt, by  
16 rule, a standard disclosure and acknowledgment form that shall  
17 be used to fulfill the requirements of this paragraph,  
18 effective 90 days after such form is adopted and becomes  
19 final. The commission shall adopt a proposed rule by October  
20 1, 2003. Until the rule is final, the provider may use a form  
21 of its own which otherwise complies with the requirements of  
22 this paragraph.

23           8. As used in this paragraph, "countersigned" means a  
24 second or verifying signature, as on a previously signed  
25 document, and is not satisfied by the statement "signature on  
26 file" or any similar statement.

27           9. The requirements of this paragraph apply only with  
28 respect to the initial treatment or service of the insured by  
29 a provider. For subsequent treatments or service, the provider  
30 must maintain a patient log signed by the patient, in  
31

1 chronological order by date of service, that is consistent  
2 with the services being rendered to the patient as claimed.

3 (f) Upon written notification by any person, an  
4 insurer shall investigate any claim of improper billing by a  
5 physician or other medical provider. The insurer shall  
6 determine if the insured was properly billed for only those  
7 services and treatments that the insured actually received. If  
8 the insurer determines that the insured has been improperly  
9 billed, the insurer shall notify the insured, the person  
10 making the written notification and the provider of its  
11 findings and shall reduce the amount of payment to the  
12 provider by the amount determined to be improperly billed. If  
13 a reduction is made due to such written notification by any  
14 person, the insurer shall pay to the person 20 percent of the  
15 amount of the reduction, up to \$500. If the provider is  
16 arrested due to the improper billing, then the insurer shall  
17 pay to the person 40 percent of the amount of the reduction,  
18 up to \$500.

19 (h) An insurer may not systematically downcode with  
20 the intent to deny reimbursement otherwise due. Such action  
21 constitutes a material misrepresentation under s.  
22 626.9541(1)(i)2.

23 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;  
24 DISPUTES.--

25 (a) Every employer shall, if a request is made by an  
26 insurer providing personal injury protection benefits under  
27 ss. 627.730-627.7405 against whom a claim has been made,  
28 furnish forthwith, in a form approved by the department, a  
29 sworn statement of the earnings, since the time of the bodily  
30 injury and for a reasonable period before the injury, of the  
31 person upon whose injury the claim is based.

1           (b) Every physician, hospital, clinic, or other  
2 medical institution providing, before or after bodily injury  
3 upon which a claim for personal injury protection insurance  
4 benefits is based, any products, services, or accommodations  
5 in relation to that or any other injury, or in relation to a  
6 condition claimed to be connected with that or any other  
7 injury, shall, if requested to do so by the insurer against  
8 whom the claim has been made, furnish forthwith a written  
9 report of the history, condition, treatment, dates, and costs  
10 of such treatment of the injured person and why the items  
11 identified by the insurer were reasonable in amount and  
12 medically necessary, together with a sworn statement that the  
13 treatment or services rendered were reasonable and necessary  
14 with respect to the bodily injury sustained and identifying  
15 which portion of the expenses for such treatment or services  
16 was incurred as a result of such bodily injury, and produce  
17 forthwith, and permit the inspection and copying of, his or  
18 her or its records regarding such history, condition,  
19 treatment, dates, and costs of treatment; provided that this  
20 shall not limit the introduction of evidence at trial. Such  
21 sworn statement shall read as follows: "Under penalty of  
22 perjury, I declare that I have read the foregoing, and the  
23 facts alleged are true, to the best of my knowledge and  
24 belief." No cause of action for violation of the  
25 physician-patient privilege or invasion of the right of  
26 privacy shall be permitted against any physician, hospital,  
27 clinic, or other medical institution complying with the  
28 provisions of this section. The person requesting such records  
29 and such sworn statement shall pay all reasonable costs  
30 connected therewith. If an insurer makes a written request for  
31 documentation or information under this paragraph within 30

1 days after having received notice of the amount of a covered  
2 loss under paragraph (4)(a), the amount or the partial amount  
3 which is the subject of the insurer's inquiry shall become  
4 overdue if the insurer does not pay in accordance with  
5 paragraph (4)(b) or within 10 days after the insurer's receipt  
6 of the requested documentation or information, whichever  
7 occurs later. For purposes of this paragraph, the term  
8 "receipt" includes, but is not limited to, inspection and  
9 copying pursuant to this paragraph. Any insurer that requests  
10 documentation or information pertaining to reasonableness of  
11 charges or medical necessity under this paragraph without a  
12 reasonable basis for such requests as a general business  
13 practice is engaging in an unfair trade practice under the  
14 insurance code.

15 (c) In the event of any dispute regarding an insurer's  
16 right to discovery of facts under this section ~~about an~~  
17 ~~injured person's earnings or about his or her history,~~  
18 ~~condition, or treatment, or the dates and costs of such~~  
19 ~~treatment,~~ the insurer may petition a court of competent  
20 jurisdiction to enter an order permitting such discovery. The  
21 order may be made only on motion for good cause shown and upon  
22 notice to all persons having an interest, and it shall specify  
23 the time, place, manner, conditions, and scope of the  
24 discovery. Such court may, in order to protect against  
25 annoyance, embarrassment, or oppression, as justice requires,  
26 enter an order refusing discovery or specifying conditions of  
27 discovery and may order payments of costs and expenses of the  
28 proceeding, including reasonable fees for the appearance of  
29 attorneys at the proceedings, as justice requires.

30 (d) The injured person shall be furnished, upon  
31 request, a copy of all information obtained by the insurer

1 under the provisions of this section, and shall pay a  
2 reasonable charge, if required by the insurer.

3 (e) Notice to an insurer of the existence of a claim  
4 shall not be unreasonably withheld by an insured.

5 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;  
6 REPORTS.--

7 (a) Whenever the mental or physical condition of an  
8 injured person covered by personal injury protection is  
9 material to any claim that has been or may be made for past or  
10 future personal injury protection insurance benefits, such  
11 person shall, upon the request of an insurer, submit to mental  
12 or physical examination by a physician or physicians. The  
13 costs of any examinations requested by an insurer shall be  
14 borne entirely by the insurer. Such examination shall be  
15 conducted within the municipality where the insured is  
16 receiving treatment, or in a location reasonably accessible to  
17 the insured, which, for purposes of this paragraph, means any  
18 location within the municipality in which the insured resides,  
19 or any location within 10 miles by road of the insured's  
20 residence, provided such location is within the county in  
21 which the insured resides. If the examination is to be  
22 conducted in a location reasonably accessible to the insured,  
23 and if there is no qualified physician to conduct the  
24 examination in a location reasonably accessible to the  
25 insured, then such examination shall be conducted in an area  
26 of the closest proximity to the insured's residence. Personal  
27 protection insurers are authorized to include reasonable  
28 provisions in personal injury protection insurance policies  
29 for mental and physical examination of those claiming personal  
30 injury protection insurance benefits. An insurer may not  
31 withdraw payment of a treating physician without the consent

1 of the injured person covered by the personal injury  
2 protection, unless the insurer first obtains a valid report by  
3 a Florida physician licensed under the same chapter as the  
4 treating physician whose treatment authorization is sought to  
5 be withdrawn, stating that treatment was not reasonable,  
6 related, or necessary. A valid report is one that is prepared  
7 and signed by the physician examining the injured person or  
8 reviewing the treatment records of the injured person and is  
9 factually supported by the examination and treatment records  
10 if reviewed and that has not been modified by anyone other  
11 than the physician. The physician preparing the report must be  
12 in active practice, unless the physician is physically  
13 disabled. Active practice means that during the 3 years  
14 immediately preceding the date of the physical examination or  
15 review of the treatment records the physician must have  
16 devoted professional time to the active clinical practice of  
17 evaluation, diagnosis, or treatment of medical conditions or  
18 to the instruction of students in an accredited health  
19 professional school or accredited residency program or a  
20 clinical research program that is affiliated with an  
21 accredited health professional school or teaching hospital or  
22 accredited residency program. The physician preparing a report  
23 at the request of an insurer and physicians rendering expert  
24 opinions on behalf of persons claiming medical benefits for  
25 personal injury protection, or on behalf of an insured through  
26 an attorney or another entity, shall maintain, for at least 3  
27 years, copies of all examination reports as medical records  
28 and shall maintain, for at least 3 years, records of all  
29 payments for the examinations and reports. Neither an insurer  
30 nor any person acting at the direction of or on behalf of an  
31 insurer may materially change an opinion in a report prepared

1 under this paragraph or direct the physician preparing the  
2 report to change such opinion. The denial of a payment as the  
3 result of such a changed opinion constitutes a material  
4 misrepresentation under s. 626.9541(1)(i)2.; however, this  
5 provision does not preclude the insurer from calling to the  
6 attention of the physician errors of fact in the report based  
7 upon information in the claim file.

8 (b) If requested by the person examined, a party  
9 causing an examination to be made shall deliver to him or her  
10 a copy of every written report concerning the examination  
11 rendered by an examining physician, at least one of which  
12 reports must set out the examining physician's findings and  
13 conclusions in detail. After such request and delivery, the  
14 party causing the examination to be made is entitled, upon  
15 request, to receive from the person examined every written  
16 report available to him or her or his or her representative  
17 concerning any examination, previously or thereafter made, of  
18 the same mental or physical condition. By requesting and  
19 obtaining a report of the examination so ordered, or by taking  
20 the deposition of the examiner, the person examined waives any  
21 privilege he or she may have, in relation to the claim for  
22 benefits, regarding the testimony of every other person who  
23 has examined, or may thereafter examine, him or her in respect  
24 to the same mental or physical condition. If a person  
25 unreasonably refuses to submit to an examination, the personal  
26 injury protection carrier is no longer liable for subsequent  
27 personal injury protection benefits.

28 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S  
29 FEES.--With respect to any dispute under the provisions of ss.  
30 627.730-627.7405 between the insured and the insurer, or  
31 between an assignee of an insured's rights and the insurer,

1 the provisions of s. 627.428 shall apply, except as provided  
2 in subsection (11).

3 (10) An insurer may negotiate and enter into contracts  
4 with licensed health care providers for the benefits described  
5 in this section, referred to in this section as "preferred  
6 providers," which shall include health care providers licensed  
7 under chapters 458, 459, 460, 461, and 463. The insurer may  
8 provide an option to an insured to use a preferred provider at  
9 the time of purchase of the policy for personal injury  
10 protection benefits, if the requirements of this subsection  
11 are met. If the insured elects to use a provider who is not a  
12 preferred provider, whether the insured purchased a preferred  
13 provider policy or a nonpreferred provider policy, the medical  
14 benefits provided by the insurer shall be as required by this  
15 section. If the insured elects to use a provider who is a  
16 preferred provider, the insurer may pay medical benefits in  
17 excess of the benefits required by this section and may waive  
18 or lower the amount of any deductible that applies to such  
19 medical benefits. If the insurer offers a preferred provider  
20 policy to a policyholder or applicant, it must also offer a  
21 nonpreferred provider policy. The insurer shall provide each  
22 policyholder with a current roster of preferred providers in  
23 the county in which the insured resides at the time of  
24 purchase of such policy, and shall make such list available  
25 for public inspection during regular business hours at the  
26 principal office of the insurer within the state.

27 (11) DEMAND LETTER.--

28 (a) As a condition precedent to filing any action for  
29 ~~an overdue claim for~~ benefits under this section ~~paragraph~~  
30 ~~(4)(b)~~, the insurer must be provided with written notice of an  
31 intent to initiate litigation; ~~provided, however, that, except~~



1 ~~with regard to a claim or amended claim or judgment for~~  
2 ~~interest only which was not paid or was incorrectly~~  
3 ~~calculated, such notice is not required for an overdue claim~~  
4 ~~that the insurer has denied or reduced, nor is such notice~~  
5 ~~required if the insurer has been provided documentation or~~  
6 ~~information at the insurer's request pursuant to subsection~~  
7 ~~(6).~~ Such notice may not be sent until the claim is overdue,  
8 including any additional time the insurer has to pay the claim  
9 pursuant to paragraph (4)(b).

10 (b) The notice required shall state that it is a  
11 "demand letter under s. 627.736(11)" and shall state with  
12 specificity:

13 1. The name of the insured upon which such benefits  
14 are being sought, including a copy of the assignment giving  
15 rights to the claimant if the claimant is not the insured.

16 2. The claim number or policy number upon which such  
17 claim was originally submitted to the insurer.

18 3. To the extent applicable, the name of any medical  
19 provider who rendered to an insured the treatment, services,  
20 accommodations, or supplies that form the basis of such claim;  
21 and an itemized statement specifying each exact amount, the  
22 date of treatment, service, or accommodation, and the type of  
23 benefit claimed to be due. A completed form satisfying the  
24 requirements of paragraph (5)(d) or the lost-wage statement  
25 previously submitted Health Care Finance Administration 1500  
26 form, UB 92, or successor forms approved by the Secretary of  
27 the United States Department of Health and Human Services may  
28 be used as the itemized statement. To the extent that the  
29 demand involves an insurer's withdrawal of payment under  
30 paragraph (7)(a) for future treatment not yet rendered, the  
31 claimant shall attach a copy of the insurer's notice

1 withdrawing such payment and an itemized statement of the  
2 type, frequency, and duration of future treatment claimed to  
3 be reasonable and medically necessary.

4 (c) Each notice required by this subsection ~~section~~  
5 must be delivered to the insurer by United States certified or  
6 registered mail, return receipt requested. Such postal costs  
7 shall be reimbursed by the insurer if so requested by the  
8 claimant ~~provider~~ in the notice, when the insurer pays the  
9 ~~overdue~~ claim. Such notice must be sent to the person and  
10 address specified by the insurer for the purposes of receiving  
11 notices under this subsection ~~section~~, ~~on the document denying~~  
12 ~~or reducing the amount asserted by the filer to be overdue.~~  
13 Each licensed insurer, whether domestic, foreign, or alien,  
14 shall ~~may~~ file with the office ~~department~~ designation of the  
15 name and address of the person to whom notices pursuant to  
16 this subsection ~~section~~ shall be sent which the office shall  
17 make available on its Internet website ~~when such document does~~  
18 ~~not specify the name and address to whom the notices under~~  
19 ~~this section are to be sent or when there is no such document.~~  
20 The name and address on file with the office ~~department~~  
21 pursuant to s. 624.422 shall be deemed the authorized  
22 representative to accept notice pursuant to this subsection  
23 ~~section~~ in the event no other designation has been made.

24 (d) If, within 15 ~~7-business~~ days after receipt of  
25 notice by the insurer, the overdue claim specified in the  
26 notice is paid by the insurer together with applicable  
27 interest and a penalty of 10 percent of the overdue amount  
28 paid by the insurer, subject to a maximum penalty of \$250, no  
29 action ~~for nonpayment or late payment~~ may be brought against  
30 the insurer. If the demand involves an insurer's withdrawal of  
31 payment under paragraph (7)(a) for future treatment not yet

1 rendered, no action may be brought against the insurer if,  
2 within 15 days after its receipt of the notice, the insurer  
3 mails to the person filing the notice a written statement of  
4 the insurer's agreement to pay for such treatment in  
5 accordance with the notice and to pay a penalty of 10 percent,  
6 subject to a maximum penalty of \$250, when it pays for such  
7 future treatment in accordance with the requirements of this  
8 section.To the extent the insurer determines not to pay any  
9 ~~the overdue~~ amount demanded, the penalty shall not be payable  
10 in any subsequent action ~~for nonpayment or late payment~~. For  
11 purposes of this subsection, payment or the insurer's  
12 agreement shall be treated as being made on the date a draft  
13 or other valid instrument that is equivalent to payment, or  
14 the insurer's written statement of agreement,is placed in the  
15 United States mail in a properly addressed, postpaid envelope,  
16 or if not so posted, on the date of delivery. The insurer  
17 shall not be obligated to pay any attorney's fees if the  
18 insurer pays the claim or mails its agreement to pay for  
19 future treatment within the time prescribed by this  
20 subsection.

21 (e) The applicable statute of limitation for an action  
22 under this section shall be tolled for a period of 15 business  
23 days by the mailing of the notice required by this subsection.

24 (f) Any insurer making a general business practice of  
25 not paying valid claims until receipt of the notice required  
26 by this subsection ~~section~~ is engaging in an unfair trade  
27 practice under the insurance code.

28 (12) CIVIL ACTION FOR INSURANCE FRAUD.--An insurer  
29 shall have a cause of action against any person convicted of,  
30 or who, regardless of adjudication of guilt, pleads guilty or  
31 nolo contendere to insurance fraud under s. 817.234, patient

1 brokering under s. 817.505, or kickbacks under s. 456.054,  
2 associated with a claim for personal injury protection  
3 benefits in accordance with this section. An insurer  
4 prevailing in an action brought under this subsection may  
5 recover compensatory, consequential, and punitive damages  
6 subject to the requirements and limitations of part II of  
7 chapter 768, and attorney's fees and costs incurred in  
8 litigating a cause of action against any person convicted of,  
9 or who, regardless of adjudication of guilt, pleads guilty or  
10 nolo contendere to insurance fraud under s. 817.234, patient  
11 brokering under s. 817.505, or kickbacks under s. 456.054,  
12 associated with a claim for personal injury protection  
13 benefits in accordance with this section.

14 (13) MINIMUM BENEFIT COVERAGE.--If the Financial  
15 Services Commission determines that the cost savings under  
16 personal injury protection insurance benefits paid by insurers  
17 have been realized due to the provisions of this act, prior  
18 legislative reforms, or other factors, the commission may  
19 increase the minimum \$10,000 benefit coverage requirement. In  
20 establishing the amount of such increase, the commission must  
21 determine that the additional premium for such coverage is  
22 approximately equal to the premium cost savings that have been  
23 realized for the personal injury protection coverage with  
24 limits of \$10,000.

25 Section 10. Subsections (1) and (2) of section  
26 627.739, Florida Statutes, are amended to read:

27 627.739 Personal injury protection; optional  
28 limitations; deductibles.--

29 (1) The named insured may elect a deductible or  
30 modified coverage or combination thereof to apply to the named  
31 insured alone or to the named insured and dependent relatives

1 residing in the same household, but may not elect a deductible  
2 or modified coverage to apply to any other person covered  
3 under the policy. ~~Any person electing a deductible or modified~~  
4 ~~coverage, or a combination thereof, or subject to such~~  
5 ~~deductible or modified coverage as a result of the named~~  
6 ~~insured's election, shall have no right to claim or to recover~~  
7 ~~any amount so deducted from any owner, registrant, operator,~~  
8 ~~or occupant of a vehicle or any person or organization legally~~  
9 ~~responsible for any such person's acts or omissions who is~~  
10 ~~made exempt from tort liability by ss. 627.730-627.7405.~~

11 (2) Insurers shall offer to each applicant and to each  
12 policyholder, upon the renewal of an existing policy,  
13 deductibles, in amounts of \$250, \$500, and \$1,000, ~~and \$2,000.~~  
14 The deductible amount must be applied to 100 percent of the  
15 expenses and losses described in s. 627.736. After the  
16 deductible is met, each insured is eligible to receive up to  
17 \$10,000 in total benefits described in s. 627.736(1). ~~such~~  
18 ~~amount to be deducted from the benefits otherwise due each~~  
19 ~~person subject to the deduction.~~ However, this subsection  
20 shall not be applied to reduce the amount of any benefits  
21 received in accordance with s. 627.736(1)(c).

22 Section 11. Subsections (7), (8), and (9) of section  
23 817.234, Florida Statutes, are amended to read:

24 817.234 False and fraudulent insurance claims.--

25 (7)(a) It shall constitute a material omission and  
26 insurance fraud for any physician or other provider, other  
27 than a hospital, to engage in a general business practice of  
28 billing amounts as its usual and customary charge, if such  
29 provider has agreed with the patient or intends to waive  
30 deductibles or copayments, or does not for any other reason  
31 intend to collect the total amount of such charge.

1           **(b)** The provisions of this section shall also apply as  
2 to any insurer or adjusting firm or its agents or  
3 representatives who, with intent, injure, defraud, or deceive  
4 any claimant with regard to any claim. The claimant shall  
5 have the right to recover the damages provided in this  
6 section.

7           **(c)** An insurer, or any person acting at the direction  
8 of or on behalf of an insurer, may not change an opinion in a  
9 mental or physical report prepared under s. 627.736(7) or  
10 direct the physician preparing the report to change such  
11 opinion; however, this provision does not preclude the insurer  
12 from calling to the attention of the physician errors of fact  
13 in the report based upon information in the claim file. Any  
14 person who violates this paragraph commits a felony of the  
15 third degree, punishable as provided in s. 775.082, s.  
16 775.083, or s. 775.084.

17           **(8)(a)** It is unlawful for any person intending to  
18 defraud any other person, in his or her individual capacity or  
19 in his or her capacity as a public or private employee, or for  
20 any firm, corporation, partnership, or association, to solicit  
21 or cause to be solicited any business from a person involved  
22 in a motor vehicle accident by any means of communication  
23 other than advertising directed to the public for the purpose  
24 of making, adjusting, or settling motor vehicle tort claims or  
25 claims for personal injury protection benefits required by s.  
26 627.736. Charges for any services rendered by a health care  
27 provider or attorney who violates this subsection in regard to  
28 the person for whom such services were rendered are  
29 noncompensable and unenforceable as a matter of law. Any  
30 person who violates the provisions of this paragraph  
31 subsection commits a felony of the second ~~third~~ degree,

1 punishable as provided in s. 775.082, s. 775.083, or s.  
2 775.084. A person who is convicted of a violation of this  
3 subsection shall be sentenced to a minimum term of  
4 imprisonment of 2 years.

5 (b) A person may not solicit or cause to be solicited  
6 any business from a person involved in a motor vehicle  
7 accident by any means of communication other than advertising  
8 directed to the public for the purpose of making motor vehicle  
9 tort claims or claims for personal injury protection benefits  
10 required by s. 627.736, within 60 days after the occurrence of  
11 the motor vehicle accident. Any person who violates this  
12 paragraph commits a felony of the third degree, punishable as  
13 provided in s. 775.082, s. 775.083, or s. 775.084.

14 (c) A lawyer, health care practitioner as defined in  
15 s. 456.001, or owner or medical director of a clinic required  
16 to be licensed pursuant to s. 400.903 may not, at any time  
17 after 60 days have elapsed from the occurrence of a motor  
18 vehicle accident, solicit or cause to be solicited any  
19 business from a person involved in a motor vehicle accident by  
20 means of in-person or telephone contact at the person's  
21 residence, for the purpose of making motor vehicle tort claims  
22 or claims for personal injury protection benefits required by  
23 s. 627.736. Any person who violates this paragraph commits a  
24 felony of the third degree, punishable as provided in s.  
25 775.082, s. 775.083, or s. 775.084.

26 (d) Charges for any services rendered by any person  
27 who violates this subsection in regard to the person for whom  
28 such services were rendered are noncompensable and  
29 unenforceable as a matter of law.

30 (9) A person may not organize, plan, or knowingly  
31 participate in an intentional motor vehicle crash for the

1 purpose of making motor vehicle tort claims or claims for  
2 personal injury protection benefits as required by s. 627.736.  
3 ~~It is unlawful for any attorney to solicit any business~~  
4 ~~relating to the representation of a person involved in a motor~~  
5 ~~vehicle accident for the purpose of filing a motor vehicle~~  
6 ~~tort claim or a claim for personal injury protection benefits~~  
7 ~~required by s. 627.736. The solicitation by advertising of~~  
8 ~~any business by an attorney relating to the representation of~~  
9 ~~a person injured in a specific motor vehicle accident is~~  
10 ~~prohibited by this section.~~Any person attorney who violates  
11 ~~the provisions of this paragraph subsection~~ commits a felony  
12 of the second ~~third~~ degree, punishable as provided in s.  
13 775.082, s. 775.083, or s. 775.084. A person who is convicted  
14 of a violation of this subsection shall be sentenced to a  
15 minimum term of imprisonment of 2 years.~~Whenever any circuit~~  
16 ~~or special grievance committee acting under the jurisdiction~~  
17 ~~of the Supreme Court finds probable cause to believe that an~~  
18 ~~attorney is guilty of a violation of this section, such~~  
19 ~~committee shall forward to the appropriate state attorney a~~  
20 ~~copy of the finding of probable cause and the report being~~  
21 ~~filed in the matter. This section shall not be interpreted to~~  
22 ~~prohibit advertising by attorneys which does not entail a~~  
23 ~~solicitation as described in this subsection and which is~~  
24 ~~permitted by the rules regulating The Florida Bar as~~  
25 ~~promulgated by the Florida Supreme Court.~~

26 Section 12. Section 817.236, Florida Statutes, is  
27 amended to read:

28 817.236 False and fraudulent motor vehicle insurance  
29 application.--Any person who, with intent to injure, defraud,  
30 or deceive any motor vehicle insurer, including any  
31 statutorily created underwriting association or pool of motor



1 vehicle insurers, presents or causes to be presented any  
2 written application, or written statement in support thereof,  
3 for motor vehicle insurance knowing that the application or  
4 statement contains any false, incomplete, or misleading  
5 information concerning any fact or matter material to the  
6 application commits a felony ~~misdemeanor~~ of the third ~~first~~  
7 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,  
8 or s. 775.084.

9 Section 13. Section 817.2361, Florida Statutes, is  
10 created to read:

11 817.2361 False or fraudulent motor vehicle insurance  
12 card.--Any person who, with intent to deceive any other  
13 person, creates, markets, or presents a false or fraudulent  
14 motor vehicle insurance card commits a felony of the third  
15 degree, punishable as provided in s. 775.082, s. 775.083, or  
16 s. 775.084.

17 Section 14. Effective October 1, 2003, paragraphs (c)  
18 and (g) of subsection (3) of section 921.0022, Florida  
19 Statutes, are amended to read:

20 921.0022 Criminal Punishment Code; offense severity  
21 ranking chart.--

22 (3) OFFENSE SEVERITY RANKING CHART

23

| 24 Florida          | Felony     |   |
|---------------------|------------|---|
| 25 Statute          | Degree     | Description                             |
| 26                  |            |   |
| 27                  |            |   |
| 28                  |            | (c) LEVEL 3                             |
| 29 <u>119.10(3)</u> | <u>3rd</u> | <u>Unlawful use of confidential</u>     |
| 30                  |            | <u>information from police reports.</u> |

31

|    |                          |            |                                      |
|----|--------------------------|------------|--------------------------------------|
| 1  | <u>316.066(3)(d)-(f)</u> | <u>3rd</u> | <u>Unlawfully obtaining or using</u> |
| 2  |                          |            | <u>confidential crash reports.</u>   |
| 3  | 316.193(2)(b)            | 3rd        | Felony DUI, 3rd conviction.          |
| 4  | 316.1935(2)              | 3rd        | Fleeing or attempting to elude       |
| 5  |                          |            | law enforcement officer in marked    |
| 6  |                          |            | patrol vehicle with siren and        |
| 7  |                          |            | lights activated.                    |
| 8  | 319.30(4)                | 3rd        | Possession by junkyard of motor      |
| 9  |                          |            | vehicle with identification          |
| 10 |                          |            | number plate removed.                |
| 11 | 319.33(1)(a)             | 3rd        | Alter or forge any certificate of    |
| 12 |                          |            | title to a motor vehicle or          |
| 13 |                          |            | mobile home.                         |
| 14 | 319.33(1)(c)             | 3rd        | Procure or pass title on stolen      |
| 15 |                          |            | vehicle.                             |
| 16 | 319.33(4)                | 3rd        | With intent to defraud, possess,     |
| 17 |                          |            | sell, etc., a blank, forged, or      |
| 18 |                          |            | unlawfully obtained title or         |
| 19 |                          |            | registration.                        |
| 20 | 327.35(2)(b)             | 3rd        | Felony BUI.                          |
| 21 | 328.05(2)                | 3rd        | Possess, sell, or counterfeit        |
| 22 |                          |            | fictitious, stolen, or fraudulent    |
| 23 |                          |            | titles or bills of sale of           |
| 24 |                          |            | vessels.                             |
| 25 | 328.07(4)                | 3rd        | Manufacture, exchange, or possess    |
| 26 |                          |            | vessel with counterfeit or wrong     |
| 27 |                          |            | ID number.                           |
| 28 | 376.302(5)               | 3rd        | Fraud related to reimbursement       |
| 29 |                          |            | for cleanup expenses under the       |
| 30 |                          |            | Inland Protection Trust Fund.        |
| 31 |                          |            |                                      |

|    |                   |            |  |
|----|-------------------|------------|--|
| 1  | <u>400.903(3)</u> | <u>3rd</u> | <u>Operating a clinic without a</u>    |
| 2  |                   |            | <u>license or filing false license</u> |
| 3  |                   |            | <u>application or other required</u>   |
| 4  |                   |            | <u>information.</u>                    |
| 5  | 501.001(2)(b)     | 2nd        | Tampers with a consumer product        |
| 6  |                   |            | or the container using materially      |
| 7  |                   |            | false/misleading information.          |
| 8  | 697.08            | 3rd        | Equity skimming.                       |
| 9  | 790.15(3)         | 3rd        | Person directs another to              |
| 10 |                   |            | discharge firearm from a vehicle.      |
| 11 | 796.05(1)         | 3rd        | Live on earnings of a prostitute.      |
| 12 | 806.10(1)         | 3rd        | Maliciously injure, destroy, or        |
| 13 |                   |            | interfere with vehicles or             |
| 14 |                   |            | equipment used in firefighting.        |
| 15 | 806.10(2)         | 3rd        | Interferes with or assaults            |
| 16 |                   |            | firefighter in performance of          |
| 17 |                   |            | duty.                                  |
| 18 | 810.09(2)(c)      | 3rd        | Trespass on property other than        |
| 19 |                   |            | structure or conveyance armed          |
| 20 |                   |            | with firearm or dangerous weapon.      |
| 21 | 812.014(2)(c)2.   | 3rd        | Grand theft; \$5,000 or more but       |
| 22 |                   |            | less than \$10,000.                    |
| 23 | 812.0145(2)(c)    | 3rd        | Theft from person 65 years of age      |
| 24 |                   |            | or older; \$300 or more but less       |
| 25 |                   |            | than \$10,000.                         |
| 26 | 815.04(4)(b)      | 2nd        | Computer offense devised to            |
| 27 |                   |            | defraud or obtain property.            |
| 28 | 817.034(4)(a)3.   | 3rd        | Engages in scheme to defraud           |
| 29 |                   |            | (Florida Communications Fraud          |
| 30 |                   |            | Act), property valued at less          |
| 31 |                   |            | than \$20,000.                         |

|    |                            |            |   |
|----|----------------------------|------------|---|
| 1  | 817.233                    | 3rd        | Burning to defraud insurer.             |
| 2  | 817.234(8)                 |            |   |
| 3  | <del>(b)-(c)&amp;(9)</del> | 3rd        | Unlawful solicitation of persons        |
| 4  |                            |            | involved in motor vehicle               |
| 5  |                            |            | accidents.                              |
| 6  | 817.234(11)(a)             | 3rd        | Insurance fraud; property value         |
| 7  |                            |            | less than \$20,000.                     |
| 8  | <u>817.236</u>             | <u>3rd</u> | <u>Filing a false motor vehicle</u>     |
| 9  |                            |            | <u>insurance application.</u>           |
| 10 | <u>817.2361</u>            | <u>3rd</u> | <u>Creating, marketing, or</u>          |
| 11 |                            |            | <u>presenting a false or fraudulent</u> |
| 12 |                            |            | <u>motor vehicle insurance card.</u>    |
| 13 | 817.505(4)                 | 3rd        | Patient brokering.                      |
| 14 | 828.12(2)                  | 3rd        | Tortures any animal with intent         |
| 15 |                            |            | to inflict intense pain, serious        |
| 16 |                            |            | physical injury, or death.              |
| 17 | 831.28(2)(a)               | 3rd        | Counterfeiting a payment                |
| 18 |                            |            | instrument with intent to defraud       |
| 19 |                            |            | or possessing a counterfeit             |
| 20 |                            |            | payment instrument.                     |
| 21 | 831.29                     | 2nd        | Possession of instruments for           |
| 22 |                            |            | counterfeiting drivers' licenses        |
| 23 |                            |            | or identification cards.                |
| 24 | 838.021(3)(b)              | 3rd        | Threatens unlawful harm to public       |
| 25 |                            |            | servant.                                |
| 26 | 843.19                     | 3rd        | Injure, disable, or kill police         |
| 27 |                            |            | dog or horse.                           |
| 28 | 870.01(2)                  | 3rd        | Riot; inciting or encouraging.          |
| 29 |                            |            |   |
| 30 |                            |            |   |
| 31 |                            |            |   |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 893.13(1)(a)2.  | 3rd | Sell, manufacture, or deliver     |
| 2  |                 |     | cannabis (or other s.             |
| 3  |                 |     | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 4  |                 |     | (2)(c)3., (2)(c)5., (2)(c)6.,     |
| 5  |                 |     | (2)(c)7., (2)(c)8., (2)(c)9.,     |
| 6  |                 |     | (3), or (4) drugs).               |
| 7  | 893.13(1)(d)2.  | 2nd | Sell, manufacture, or deliver s.  |
| 8  |                 |     | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 9  |                 |     | (2)(c)3., (2)(c)5., (2)(c)6.,     |
| 10 |                 |     | (2)(c)7., (2)(c)8., (2)(c)9.,     |
| 11 |                 |     | (3), or (4) drugs within 200 feet |
| 12 |                 |     | of university or public park.     |
| 13 | 893.13(1)(f)2.  | 2nd | Sell, manufacture, or deliver s.  |
| 14 |                 |     | 893.03(1)(c), (2)(c)1., (2)(c)2., |
| 15 |                 |     | (2)(c)3., (2)(c)5., (2)(c)6.,     |
| 16 |                 |     | (2)(c)7., (2)(c)8., (2)(c)9.,     |
| 17 |                 |     | (3), or (4) drugs within 200 feet |
| 18 |                 |     | of public housing facility.       |
| 19 | 893.13(6)(a)    | 3rd | Possession of any controlled      |
| 20 |                 |     | substance other than felony       |
| 21 |                 |     | possession of cannabis.           |
| 22 | 893.13(7)(a)8.  | 3rd | Withhold information from         |
| 23 |                 |     | practitioner regarding previous   |
| 24 |                 |     | receipt of or prescription for a  |
| 25 |                 |     | controlled substance.             |
| 26 | 893.13(7)(a)9.  | 3rd | Obtain or attempt to obtain       |
| 27 |                 |     | controlled substance by fraud,    |
| 28 |                 |     | forgery, misrepresentation, etc.  |
| 29 | 893.13(7)(a)10. | 3rd | Affix false or forged label to    |
| 30 |                 |     | package of controlled substance.  |
| 31 |                 |     |                                   |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 893.13(7)(a)11. | 3rd | Furnish false or fraudulent       |
| 2  |                 |     | material information on any       |
| 3  |                 |     | document or record required by    |
| 4  |                 |     | chapter 893.                      |
| 5  | 893.13(8)(a)1.  | 3rd | Knowingly assist a patient, other |
| 6  |                 |     | person, or owner of an animal in  |
| 7  |                 |     | obtaining a controlled substance  |
| 8  |                 |     | through deceptive, untrue, or     |
| 9  |                 |     | fraudulent representations in or  |
| 10 |                 |     | related to the practitioner's     |
| 11 |                 |     | practice.                         |
| 12 | 893.13(8)(a)2.  | 3rd | Employ a trick or scheme in the   |
| 13 |                 |     | practitioner's practice to assist |
| 14 |                 |     | a patient, other person, or owner |
| 15 |                 |     | of an animal in obtaining a       |
| 16 |                 |     | controlled substance.             |
| 17 | 893.13(8)(a)3.  | 3rd | Knowingly write a prescription    |
| 18 |                 |     | for a controlled substance for a  |
| 19 |                 |     | fictitious person.                |
| 20 | 893.13(8)(a)4.  | 3rd | Write a prescription for a        |
| 21 |                 |     | controlled substance for a        |
| 22 |                 |     | patient, other person, or an      |
| 23 |                 |     | animal if the sole purpose of     |
| 24 |                 |     | writing the prescription is a     |
| 25 |                 |     | monetary benefit for the          |
| 26 |                 |     | practitioner.                     |
| 27 | 918.13(1)(a)    | 3rd | Alter, destroy, or conceal        |
| 28 |                 |     | investigation evidence.           |
| 29 | 944.47          |     |                                   |
| 30 | (1)(a)1.-2.     | 3rd | Introduce contraband to           |
| 31 |                 |     | correctional facility.            |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 944.47(1)(c)    | 2nd | Possess contraband while upon the |
| 2  |                 |     | grounds of a correctional         |
| 3  |                 |     | institution.                      |
| 4  | 985.3141        | 3rd | Escapes from a juvenile facility  |
| 5  |                 |     | (secure detention or residential  |
| 6  |                 |     | commitment facility).             |
| 7  |                 |     | (g) LEVEL 7                       |
| 8  | 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily   |
| 9  |                 |     | injury.                           |
| 10 | 327.35(3)(c)2.  | 3rd | Vessel BUI resulting in serious   |
| 11 |                 |     | bodily injury.                    |
| 12 | 402.319(2)      | 2nd | Misrepresentation and negligence  |
| 13 |                 |     | or intentional act resulting in   |
| 14 |                 |     | great bodily harm, permanent      |
| 15 |                 |     | disfiguration, permanent          |
| 16 |                 |     | disability, or death.             |
| 17 | 409.920(2)      | 3rd | Medicaid provider fraud.          |
| 18 | 456.065(2)      | 3rd | Practicing a health care          |
| 19 |                 |     | profession without a license.     |
| 20 | 456.065(2)      | 2nd | Practicing a health care          |
| 21 |                 |     | profession without a license      |
| 22 |                 |     | which results in serious bodily   |
| 23 |                 |     | injury.                           |
| 24 | 458.327(1)      | 3rd | Practicing medicine without a     |
| 25 |                 |     | license.                          |
| 26 | 459.013(1)      | 3rd | Practicing osteopathic medicine   |
| 27 |                 |     | without a license.                |
| 28 | 460.411(1)      | 3rd | Practicing chiropractic medicine  |
| 29 |                 |     | without a license.                |
| 30 | 461.012(1)      | 3rd | Practicing podiatric medicine     |
| 31 |                 |     | without a license.                |

|    |               |     |                                   |
|----|---------------|-----|-----------------------------------|
| 1  | 462.17        | 3rd | Practicing naturopathy without a  |
| 2  |               |     | license.                          |
| 3  | 463.015(1)    | 3rd | Practicing optometry without a    |
| 4  |               |     | license.                          |
| 5  | 464.016(1)    | 3rd | Practicing nursing without a      |
| 6  |               |     | license.                          |
| 7  | 465.015(2)    | 3rd | Practicing pharmacy without a     |
| 8  |               |     | license.                          |
| 9  | 466.026(1)    | 3rd | Practicing dentistry or dental    |
| 10 |               |     | hygiene without a license.        |
| 11 | 467.201       | 3rd | Practicing midwifery without a    |
| 12 |               |     | license.                          |
| 13 | 468.366       | 3rd | Delivering respiratory care       |
| 14 |               |     | services without a license.       |
| 15 | 483.828(1)    | 3rd | Practicing as clinical laboratory |
| 16 |               |     | personnel without a license.      |
| 17 | 483.901(9)    | 3rd | Practicing medical physics        |
| 18 |               |     | without a license.                |
| 19 | 484.013(1)(c) | 3rd | Preparing or dispensing optical   |
| 20 |               |     | devices without a prescription.   |
| 21 | 484.053       | 3rd | Dispensing hearing aids without a |
| 22 |               |     | license.                          |
| 23 | 494.0018(2)   | 1st | Conviction of any violation of    |
| 24 |               |     | ss. 494.001-494.0077 in which the |
| 25 |               |     | total money and property          |
| 26 |               |     | unlawfully obtained exceeded      |
| 27 |               |     | \$50,000 and there were five or   |
| 28 |               |     | more victims.                     |
| 29 |               |     |                                   |
| 30 |               |     |                                   |
| 31 |               |     |                                   |



|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 560.123(8)(b)1. | 3rd | Failure to report currency or     |
| 2  |                 |     | payment instruments exceeding     |
| 3  |                 |     | \$300 but less than \$20,000 by   |
| 4  |                 |     | money transmitter.                |
| 5  | 560.125(5)(a)   | 3rd | Money transmitter business by     |
| 6  |                 |     | unauthorized person, currency or  |
| 7  |                 |     | payment instruments exceeding     |
| 8  |                 |     | \$300 but less than \$20,000.     |
| 9  | 655.50(10)(b)1. | 3rd | Failure to report financial       |
| 10 |                 |     | transactions exceeding \$300 but  |
| 11 |                 |     | less than \$20,000 by financial   |
| 12 |                 |     | institution.                      |
| 13 | 782.051(3)      | 2nd | Attempted felony murder of a      |
| 14 |                 |     | person by a person other than the |
| 15 |                 |     | perpetrator or the perpetrator of |
| 16 |                 |     | an attempted felony.              |
| 17 | 782.07(1)       | 2nd | Killing of a human being by the   |
| 18 |                 |     | act, procurement, or culpable     |
| 19 |                 |     | negligence of another             |
| 20 |                 |     | (manslaughter).                   |
| 21 | 782.071         | 2nd | Killing of human being or viable  |
| 22 |                 |     | fetus by the operation of a motor |
| 23 |                 |     | vehicle in a reckless manner      |
| 24 |                 |     | (vehicular homicide).             |
| 25 | 782.072         | 2nd | Killing of a human being by the   |
| 26 |                 |     | operation of a vessel in a        |
| 27 |                 |     | reckless manner (vessel           |
| 28 |                 |     | homicide).                        |
| 29 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally |
| 30 |                 |     | causing great bodily harm or      |
| 31 |                 |     | disfigurement.                    |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly  |
| 2  |                 |     | weapon.                           |
| 3  | 784.045(1)(b)   | 2nd | Aggravated battery; perpetrator   |
| 4  |                 |     | aware victim pregnant.            |
| 5  | 784.048(4)      | 3rd | Aggravated stalking; violation of |
| 6  |                 |     | injunction or court order.        |
| 7  | 784.07(2)(d)    | 1st | Aggravated battery on law         |
| 8  |                 |     | enforcement officer.              |
| 9  | 784.074(1)(a)   | 1st | Aggravated battery on sexually    |
| 10 |                 |     | violent predators facility staff. |
| 11 | 784.08(2)(a)    | 1st | Aggravated battery on a person 65 |
| 12 |                 |     | years of age or older.            |
| 13 | 784.081(1)      | 1st | Aggravated battery on specified   |
| 14 |                 |     | official or employee.             |
| 15 | 784.082(1)      | 1st | Aggravated battery by detained    |
| 16 |                 |     | person on visitor or other        |
| 17 |                 |     | detainee.                         |
| 18 | 784.083(1)      | 1st | Aggravated battery on code        |
| 19 |                 |     | inspector.                        |
| 20 | 790.07(4)       | 1st | Specified weapons violation       |
| 21 |                 |     | subsequent to previous conviction |
| 22 |                 |     | of s. 790.07(1) or (2).           |
| 23 | 790.16(1)       | 1st | Discharge of a machine gun under  |
| 24 |                 |     | specified circumstances.          |
| 25 | 790.165(2)      | 2nd | Manufacture, sell, possess, or    |
| 26 |                 |     | deliver hoax bomb.                |
| 27 | 790.165(3)      | 2nd | Possessing, displaying, or        |
| 28 |                 |     | threatening to use any hoax bomb  |
| 29 |                 |     | while committing or attempting to |
| 30 |                 |     | commit a felony.                  |
| 31 |                 |     |                                   |

|    |                |     |                                   |
|----|----------------|-----|-----------------------------------|
| 1  | 790.166(3)     | 2nd | Possessing, selling, using, or    |
| 2  |                |     | attempting to use a hoax weapon   |
| 3  |                |     | of mass destruction.              |
| 4  | 790.166(4)     | 2nd | Possessing, displaying, or        |
| 5  |                |     | threatening to use a hoax weapon  |
| 6  |                |     | of mass destruction while         |
| 7  |                |     | committing or attempting to       |
| 8  |                |     | commit a felony.                  |
| 9  | 796.03         | 2nd | Procuring any person under 16     |
| 10 |                |     | years for prostitution.           |
| 11 | 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation;   |
| 12 |                |     | victim less than 12 years of age; |
| 13 |                |     | offender less than 18 years.      |
| 14 | 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation;   |
| 15 |                |     | victim 12 years of age or older   |
| 16 |                |     | but less than 16 years; offender  |
| 17 |                |     | 18 years or older.                |
| 18 | 806.01(2)      | 2nd | Maliciously damage structure by   |
| 19 |                |     | fire or explosive.                |
| 20 | 810.02(3)(a)   | 2nd | Burglary of occupied dwelling;    |
| 21 |                |     | unarmed; no assault or battery.   |
| 22 | 810.02(3)(b)   | 2nd | Burglary of unoccupied dwelling;  |
| 23 |                |     | unarmed; no assault or battery.   |
| 24 | 810.02(3)(d)   | 2nd | Burglary of occupied conveyance;  |
| 25 |                |     | unarmed; no assault or battery.   |
| 26 | 812.014(2)(a)  | 1st | Property stolen, valued at        |
| 27 |                |     | \$100,000 or more; cargo stolen   |
| 28 |                |     | valued at \$50,000 or more;       |
| 29 |                |     | property stolen while causing     |
| 30 |                |     | other property damage; 1st degree |
| 31 |                |     | grand theft.                      |

|    |                      |            |  |
|----|----------------------|------------|--|
| 1  | 812.014(2)(b)3.      | 2nd        | Property stolen, emergency             |
| 2  |                      |            | medical equipment; 2nd degree          |
| 3  |                      |            | grand theft.                           |
| 4  | 812.0145(2)(a)       | 1st        | Theft from person 65 years of age      |
| 5  |                      |            | or older; \$50,000 or more.            |
| 6  | 812.019(2)           | 1st        | Stolen property; initiates,            |
| 7  |                      |            | organizes, plans, etc., the theft      |
| 8  |                      |            | of property and traffics in            |
| 9  |                      |            | stolen property.                       |
| 10 | 812.131(2)(a)        | 2nd        | Robbery by sudden snatching.           |
| 11 | 812.133(2)(b)        | 1st        | Carjacking; no firearm, deadly         |
| 12 |                      |            | weapon, or other weapon.               |
| 13 | <u>817.234(8)(a)</u> | <u>2nd</u> | <u>Solicitation of motor vehicle</u>   |
| 14 |                      |            | <u>accident victims with intent to</u> |
| 15 |                      |            | <u>defraud.</u>                        |
| 16 | <u>817.234(9)</u>    | <u>2nd</u> | <u>Organizing, planning, or</u>        |
| 17 |                      |            | <u>participating in an intentional</u> |
| 18 |                      |            | <u>motor vehicle collision.</u>        |
| 19 | 817.234(11)(c)       | 1st        | Insurance fraud; property value        |
| 20 |                      |            | \$100,000 or more.                     |
| 21 | 825.102(3)(b)        | 2nd        | Neglecting an elderly person or        |
| 22 |                      |            | disabled adult causing great           |
| 23 |                      |            | bodily harm, disability, or            |
| 24 |                      |            | disfigurement.                         |
| 25 | 825.103(2)(b)        | 2nd        | Exploiting an elderly person or        |
| 26 |                      |            | disabled adult and property is         |
| 27 |                      |            | valued at \$20,000 or more, but        |
| 28 |                      |            | less than \$100,000.                   |
| 29 | 827.03(3)(b)         | 2nd        | Neglect of a child causing great       |
| 30 |                      |            | bodily harm, disability, or            |
| 31 |                      |            | disfigurement.                         |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 827.04(3)       | 3rd | Impregnation of a child under 16  |
| 2  |                 |     | years of age by person 21 years   |
| 3  |                 |     | of age or older.                  |
| 4  | 837.05(2)       | 3rd | Giving false information about    |
| 5  |                 |     | alleged capital felony to a law   |
| 6  |                 |     | enforcement officer.              |
| 7  | 872.06          | 2nd | Abuse of a dead human body.       |
| 8  | 893.13(1)(c)1.  | 1st | Sell, manufacture, or deliver     |
| 9  |                 |     | cocaine (or other drug prohibited |
| 10 |                 |     | under s. 893.03(1)(a), (1)(b),    |
| 11 |                 |     | (1)(d), (2)(a), (2)(b), or        |
| 12 |                 |     | (2)(c)4.) within 1,000 feet of a  |
| 13 |                 |     | child care facility or school.    |
| 14 | 893.13(1)(e)1.  | 1st | Sell, manufacture, or deliver     |
| 15 |                 |     | cocaine or other drug prohibited  |
| 16 |                 |     | under s. 893.03(1)(a), (1)(b),    |
| 17 |                 |     | (1)(d), (2)(a), (2)(b), or        |
| 18 |                 |     | (2)(c)4., within 1,000 feet of    |
| 19 |                 |     | property used for religious       |
| 20 |                 |     | services or a specified business  |
| 21 |                 |     | site.                             |
| 22 | 893.13(4)(a)    | 1st | Deliver to minor cocaine (or      |
| 23 |                 |     | other s. 893.03(1)(a), (1)(b),    |
| 24 |                 |     | (1)(d), (2)(a), (2)(b), or        |
| 25 |                 |     | (2)(c)4. drugs).                  |
| 26 | 893.135(1)(a)1. | 1st | Trafficking in cannabis, more     |
| 27 |                 |     | than 25 lbs., less than 2,000     |
| 28 |                 |     | lbs.                              |
| 29 | 893.135         |     |                                   |
| 30 | (1)(b)1.a.      | 1st | Trafficking in cocaine, more than |
| 31 |                 |     | 28 grams, less than 200 grams.    |

|    |                 |     |                                   |
|----|-----------------|-----|-----------------------------------|
| 1  | 893.135         |     |                                   |
| 2  | (1)(c)1.a.      | 1st | Trafficking in illegal drugs,     |
| 3  |                 |     | more than 4 grams, less than 14   |
| 4  |                 |     | grams.                            |
| 5  | 893.135         |     |                                   |
| 6  | (1)(d)1.        | 1st | Trafficking in phencyclidine,     |
| 7  |                 |     | more than 28 grams, less than 200 |
| 8  |                 |     | grams.                            |
| 9  | 893.135(1)(e)1. | 1st | Trafficking in methaqualone, more |
| 10 |                 |     | than 200 grams, less than 5       |
| 11 |                 |     | kilograms.                        |
| 12 | 893.135(1)(f)1. | 1st | Trafficking in amphetamine, more  |
| 13 |                 |     | than 14 grams, less than 28       |
| 14 |                 |     | grams.                            |
| 15 | 893.135         |     |                                   |
| 16 | (1)(g)1.a.      | 1st | Trafficking in flunitrazepam, 4   |
| 17 |                 |     | grams or more, less than 14       |
| 18 |                 |     | grams.                            |
| 19 | 893.135         |     |                                   |
| 20 | (1)(h)1.a.      | 1st | Trafficking in                    |
| 21 |                 |     | gamma-hydroxybutyric acid (GHB),  |
| 22 |                 |     | 1 kilogram or more, less than 5   |
| 23 |                 |     | kilograms.                        |
| 24 | 893.135         |     |                                   |
| 25 | (1)(j)1.a.      | 1st | Trafficking in 1,4-Butanediol, 1  |
| 26 |                 |     | kilogram or more, less than 5     |
| 27 |                 |     | kilograms.                        |
| 28 | 893.135         |     |                                   |
| 29 | (1)(k)2.a.      | 1st | Trafficking in Phenethylamines,   |
| 30 |                 |     | 10 grams or more, less than 200   |
| 31 |                 |     | grams.                            |

1 896.101(5)(a) 3rd Money laundering, financial  
2 transactions exceeding \$300 but  
3 less than \$20,000.  
4 896.104(4)(a)1. 3rd Structuring transactions to evade  
5 reporting or registration  
6 requirements, financial  
7 transactions exceeding \$300 but  
8 less than \$20,000.

9 Section 15. The amendment made by this act to section  
10 456.0375(1)(b), Florida Statutes, is intended to clarify the  
11 legislative intent of this provision as it existed at the time  
12 the provision initially took effect. Accordingly, section  
13 456.0375(1)(b), Florida Statutes, as amended by this act shall  
14 operate retroactively to October 1, 2001.

15 Section 16. Effective March 1, 2004, section 456.0375,  
16 Florida Statutes, is repealed.

17 Section 17. (1) On or before January 1, 2004, every  
18 insurer writing with a managing general agent and having a  
19 per-policy fee in its rate filing shall make a rate filing  
20 under section 627.062 or section 627.0651, Florida Statutes,  
21 to conform its per-policy fee to the requirements of this act.

22 (2) Any increase in benefits approved by the Financial  
23 Services Commission under subsection (12) of section 627.736,  
24 Florida Statutes, as added by this act, shall apply to new and  
25 renewal policies that are effective 120 days after the order  
26 issued by the commission becomes final. Subsection (2) of  
27 section 627.739, Florida Statutes, as amended by this act,  
28 shall apply to new and renewal policies issued on or after  
29 October 1, 2003.

30  
31

1           (3) Subsection (11) of section 627.736, Florida  
2 Statutes, as amended by this act, shall apply to actions filed  
3 on and after the effective date of this act.

4           (4) Paragraph (7)(a) of section 627.736, Florida  
5 Statutes, as amended by this act, and paragraph (7)(c) of  
6 section 817.234, Florida Statutes, as amended by this act,  
7 shall apply to examinations conducted on and after October 1,  
8 2003.

9           Section 18. By December 31, 2004, the Department of  
10 Financial Services, the Department of Health, and the Agency  
11 for Health Care Administration each shall submit a report on  
12 the implementation of this act and recommendations, if any, to  
13 further improve the automobile insurance market, reduce  
14 automobile insurance costs, and reduce automobile insurance  
15 fraud and abuse to the President of the Senate and the Speaker  
16 of the House of Representatives. The report by the Department  
17 of Financial Services shall include a study of the medical and  
18 legal costs associated with personal injury protection  
19 insurance claims.

20           Section 19. There is appropriated \$2.5 million from  
21 the Health Care Trust Fund, and 51 full-time equivalent  
22 positions are authorized, for the Agency for Health Care  
23 Administration to implement the provisions of this act.

24           Section 20. (1) Effective October 1, 2007, sections  
25 627.730, 627.731, 627.732, 627.733, 627.734, 627.736, 627.737,  
26 627.739, 627.7401, 627.7403, and 627.7405, Florida Statutes,  
27 constituting the Florida Motor Vehicle No-Fault Law, are  
28 repealed, unless reenacted by the Legislature during the 2006  
29 Regular Session and such reenactment becomes law to take  
30 effect for policies issued or renewed on or after October 1,  
31 2006.



