

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. 627.732, F.S.;
4 providing definitions; amending s. 627.736,
5 F.S.; providing that benefits are void if fraud
6 is committed; providing for award of attorney's
7 fees in actions to recover benefits; providing
8 that consideration shall be given to certain
9 factors regarding the reasonableness of
10 charges; specifying claims or charges that an
11 insurer is not required to pay; requiring the
12 Department of Health, in consultation with
13 medical boards, to identify certain diagnostic
14 tests as non-compensable; specifying effective
15 dates; deleting certain provisions governing
16 arbitration; providing for compliance with
17 billing procedures; requiring certain providers
18 to require an insured to sign a disclosure
19 form; prohibiting insurers from authorizing
20 physicians to change opinion in reports;
21 providing requirements for physicians with
22 respect to maintaining such reports; expanding
23 provisions providing for a demand letter;
24 authorizing the Financial Services Commission
25 to determine cost savings under personal injury
26 protection benefits under specified conditions;
27 amending s. 627.739, F.S.; allowing a person
28 who elects a deductible or modified coverage to
29 claim the amount deducted from a person legally
30 responsible; specifying application of a
31 deductible amount; amending s. 817.234, F.S.;

1 providing that it is a material omission and
2 insurance fraud for a physician or other
3 provider to waive a deductible or copayment or
4 not collect the total amount of a charge;
5 increasing the penalties for certain acts of
6 solicitation of accident victims; providing
7 mandatory minimum penalties; prohibiting
8 certain solicitation of accident victims;
9 providing penalties; prohibiting a person from
10 participating in an intentional motor vehicle
11 accident for the purpose of making motor
12 vehicle tort claims; providing penalties,
13 including mandatory minimum penalties; amending
14 s. 817.236, F.S.; increasing penalties for
15 false and fraudulent motor vehicle insurance
16 application; creating s. 817.2361, F.S.;
17 prohibiting the creation or use of false or
18 fraudulent motor vehicle insurance cards;
19 providing penalties; amending s. 921.0022,
20 F.S.; revising the offense severity ranking
21 chart of the Criminal Punishment Code to
22 reflect changes in penalties and the creation
23 of additional offenses under the act; providing
24 legislative intent with respect to the
25 retroactive application of certain provisions;
26 repealing s. 456.0375, F.S., relating to the
27 regulation of clinics by the Department of
28 Health; specifying the application of any
29 increase in benefits approved by the Financial
30 Services Commission; providing for application
31 of other provisions of the act; requiring

1 reports; providing an appropriation and
2 authorizing additional positions; repealing of
3 ss. 627.730, 627.731, 627.732, 627.733,
4 627.734, 627.736, 627.737, 627.739, 627.7401,
5 627.7403, and 627.7405, F.S., relating to the
6 Florida Motor Vehicle No-Fault Law, unless
7 reenacted by the 2006 Regular Session, and
8 specifying certain effect; authorizing insurers
9 to include in policies a notice of termination
10 relating to such repeal; providing for
11 construction of the act in pari materia with
12 laws enacted during the Regular Session of the
13 Legislature; reenacting and amending s.
14 627.7295(5)(a), F.S., notwithstanding
15 amendments to that paragraph by CS/SB 2364;
16 providing for retroactive application;
17 providing effective dates.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Florida Motor Vehicle Insurance
22 Affordability Reform Act; legislative findings; purpose.--

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

25 (2) The Legislature finds and declares that:

26 (a) The Florida Motor Vehicle No-Fault Law, enacted 32
27 years ago, has provided valuable benefits over the years to
28 consumers in this state. The principle underlying the
29 philosophical basis of the no-fault or personal injury
30 protection (PIP) insurance system is that of a trade-off of
31 one benefit for another, specifically providing medical and

1 other benefits in return for a limitation on the right to sue
2 for nonserious injuries.

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

7 (c) However, the goals behind the adoption of the
8 no-fault law in 1971, which were to quickly and efficiently
9 compensate accident victims regardless of fault, to reduce the
10 volume of lawsuits by eliminating minor injuries from the tort
11 system, and to reduce overall motor vehicle insurance costs,
12 have been significantly compromised due to the fraud and abuse
13 that has permeated the PIP insurance market.

14 (d) Motor vehicle insurance fraud and abuse, other
15 than in the hospital setting, whether in the form of
16 inappropriate medical treatments, inflated claims, staged
17 accidents, solicitation of accident victims, falsification of
18 records, or in any other form, has increased premiums for
19 consumers and must be uncovered and vigorously prosecuted. The
20 problem of inappropriate medical treatment and inflated claims
21 for PIP have generally not occurred in the hospital setting.

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

28 (f) It is a matter of great public importance that, in
29 order to provide a healthy and competitive automobile
30 insurance market, consumers be able to obtain affordable
31

1 coverage, insurers be entitled to earn an adequate rate of
2 return, and providers of services be compensated fairly.

3 (g) It is further a matter of great public importance
4 that, in order to protect the public's health, safety, and
5 welfare, it is necessary to enact the provisions contained in
6 this act in order to prevent PIP insurance fraud and abuse and
7 to curb escalating medical, legal, and other related costs,
8 and the Legislature finds that the provisions of this act are
9 the least restrictive actions necessary to achieve this goal.

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

14 Section 2. Section 119.105, Florida Statutes, is
15 amended to read:

16 119.105 Protection of victims of crimes or
17 accidents.--Police reports are public records except as
18 otherwise made exempt or confidential by general or special
19 law. Every person is allowed to examine nonexempt or
20 nonconfidential police reports. A No person who comes into
21 possession of exempt or confidential information contained in
22 police reports may not inspect or copies police reports for
23 the purpose of obtaining the names and addresses of the
24 victims of crimes or accidents shall use that any information
25 contained therein for any commercial solicitation of the
26 victims or relatives of the victims of the reported crimes or
27 accidents and may not knowingly disclose such information to
28 any third party for the purpose of such solicitation during
29 the period of time that information remains exempt or
30 confidential. This section does not Nothing herein shall
31 prohibit the publication of such information to the general

1 public by any news media legally entitled to possess that
2 information or the use of such information for any other data
3 collection or analysis purposes by those entitled to possess
4 that information.

5 Section 3. Paragraph (c) of subsection (3) of section
6 316.066, Florida Statutes, is amended, and paragraph (f) is
7 added to that subsection, to read:

8 316.066 Written reports of crashes.--

9 (3)

10 (c) Crash reports required by this section which
11 reveal the identity, home or employment telephone number or
12 home or employment address of, or other personal information
13 concerning the parties involved in the crash and which are
14 received or prepared by any agency that regularly receives or
15 prepares information from or concerning the parties to motor
16 vehicle crashes are confidential and exempt from s. 119.07(1)
17 and s. 24(a), Art. I of the State Constitution for a period of
18 60 days after the date the report is filed. However, such
19 reports may be made immediately available to the parties
20 involved in the crash, their legal representatives, their
21 licensed insurance agents, their insurers or insurers to which
22 they have applied for coverage, persons under contract with
23 such insurers to provide claims or underwriting information,
24 prosecutorial authorities, radio and television stations
25 licensed by the Federal Communications Commission, newspapers
26 qualified to publish legal notices under ss. 50.011 and
27 50.031, and free newspapers of general circulation, published
28 once a week or more often, available and of interest to the
29 public generally for the dissemination of news. For the
30 purposes of this section, the following products or
31 publications are not newspapers as referred to in this

1 section: those intended primarily for members of a particular
2 profession or occupational group; those with the primary
3 purpose of distributing advertising; and those with the
4 primary purpose of publishing names and other personally
5 identifying information concerning parties to motor vehicle
6 crashes. Any local, state, or federal agency, agent, or
7 employee that is authorized to have access to such reports by
8 any provision of law shall be granted such access in the
9 furtherance of the agency's statutory duties notwithstanding
10 the provisions of this paragraph. Any local, state, or federal
11 agency, agent, or employee receiving such crash reports shall
12 maintain the confidential and exempt status of those reports
13 and shall not disclose such crash reports to any person or
14 entity. As a condition precedent to accessing a ~~Any person~~
15 ~~attempting to access~~ crash report reports within 60 days after
16 the date the report is filed, a person must present a valid
17 driver's license or other photographic identification, proof
18 of status ~~legitimate credentials~~ or identification that
19 demonstrates his or her qualifications to access that
20 information, and file a written sworn statement with the state
21 or local agency in possession of the information stating that
22 information from a crash report made confidential by this
23 section will not be used for any commercial solicitation of
24 accident victims, or knowingly disclosed to any third party
25 for the purpose of such solicitation, during the period of
26 time that the information remains confidential. In lieu of
27 requiring the written sworn statement, an agency may provide
28 crash reports by electronic means to third-party vendors under
29 contract with one or more insurers, but only when such
30 contract states that information from a crash report made
31 confidential by this section will not be used for any

1 commercial solicitation of accident victims by the vendors, or
2 knowingly disclosed by the vendors to any third party for the
3 purpose of such solicitation, during the period of time that
4 the information remains confidential, and only when a copy of
5 such contract is furnished to the agency as proof of the
6 vendor's claimed status. This subsection does not prevent the
7 dissemination or publication of news to the general public by
8 any legitimate media entitled to access confidential
9 information pursuant to this section. A law enforcement
10 officer as defined in s. 943.10(1) may enforce this
11 subsection.This exemption is subject to the Open Government
12 Sunset Review Act of 1995 in accordance with s. 119.15, and
13 shall stand repealed on October 2, 2006, unless reviewed and
14 saved from repeal through reenactment by the Legislature.

15 (d) Any employee of a state or local agency in
16 possession of information made confidential by this section
17 who knowingly discloses such confidential information to a
18 person not entitled to access such information under this
19 section is guilty of a felony of the third degree, punishable
20 as provided in s. 775.082, s. 775.083, or s. 775.084.

21 (e) Any person, knowing that he or she is not entitled
22 to obtain information made confidential by this section, who
23 obtains or attempts to obtain such information is guilty of a
24 felony of the third degree, punishable as provided in s.
25 775.082, s. 775.083, or s. 775.084.

26 (f) Any person who knowingly uses confidential
27 information in violation of a filed written sworn statement or
28 contractual agreement required by this section commits a
29 felony of the third degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084.

31

1 Section 4. Effective October 1, 2003, part XIII of
2 chapter 400, Florida Statutes, consisting of sections 400.901,
3 400.903, 400.905, 400.907, 400.909, 400.911, 400.913, 400.915,
4 400.917, 400.919, and 400.921 is created to read:

5 400.901 Short title; legislative findings.--

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

8 (2) The Legislature finds that the regulation of
9 health care clinics must be strengthened to prevent
10 significant cost and harm to consumers. The purpose of this
11 part is to provide for the licensure, establishment, and
12 enforcement of basic standards for health care clinics and to
13 provide administrative oversight by the Agency for Health Care
14 Administration.

15 400.903 Definitions.--

16 (1) "Agency" means the Agency for Health Care
17 Administration.

18 (2) "Applicant" means an individual owner,
19 corporation, partnership, firm, business, association, or
20 other entity that owns or controls, directly or indirectly, 5
21 percent or more of an interest in the clinic and that applies
22 for a clinic license.

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

28 (a) Entities licensed or registered by the state under
29 chapter 390, chapter 394, chapter 395, chapter 397, this
30 chapter, chapter 463, chapter 465, chapter 466, chapter 478,
31 chapter 480, chapter 484, or chapter 651.

1 (b) Entities that own, directly or indirectly,
2 entities licensed or registered by the state pursuant to
3 chapter 390, chapter 394, chapter 395, chapter 397, this
4 chapter, chapter 463, chapter 465, chapter 466, chapter 478,
5 chapter 480, chapter 484, or chapter 651.

6 (c) Entities that are owned, directly or indirectly,
7 by an entity licensed or registered by the state pursuant to
8 chapter 390, chapter 394, chapter, 395, chapter 397, this
9 chapter, chapter 463, chapter 465, chapter 466, chapter 478,
10 chapter 480, chapter 484, or chapter 651.

11 (d) Entities that are under common ownership, directly
12 or indirectly, with an entity licensed or registered by the
13 state pursuant to chapter 390, chapter 394, chapter 395,
14 chapter 397, this chapter, chapter 463, chapter 465, chapter
15 466, chapter 478, chapter 480, chapter 484, or chapter 651.

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

19 (f) A sole proprietorship, group practice,
20 partnership, or corporation that provides health care services
21 by licensed health care practitioners under chapter 457,
22 chapter 458, chapter 459, chapter 460, chapter 461, chapter
23 462, chapter 463, chapter 466, chapter 467, chapter 484,
24 chapter 486, chapter 490, chapter 491, or part I, part III,
25 part X, part XIII, or part XIV of chapter 468, or s. 464.012,
26 which are wholly owned by a licensed health care practitioner,
27 or the licensed health care practitioner and the spouse,
28 parent, or child of a licensed health care practitioner, so
29 long as one of the owners who is a licensed health care
30 practitioner is supervising the services performed therein and
31 is legally responsible for the entity's compliance with all

1 federal and state laws. However, a health care practitioner
2 may not supervise services beyond the scope of the
3 practitioner's license.

4 (g) Clinical facilities affiliated with an accredited
5 medical school at which training is provided for medical
6 students, residents, or fellows.

7 (4) "Medical director" means a physician who is
8 employed or under contract with a clinic and who maintains a
9 full and unencumbered physician license in accordance with
10 chapter 458, chapter 459, chapter 460, or chapter 461.

11 However, if the clinic is limited to providing health care
12 services pursuant to chapter 457, chapter 484, chapter 486,
13 chapter 490, or chapter 491 or part I, part III, part X, part
14 XIII, or part XIV of chapter 468, the clinic may appoint a
15 health care practitioner licensed under that chapter to serve
16 as a clinic director who is responsible for the clinic's
17 activities. A health care practitioner may not serve as the
18 clinic director if the services provided at the clinic are
19 beyond the scope of that practitioner's license.

20 400.905 License requirements; background screenings;
21 prohibitions.--

22 (1) Each clinic, as defined in s. 400.903, must be
23 licensed and shall at all times maintain a valid license with
24 the agency. Each clinic location shall be licensed separately
25 regardless of whether the clinic is operated under the same
26 business name or management as another clinic. Mobile clinics
27 must provide to the agency, at least quarterly, their
28 projected street locations to enable the agency to locate and
29 inspect such clinics.

30 (2) The initial clinic license application shall be
31 filed with the agency by all clinics, as defined in s.

1 400.903, on or before March 1, 2004. A clinic license must be
2 renewed biennially.

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

14 (4) Application for an initial clinic license or for
15 renewal of an existing license shall be notarized on forms
16 furnished by the agency and must be accompanied by the
17 appropriate license fee as provided in s. 400.911. The agency
18 shall take final action on an initial license application
19 within 60 days after receipt of all required documentation.

20 (5) The application shall contain information that
21 includes, but need not be limited to, information pertaining
22 to the name, residence and business address, phone number,
23 social security number, and license number of the medical or
24 clinic director, of the licensed medical providers employed or
25 under contract with the clinic, and of each person who,
26 directly or indirectly, owns or controls 5 percent or more of
27 an interest in the clinic, or general partners in limited
28 liability partnerships.

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

1 (a) A listing of services to be provided either
2 directly by the applicant or through contractual arrangements
3 with existing providers;

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

6 (c) Proof of financial ability to operate. An
7 applicant must demonstrate financial ability to operate a
8 clinic by submitting a balance sheet and an income and expense
9 statement for the first year of operation which provide
10 evidence of the applicant's having sufficient assets, credit,
11 and projected revenues to cover liabilities and expenses. The
12 applicant shall have demonstrated financial ability to operate
13 if the applicant's assets, credit, and projected revenues meet
14 or exceed projected liabilities and expenses. All documents
15 required under this subsection must be prepared in accordance
16 with generally accepted accounting principles, may be in a
17 compilation form, and the financial statement must be signed
18 by a certified public accountant. As an alternative to
19 submitting a balance sheet and an income and expense statement
20 for the first year of operation, the applicant may file a
21 surety bond of at least \$500,000 which guarantees that the
22 clinic will act in full conformity with all legal requirements
23 for operating a clinic, payable to the agency. The agency may
24 adopt rules to specify related requirements for such surety
25 bond.

26 (7) Each applicant for licensure shall comply with the
27 following requirements:

28 (a) As used in this subsection, the term "applicant"
29 means individuals owning or controlling, directly or
30 indirectly, 5 percent or more of an interest in a clinic; the
31 medical or clinic director, or a similarly titled person who

1 is responsible for the day-to-day operation of the licensed
2 clinic; the financial officer or similarly titled individual
3 who is responsible for the financial operation of the clinic;
4 and licensed medical providers at the clinic.

5 (b) Upon receipt of a completed, signed, and dated
6 application, the agency shall require background screening of
7 the applicant, in accordance with the level 2 standards for
8 screening set forth in chapter 435. Proof of compliance with
9 the level 2 background screening requirements of chapter 435
10 which has been submitted within the previous 5 years in
11 compliance with any other health care licensure requirements
12 of this state is acceptable in fulfillment of this paragraph.

13 (c) Each applicant must submit to the agency, with the
14 application, a description and explanation of any exclusions,
15 permanent suspensions, or terminations of an applicant from
16 the Medicare or Medicaid programs. Proof of compliance with
17 the requirements for disclosure of ownership and control
18 interest under the Medicaid or Medicare programs may be
19 accepted in lieu of this submission. The description and
20 explanation may indicate whether such exclusions, suspensions,
21 or terminations were voluntary or not voluntary on the part of
22 the applicant.

23 (d) A license may not be granted to a clinic if the
24 applicant has been found guilty of, regardless of
25 adjudication, or has entered a plea of nolo contendere or
26 guilty to, any offense prohibited under the level 2 standards
27 for screening set forth in chapter 435, or a violation of
28 insurance fraud under s. 817.234, within the past 5 years. If
29 the applicant has been convicted of an offense prohibited
30 under the level 2 standards or insurance fraud in any
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1 jurisdiction, the applicant must show that his or her civil
2 rights have been restored prior to submitting an application.

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

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

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

15 400.907 Clinic inspections; emergency suspension;
16 costs.--

17 (1) Any authorized officer or employee of the agency
18 shall make inspections of the clinic as part of the initial
19 license application or renewal application. The application
20 for a clinic license issued under this part or for a renewal
21 license constitutes permission for an appropriate agency
22 inspection to verify the information submitted on or in
23 connection with the application or renewal.

24 (2) An authorized officer or employee of the agency
25 may make unannounced inspections of clinics licensed pursuant
26 to this part as are necessary to determine that the clinic is
27 in compliance with this part and with applicable rules. A
28 licensed clinic shall allow full and complete access to the
29 premises and to billing records or information to any
30 representative of the agency who makes an inspection to
31 determine compliance with this part and with applicable rules.

1 (3) Failure by a clinic licensed under this part to
2 allow full and complete access to the premises and to billing
3 records or information to any representative of the agency who
4 makes a request to inspect the clinic to determine compliance
5 with this part or failure by a clinic to employ a qualified
6 medical director or clinic director constitutes a ground for
7 emergency suspension of the license by the agency pursuant to
8 s. 120.60(6).

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

12 400.909 License renewal; transfer of ownership;
13 provisional license.--

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

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

18 (3) The clinic must file with the renewal application
19 satisfactory proof that it is in compliance with this part and
20 applicable rules. If there is evidence of financial
21 instability, the clinic must submit satisfactory proof of its
22 financial ability to comply with the requirements of this
23 part.

24 (4) When transferring the ownership of a clinic, the
25 transferee must submit an application for a license at least
26 60 days before the effective date of the transfer. An
27 application for change of ownership of a clinic is required
28 only when 45 percent or more of the ownership, voting shares,
29 or controlling interest of a clinic is transferred or
30 assigned, including the final transfer or assignment of
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1 multiple transfers or assignments over a 2-year period that
2 cumulatively total 45 percent or greater.

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

7 (6) A clinic against whom a revocation or suspension
8 proceeding is pending at the time of license renewal may be
9 issued a provisional license effective until final disposition
10 by the agency of such proceedings. If judicial relief is
11 sought from the final disposition, the agency that has
12 jurisdiction may issue a temporary permit for the duration of
13 the judicial proceeding.

14 400.911 Rulemaking authority; license fees.--

15 (1) The agency shall adopt rules necessary to
16 administer the clinic administration, regulation, and
17 licensure program, including rules establishing the specific
18 licensure requirements, procedures, forms, and fees. It shall
19 adopt rules establishing a procedure for the biennial renewal
20 of licenses. The agency may issue initial licenses for less
21 than the full 2-year period by charging a prorated licensure
22 fee and specifying a different renewal date than would
23 otherwise be required for biennial licensure. The rules shall
24 specify the expiration dates of licenses, the process of
25 tracking compliance with financial responsibility
26 requirements, and any other conditions of renewal required by
27 law or rule.

28 (2) The agency shall adopt rules specifying
29 limitations on the number of licensed clinics and licensees
30 for which a medical director or a clinic director may assume
31 responsibility for purposes of this part. In determining the

1 quality of supervision a medical director or a clinic director
2 can provide, the agency shall consider the number of clinic
3 employees, the clinic location, and the health care services
4 provided by the clinic.

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

18 400.913 Unlicensed clinics; penalties; fines;
19 verification of licensure status.--

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

22 (2) Any person who owns, operates, or maintains an
23 unlicensed clinic commits a felony of the third degree,
24 punishable as provided in s. 775.082, s. 775.083, or s.
25 775.084. Each day of continued operation is a separate
26 offense.

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

1 (4) Any person who owns, operates, or maintains an
2 unlicensed clinic due to a change in this part or a
3 modification in agency rules within 6 months after the
4 effective date of such change or modification and who, within
5 10 working days after receiving notification from the agency,
6 fails to cease operation or apply for a license under this
7 part commits a felony of the third degree, punishable as
8 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
9 continued operation is a separate offense.

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

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

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

21 (8) Any health care provider who is aware of the
22 operation of an unlicensed clinic shall report that facility
23 to the agency. Failure to report a clinic that the provider
24 knows or has reasonable cause to suspect is unlicensed shall
25 be reported to the provider's licensing board.

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

28 400.915 Clinic responsibilities.--

29 (1) Each clinic shall appoint a medical director or
30 clinic director who shall agree in writing to accept legal
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- 1 responsibility for the following activities on behalf of the
2 clinic. The medical director or the clinic director shall:
- 3 (a) Have signs identifying the medical director or
4 clinic director posted in a conspicuous location within the
5 clinic readily visible to all patients.
- 6 (b) Ensure that all practitioners providing health
7 care services or supplies to patients maintain a current
8 active and unencumbered Florida license.
- 9 (c) Review any patient referral contracts or
10 agreements executed by the clinic.
- 11 (d) Ensure that all health care practitioners at the
12 clinic have active appropriate certification or licensure for
13 the level of care being provided.
- 14 (e) Serve as the clinic records owner as defined in s.
15 456.057.
- 16 (f) Ensure compliance with the recordkeeping, office
17 surgery, and adverse incident reporting requirements of
18 chapter 456, the respective practice acts, and rules adopted
19 under this part.
- 20 (g) Conduct systematic reviews of clinic billings to
21 ensure that the billings are not fraudulent or unlawful. Upon
22 discovery of an unlawful charge, the medical director or
23 clinic director shall take immediate corrective action.
- 24 (2) Any business that becomes a clinic after
25 commencing operations must, within 5 days after becoming a
26 clinic, file a license application under this part and shall
27 be subject to all provisions of this part applicable to a
28 clinic.
- 29 (3) Any contract to serve as a medical director or a
30 clinic director entered into or renewed by a physician or a
31 licensed health care practitioner in violation of this part is

1 void as contrary to public policy. This subsection shall apply
2 to contracts entered into or renewed on or after March 1,
3 2004.

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

9 (5) Any person establishing, operating, or managing an
10 unlicensed clinic otherwise required to be licensed under this
11 part, or any person who knowingly files a false or misleading
12 license application or license renewal application, or false
13 or misleading information related to such application or
14 department rule, commits a felony of the third degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084.

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

20 (7) The agency may fine, or suspend or revoke the
21 license of, any clinic licensed under this part for operating
22 in violation of the requirements of this part or the rules
23 adopted by the agency.

24 (8) The agency shall investigate allegations of
25 noncompliance with this part and the rules adopted under this
26 part.

27 (9) Any person or entity providing health care
28 services which is not a clinic, as defined under s. 400.903,
29 may voluntarily apply for a certificate of exemption from
30 licensure under its exempt status with the agency on a form
31 that sets forth its name or names and addresses, a statement

1 of the reasons why it cannot be defined as a clinic, and other
2 information deemed necessary by the agency.

3 (10) The clinic shall display its license in a
4 conspicuous location within the clinic readily visible to all
5 patients.

6 (11)(a) Each clinic engaged in magnetic resonance
7 imaging services must be accredited by the Joint Commission on
8 Accreditation of Healthcare Organizations, the American
9 College of Radiology, or the Accreditation Association for
10 Ambulatory Health Care, within 1 year after licensure.

11 However, a clinic may request a single, 6-month extension if
12 it provides evidence to the agency establishing that, for good
13 cause shown, such clinic can not be accredited within 1 year
14 after licensure, and that such accreditation will be completed
15 within the 6-month extension. After obtaining accreditation as
16 required by this subsection, each such clinic must maintain
17 accreditation as a condition of renewal of its license.

18 (b) The agency may disallow the application of any
19 entity formed for the purpose of avoiding compliance with the
20 accreditation provisions of this subsection and whose
21 principals were previously principals of an entity that was
22 unable to meet the accreditation requirements within the
23 specified timeframes. The agency may adopt rules as to the
24 accreditation of magnetic resonance imaging clinics.

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

31 400.917 Injunctions.--

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

3 (a) Enforce the provisions of this part or any minimum
4 standard, rule, or order issued or entered into pursuant to
5 this part if the attempt by the agency to correct a violation
6 through administrative fines has failed; if the violation
7 materially affects the health, safety, or welfare of clinic
8 patients; or if the violation involves any operation of an
9 unlicensed clinic.

10 (b) Terminate the operation of a clinic if a violation
11 of any provision of this part, or any rule adopted pursuant to
12 this part, materially affects the health, safety, or welfare
13 of clinic patients.

14 (2) Such injunctive relief may be temporary or
15 permanent.

16 (3) If action is necessary to protect clinic patients
17 from life-threatening situations, the court may allow a
18 temporary injunction without bond upon proper proof being
19 made. If it appears by competent evidence or a sworn,
20 substantiated affidavit that a temporary injunction should
21 issue, the court, pending the determination on final hearing,
22 shall enjoin operation of the clinic.

23 400.919 Agency actions.--Administrative proceedings
24 challenging agency licensure enforcement action shall be
25 reviewed on the basis of the facts and conditions that
26 resulted in the agency action.

27 400.921 Agency administrative penalties.--

28 (1) The agency may impose administrative penalties
29 against clinics of up to \$5,000 per violation for violations
30 of the requirements of this part. In determining if a penalty
31

1 is to be imposed and in fixing the amount of the fine, the
2 agency shall consider the following factors:

3 (a) The gravity of the violation, including the
4 probability that death or serious physical or emotional harm
5 to a patient will result or has resulted, the severity of the
6 action or potential harm, and the extent to which the
7 provisions of the applicable laws or rules were violated.

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

10 (c) Any previous violations.

11 (d) The financial benefit to the clinic of committing
12 or continuing the violation.

13 (2) Each day of continuing violation after the date
14 fixed for termination of the violation, as ordered by the
15 agency, constitutes an additional, separate, and distinct
16 violation.

17 (3) Any action taken to correct a violation shall be
18 documented in writing by the owner, medical director, or
19 clinic director of the clinic and verified through followup
20 visits by agency personnel. The agency may impose a fine and,
21 in the case of an owner-operated clinic, revoke or deny a
22 clinic's license when a clinic medical director or clinic
23 director fraudulently misrepresents actions taken to correct a
24 violation.

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

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

31

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

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

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

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

21 Section 5. Paragraph (b) of subsection (1) of section
22 456.0375, Florida Statutes, is amended to read:

23 456.0375 Registration of certain clinics;
24 requirements; discipline; exemptions.--

25 (1)

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

29 1. Entities licensed or registered by the state
30 pursuant to chapter 390, chapter 394, chapter 395, chapter

31

1 397, chapter 400, chapter 463, chapter 465, chapter 466,
2 chapter 478, chapter 480, ~~or chapter 484,~~ or chapter 651.

3 2. Entities that own, directly or indirectly, entities
4 licensed or registered by the state pursuant to chapter 390,
5 chapter 394, chapter 395, chapter 397, chapter 400, chapter
6 463, chapter 465, chapter 466, chapter 478, chapter 480,
7 chapter 484, or chapter 651.

8 3. Entities that are owned, directly or indirectly, by
9 an entity licensed or registered by the state pursuant to
10 chapter 390, chapter 394, chapter 395, chapter 397, chapter
11 400, chapter 463, chapter 465, chapter 466, chapter 478,
12 chapter 480, chapter 484, or chapter 651.

13 4. Entities that are under common ownership, directly
14 or indirectly, with an entity licensed or registered by the
15 state pursuant to chapter 390, chapter 394, chapter 395,
16 chapter 397, chapter 400, chapter 463, chapter 465, chapter
17 466, chapter 478, chapter 480, chapter 484, or chapter 651.

18 ~~5.2.~~ Entities exempt from federal taxation under 26
19 U.S.C. s. 501(c)(3) and community college and university
20 clinics.

21 ~~6.3.~~ Sole proprietorships, group practices,
22 partnerships, or corporations that provide health care
23 services by licensed health care practitioners pursuant to
24 chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484,
25 486, 490, 491, or part I, part III, part X, part XIII, or part
26 XIV of chapter 468, or s. 464.012, which are wholly owned by
27 licensed health care practitioners or the licensed health care
28 practitioner and the spouse, parent, or child of a licensed
29 health care practitioner, so long as one of the owners who is
30 a licensed health care practitioner is supervising the
31 services performed therein and is legally responsible for the

1 entity's compliance with all federal and state laws. However,
2 no health care practitioner may supervise services beyond the
3 scope of the practitioner's license.

4 7. Clinical facilities affiliated with an accredited
5 medical school at which training is provided for medical
6 students, residents, or fellows.

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

9 456.072 Grounds for discipline; penalties;
10 enforcement.--

11 (1) The following acts shall constitute grounds for
12 which the disciplinary actions specified in subsection (2) may
13 be taken:

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

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

22 Section 7. Subsection (1) of section 627.732, Florida
23 Statutes, as amended by chapter 2003-2, Laws of Florida, is
24 amended, and subsections (8) through (16) are added to that
25 section, to read:

26 627.732 Definitions.--As used in ss. 627.730-627.7405,
27 the term:

28 (1) "Broker" means any person not possessing a license
29 under chapter 395, chapter 400, chapter 458, chapter 459,
30 chapter 460, chapter 461, or chapter 641 who charges or
31 receives compensation for any use of medical equipment and is

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

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

22 (b) It is a 100-percent owner of medical equipment;
23 and

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

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

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

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

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

28 (11) "Knowingly" means that a person, with respect to
29 information, has actual knowledge of the information; acts in
30 deliberate ignorance of the truth or falsity of the
31

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

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

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

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

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

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

31

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

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

8 (4) BENEFITS; WHEN DUE--Benefits due from an insurer
9 under ss. 627.730-627.7405 shall be primary, except that
10 benefits received under any workers' compensation law shall be
11 credited against the benefits provided by subsection (1) and
12 shall be due and payable as loss accrues, upon receipt of
13 reasonable proof of such loss and the amount of expenses and
14 loss incurred which are covered by the policy issued under ss.
15 627.730-627.7405. When the Agency for Health Care
16 Administration provides, pays, or becomes liable for medical
17 assistance under the Medicaid program related to injury,
18 sickness, disease, or death arising out of the ownership,
19 maintenance, or use of a motor vehicle, benefits under ss.
20 627.730-627.7405 shall be subject to the provisions of the
21 Medicaid program.

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

26 (b) Personal injury protection insurance benefits paid
27 pursuant to this section shall be overdue if not paid within
28 30 days after the insurer is furnished written notice of the
29 fact of a covered loss and of the amount of same. If such
30 written notice is not furnished to the insurer as to the
31 entire claim, any partial amount supported by written notice

1 is overdue if not paid within 30 days after such written
2 notice is furnished to the insurer. Any part or all of the
3 remainder of the claim that is subsequently supported by
4 written notice is overdue if not paid within 30 days after
5 such written notice is furnished to the insurer. When an
6 insurer pays only a portion of a claim or rejects a claim, the
7 insurer shall provide at the time of the partial payment or
8 rejection an itemized specification of each item that the
9 insurer had reduced, omitted, or declined to pay and any
10 information that the insurer desires the claimant to consider
11 related to the medical necessity of the denied treatment or to
12 explain the reasonableness of the reduced charge, provided
13 that this shall not limit the introduction of evidence at
14 trial; and the insurer shall include the name and address of
15 the person to whom the claimant should respond and a claim
16 number to be referenced in future correspondence. However,
17 notwithstanding the fact that written notice has been
18 furnished to the insurer, any payment shall not be deemed
19 overdue when the insurer has reasonable proof to establish
20 that the insurer is not responsible for the payment. For the
21 purpose of calculating the extent to which any benefits are
22 overdue, payment shall be treated as being made on the date a
23 draft or other valid instrument which is equivalent to payment
24 was placed in the United States mail in a properly addressed,
25 postpaid envelope or, if not so posted, on the date of
26 delivery. This paragraph does not preclude or limit the
27 ability of the insurer to assert that the claim was unrelated,
28 was not medically necessary, or was unreasonable or that the
29 amount of the charge was in excess of that permitted under, or
30 in violation of, subsection (5). Such assertion by the insurer
31 may be made at any time, including after payment of the claim

1 or after the 30-day time period for payment set forth in this
2 paragraph.

3 (c) All overdue payments shall bear simple interest at
4 the rate established ~~by the Comptroller~~ under s. 55.03 or the
5 rate established in the insurance contract, whichever is
6 greater, for the year in which the payment became overdue,
7 calculated from the date the insurer was furnished with
8 written notice of the amount of covered loss. Interest shall
9 be due at the time payment of the overdue claim is made.

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

12 1. Accidental bodily injury sustained in this state by
13 the owner while occupying a motor vehicle, or while not an
14 occupant of a self-propelled vehicle if the injury is caused
15 by physical contact with a motor vehicle.

16 2. Accidental bodily injury sustained outside this
17 state, but within the United States of America or its
18 territories or possessions or Canada, by the owner while
19 occupying the owner's motor vehicle.

20 3. Accidental bodily injury sustained by a relative of
21 the owner residing in the same household, under the
22 circumstances described in subparagraph 1. or subparagraph 2.,
23 provided the relative at the time of the accident is domiciled
24 in the owner's household and is not himself or herself the
25 owner of a motor vehicle with respect to which security is
26 required under ss. 627.730-627.7405.

27 4. Accidental bodily injury sustained in this state by
28 any other person while occupying the owner's motor vehicle or,
29 if a resident of this state, while not an occupant of a
30 self-propelled vehicle, if the injury is caused by physical
31

1 contact with such motor vehicle, provided the injured person
2 is not himself or herself:

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

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

7 (e) If two or more insurers are liable to pay personal
8 injury protection benefits for the same injury to any one
9 person, the maximum payable shall be as specified in
10 subsection (1), and any insurer paying the benefits shall be
11 entitled to recover from each of the other insurers an
12 equitable pro rata share of the benefits paid and expenses
13 incurred in processing the claim.

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

18 (g) Benefits shall not be due or payable to or on the
19 behalf of an insured person if that person has committed, by a
20 material act or omission, any insurance fraud relating to
21 personal injury protection coverage under his or her policy,
22 if the fraud is admitted to in a sworn statement by the
23 insured or if it is established in a court of competent
24 jurisdiction. Any insurance fraud shall void all coverage
25 arising from the claim related to such fraud under the
26 personal injury protection coverage of the insured person who
27 committed the fraud, irrespective of whether a portion of the
28 insured person's claim may be legitimate, and any benefits
29 paid prior to the discovery of the insured person's insurance
30 fraud shall be recoverable by the insurer from the person who
31 committed insurance fraud in their entirety. The prevailing

1 party is entitled to its costs and attorney's fees in any
2 action in which it prevails in an insurer's action to enforce
3 its right of recovery under this paragraph.

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

5 (a) Any physician, hospital, clinic, or other person
6 or institution lawfully rendering treatment to an injured
7 person for a bodily injury covered by personal injury
8 protection insurance may charge the insurer and injured party
9 only a reasonable amount pursuant to this section for the
10 services and supplies rendered, and the insurer providing such
11 coverage may pay for such charges directly to such person or
12 institution lawfully rendering such treatment, if the insured
13 receiving such treatment or his or her guardian has
14 countersigned the properly completed invoice, bill, or claim
15 form approved by the Department of Insurance upon which such
16 charges are to be paid for as having actually been rendered,
17 to the best knowledge of the insured or his or her guardian.
18 In no event, however, may such a charge be in excess of the
19 amount the person or institution customarily charges for like
20 services or supplies ~~in cases involving no insurance.~~ With
21 respect to a determination of whether a charge for a
22 particular service, treatment, or otherwise is reasonable,
23 consideration may be given to evidence of usual and customary
24 charges and payments accepted by the provider involved in the
25 dispute, and reimbursement levels in the community and various
26 federal and state medical fee schedules applicable to
27 automobile and other insurance coverages, and other
28 information relevant to the reasonableness of the
29 reimbursement for the service, treatment or supply.

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

1 a. Made by a broker or by a person making a claim on
2 behalf of a broker;-

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

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

7 d. With respect to a bill or statement that does not
8 substantially meet the applicable requirements of paragraph
9 (d);

10 e. For any treatment or service that is upcoded, or
11 that is unbundled when such treatment or services should be
12 bundled, in accordance with paragraph (d). To facilitate
13 prompt payment of lawful services, an insurer may change codes
14 that it determines to have been improperly or incorrectly
15 upcoded or unbundled, and may make payment based on the
16 changed codes, without affecting the right of the provider to
17 dispute the change by the insurer, provided that before doing
18 so, the insurer must contact the health care provider and
19 discuss the reasons for the insurer's change and the health
20 care provider's reason for the coding, or make a reasonable
21 good-faith effort to do so, as documented in the insurer's
22 file; and

23 f. For medical services or treatment billed by a
24 physician and not provided in a hospital unless such services
25 are rendered by the physician or are incident to his or her
26 professional services and are included on the physician's
27 bill, including documentation verifying that the physician is
28 responsible for the medical services that were rendered and
29 billed.

30 2. Charges for medically necessary cephalic
31 thermograms, peripheral thermograms, spinal ultrasounds,

1 extremity ultrasounds, video fluoroscopy, and surface
2 electromyography shall not exceed the maximum reimbursement
3 allowance for such procedures as set forth in the applicable
4 fee schedule or other payment methodology established pursuant
5 to s. 440.13.

6 3. Allowable amounts that may be charged to a personal
7 injury protection insurance insurer and insured for medically
8 necessary nerve conduction testing when done in conjunction
9 with a needle electromyography procedure and both are
10 performed and billed solely by a physician licensed under
11 chapter 458, chapter 459, chapter 460, or chapter 461 who is
12 also certified by the American Board of Electrodiagnostic
13 Medicine or by a board recognized by the American Board of
14 Medical Specialties or the American Osteopathic Association or
15 who holds diplomate status with the American Chiropractic
16 Neurology Board or its predecessors shall not exceed 200
17 percent of the allowable amount under the participating
18 physician fee schedule of Medicare Part B for year 2001, for
19 the area in which the treatment was rendered, adjusted
20 annually on August 1 to reflect the prior calendar year's
21 changes in the annual Medical Care Item of the Consumer Price
22 Index for All Urban Consumers in the South Region as
23 determined by the Bureau of Labor Statistics of the United
24 States Department of Labor ~~by an additional amount equal to~~
25 ~~the medical Consumer Price Index for Florida.~~

26 4. Allowable amounts that may be charged to a personal
27 injury protection insurance insurer and insured for medically
28 necessary nerve conduction testing that does not meet the
29 requirements of subparagraph 3. shall not exceed the
30 applicable fee schedule or other payment methodology
31 established pursuant to s. 440.13.

1 5. Effective upon this act becoming a law and before
2 November 1, 2001, allowable amounts that may be charged to a
3 personal injury protection insurance insurer and insured for
4 magnetic resonance imaging services shall not exceed 200
5 percent of the allowable amount under Medicare Part B for year
6 2001, for the area in which the treatment was rendered.
7 Beginning November 1, 2001, allowable amounts that may be
8 charged to a personal injury protection insurance insurer and
9 insured for magnetic resonance imaging services shall not
10 exceed 175 percent of the allowable amount under the
11 participating physician fee schedule of Medicare Part B for
12 year 2001, for the area in which the treatment was rendered,
13 adjusted annually on August 1 to reflect the prior calendar
14 year's changes in the annual Medical Care Item of the Consumer
15 Price Index for All Urban Consumers in the South Region as
16 determined by the Bureau of Labor Statistics of the United
17 States Department of Labor for the 12-month period ending June
18 30 of that year ~~by an additional amount equal to the medical~~
19 ~~Consumer Price Index for Florida~~, except that allowable
20 amounts that may be charged to a personal injury protection
21 insurance insurer and insured for magnetic resonance imaging
22 services provided in facilities accredited by the
23 Accreditation Association for Ambulatory Health Care, the
24 American College of Radiology or the Joint Commission on
25 Accreditation of Healthcare Organizations shall not exceed 200
26 percent of the allowable amount under the participating
27 physician fee schedule of Medicare Part B for year 2001, for
28 the area in which the treatment was rendered, adjusted
29 annually on August 1 to reflect the prior calendar year's
30 changes in the annual Medical Care Item of the Consumer Price
31 Index for All Urban Consumers in the South Region as

1 determined by the Bureau of Labor Statistics of the United
2 States Department of Labor for the 12-month period ending June
3 30 of that year ~~by an additional amount equal to the medical~~
4 ~~Consumer Price Index for Florida.~~ This paragraph does not
5 apply to charges for magnetic resonance imaging services and
6 nerve conduction testing for inpatients and emergency services
7 and care as defined in chapter 395 rendered by facilities
8 licensed under chapter 395.

9 6. The Department of Health, in consultation with the
10 appropriate professional licensing boards, shall adopt, by
11 rule, a list of diagnostic tests deemed not be medically
12 necessary for use in the treatment of persons sustaining
13 bodily injury covered by personal injury protection benefits
14 under this section. The initial list shall be adopted by
15 January 1, 2004, and shall be revised from time to time as
16 determined by the Department of Health, in consultation with
17 the respective professional licensing boards. Inclusion of a
18 test on the list of invalid diagnostic tests shall be based on
19 lack of demonstrated medical value and a level of general
20 acceptance by the relevant provider community and shall not be
21 dependent for results entirely upon subjective patient
22 response. Notwithstanding its inclusion on a fee schedule in
23 this subsection, an insurer or insured is not required to pay
24 any charges or reimburse claims for any invalid diagnostic
25 test as determined by the Department of Health.

26 (c)1. With respect to any treatment or service, other
27 than medical services billed by a hospital or other provider
28 for emergency services as defined in s. 395.002 or inpatient
29 services rendered at a hospital-owned facility, the statement
30 of charges must be furnished to the insurer by the provider
31 and may not include, and the insurer is not required to pay,

1 charges for treatment or services rendered more than 35 days
2 before the postmark date of the statement, except for past due
3 amounts previously billed on a timely basis under this
4 paragraph, and except that, if the provider submits to the
5 insurer a notice of initiation of treatment within 21 days
6 after its first examination or treatment of the claimant, the
7 statement may include charges for treatment or services
8 rendered up to, but not more than, 75 days before the postmark
9 date of the statement. The injured party is not liable for,
10 and the provider shall not bill the injured party for, charges
11 that are unpaid because of the provider's failure to comply
12 with this paragraph. Any agreement requiring the injured
13 person or insured to pay for such charges is unenforceable.

14 2. If, however, the insured fails to furnish the
15 provider with the correct name and address of the insured's
16 personal injury protection insurer, the provider has 35 days
17 from the date the provider obtains the correct information to
18 furnish the insurer with a statement of the charges. The
19 insurer is not required to pay for such charges unless the
20 provider includes with the statement documentary evidence that
21 was provided by the insured during the 35-day period
22 demonstrating that the provider reasonably relied on erroneous
23 information from the insured and either:

24 a.1. A denial letter from the incorrect insurer; or
25 b.2. Proof of mailing, which may include an affidavit
26 under penalty of perjury, reflecting timely mailing to the
27 incorrect address or insurer.

28 3. For emergency services and care as defined in s.
29 395.002 rendered in a hospital emergency department or for
30 transport and treatment rendered by an ambulance provider
31 licensed pursuant to part III of chapter 401, the provider is

1 not required to furnish the statement of charges within the
2 time periods established by this paragraph; and the insurer
3 shall not be considered to have been furnished with notice of
4 the amount of covered loss for purposes of paragraph (4)(b)
5 until it receives a statement complying with paragraph (d)
6 ~~(e)~~, or copy thereof, which specifically identifies the place
7 of service to be a hospital emergency department or an
8 ambulance in accordance with billing standards recognized by
9 the Health Care Finance Administration.

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

13 BILLING REQUIREMENTS.--Florida Statutes provide
14 that with respect to any treatment or services,
15 other than certain hospital and emergency
16 services, the statement of charges furnished to
17 the insurer by the provider may not include,
18 and the insurer and the injured party are not
19 required to pay, charges for treatment or
20 services rendered more than 35 days before the
21 postmark date of the statement, except for past
22 due amounts previously billed on a timely
23 basis, and except that, if the provider submits
24 to the insurer a notice of initiation of
25 treatment within 21 days after its first
26 examination or treatment of the claimant, the
27 statement may include charges for treatment or
28 services rendered up to, but not more than, 75
29 days before the postmark date of the statement.

30 ~~(d) Every insurer shall include a provision in its~~
31 ~~policy for personal injury protection benefits for binding~~

1 ~~arbitration of any claims dispute involving medical benefits~~
2 ~~arising between the insurer and any person providing medical~~
3 ~~services or supplies if that person has agreed to accept~~
4 ~~assignment of personal injury protection benefits. The~~
5 ~~provision shall specify that the provisions of chapter 682~~
6 ~~relating to arbitration shall apply. The prevailing party~~
7 ~~shall be entitled to attorney's fees and costs. For purposes~~
8 ~~of the award of attorney's fees and costs, the prevailing~~
9 ~~party shall be determined as follows:~~

10 1. ~~When the amount of personal injury protection~~
11 ~~benefits determined by arbitration exceeds the sum of the~~
12 ~~amount offered by the insurer at arbitration plus 50 percent~~
13 ~~of the difference between the amount of the claim asserted by~~
14 ~~the claimant at arbitration and the amount offered by the~~
15 ~~insurer at arbitration, the claimant is the prevailing party.~~

16 2. ~~When the amount of personal injury protection~~
17 ~~benefits determined by arbitration is less than the sum of the~~
18 ~~amount offered by the insurer at arbitration plus 50 percent~~
19 ~~of the difference between the amount of the claim asserted by~~
20 ~~the claimant at arbitration and the amount offered by the~~
21 ~~insurer at arbitration, the insurer is the prevailing party.~~

22 3. ~~When neither subparagraph 1. nor subparagraph 2.~~
23 ~~applies, there is no prevailing party. For purposes of this~~
24 ~~paragraph, the amount of the offer or claim at arbitration is~~
25 ~~the amount of the last written offer or claim made at least 30~~
26 ~~days prior to the arbitration.~~

27 4. ~~In the demand for arbitration, the party requesting~~
28 ~~arbitration must include a statement specifically identifying~~
29 ~~the issues for arbitration for each examination or treatment~~
30 ~~in dispute. The other party must subsequently issue a~~
31 ~~statement specifying any other examinations or treatment and~~

1 ~~any other issues that it intends to raise in the arbitration.~~
2 ~~The parties may amend their statements up to 30 days prior to~~
3 ~~arbitration, provided that arbitration shall be limited to~~
4 ~~those identified issues and neither party may add additional~~
5 ~~issues during arbitration.~~

6 (d)~~(e)~~ All statements and bills for medical services
7 rendered by any physician, hospital, clinic, or other person
8 or institution shall be submitted to the insurer on a properly
9 completed Centers for Medicare and Medicaid Services (CMS)
10 ~~Health Care Finance Administration~~ 1500 form, UB 92 forms, or
11 any other standard form approved by the department for
12 purposes of this paragraph. All billings for such services
13 rendered by providers shall, to the extent applicable, follow
14 the Physicians' Current Procedural Terminology (CPT) or
15 Healthcare Correct Procedural Coding System (HCPCS), or ICD-9
16 in effect for the year in which services are rendered and
17 comply with the Centers for Medicare and Medicaid Services
18 (CMS) 1500 form instructions and the American Medical
19 Association Current Procedural Terminology (CPT) Editorial
20 Panel and Healthcare Correct Procedural Coding System (HCPCS).
21 All providers other than hospitals shall include on the
22 applicable claim form the professional license number of the
23 provider in the line or space provided for "Signature of
24 Physician or Supplier, Including Degrees or Credentials." In
25 determining compliance with applicable CPT and HCPCS coding,
26 guidance shall be provided by the Physicians' Current
27 Procedural Terminology (CPT) or the Healthcare Correct
28 Procedural Coding System (HCPCS) in effect for the year in
29 which services were rendered, the Office of the Inspector
30 General (OIG), Physicians Compliance Guidelines, and other
31 authoritative treatises designated by rule by the Agency for

1 Health Care Administration.No statement of medical services
2 may include charges for medical services of a person or entity
3 that performed such services without possessing the valid
4 licenses required to perform such services. For purposes of
5 paragraph (4)(b), an insurer shall not be considered to have
6 been furnished with notice of the amount of covered loss or
7 medical bills due unless the statements or bills comply with
8 this paragraph, and unless the statements or bills are
9 properly completed in their entirety as to all material
10 provisions, with all relevant information being provided
11 therein.

12 (e)1. At the initial treatment or service provided,
13 each physician, other licensed professional, clinic, or other
14 medical institution providing medical services upon which a
15 claim for personal injury protection benefits is based shall
16 require an insured person, or his or her guardian, to execute
17 a disclosure and acknowledgment form, which reflects at a
18 minimum that:

19 a. The insured, or his or her guardian, must
20 countersign the form attesting to the fact that the services
21 set forth therein were actually rendered;

22 b. The insured, or his or her guardian, has both the
23 right and affirmative duty to confirm that the services were
24 actually rendered;

25 c. The insured, or his or her guardian, was not
26 solicited by any person to seek any services from the medical
27 provider;

28 d. That the physician, other licensed professional,
29 clinic, or other medical institution rendering services for
30 which payment is being claimed explained the services to the
31 insured or his or her guardian; and

1 e. If the insured notifies the insurer in writing of a
2 billing error, the insured may be entitled to a certain
3 percentage of a reduction in the amounts paid by the insured's
4 motor vehicle insurer.

5 2. The physician, other licensed professional, clinic,
6 or other medical institution rendering services for which
7 payment is being claimed has the affirmative duty to explain
8 the services rendered to the insured, or his or her guardian,
9 so that the insured, or his or her guardian, countersigns the
10 form with informed consent.

11 3. Countersignature by the insured, or his or her
12 guardian, is not required for the reading of diagnostic tests
13 or other services that are of such a nature that they are not
14 required to be performed in the presence of the insured.

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

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

22 6. This disclosure and acknowledgement form is not
23 required for services billed by a provider for emergency
24 services as defined in s. 395.002, for emergency services and
25 care as defined in s. 395.002 rendered in a hospital emergency
26 department, or for transport and treatment rendered by an
27 ambulance provider licensed pursuant to part III of chapter
28 401.

29 7. The Financial Services Commission shall adopt, by
30 rule, a standard disclosure and acknowledgment form that shall
31 be used to fulfill the requirements of this paragraph,

1 effective 90 days after such form is adopted and becomes
2 final. The commission shall adopt a proposed rule by October
3 1, 2003. Until the rule is final, the provider may use a form
4 of its own which otherwise complies with the requirements of
5 this paragraph.

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

10 9. The requirements of this paragraph apply only with
11 respect to the initial treatment or service of the insured by
12 a provider. For subsequent treatments or service, the provider
13 must maintain a patient log signed by the patient, in
14 chronological order by date of service, that is consistent
15 with the services being rendered to the patient as claimed.
16 The requirements of this subparagraph for maintaining a
17 patient log signed by the patient may be met by a hospital
18 that maintains medical records as required by s. 395.3025 and
19 applicable rules and makes such records available to the
20 insurer upon request.

21 (f) Upon written notification by any person, an
22 insurer shall investigate any claim of improper billing by a
23 physician or other medical provider. The insurer shall
24 determine if the insured was properly billed for only those
25 services and treatments that the insured actually received. If
26 the insurer determines that the insured has been improperly
27 billed, the insurer shall notify the insured, the person
28 making the written notification and the provider of its
29 findings and shall reduce the amount of payment to the
30 provider by the amount determined to be improperly billed. If
31 a reduction is made due to such written notification by any

1 person, the insurer shall pay to the person 20 percent of the
2 amount of the reduction, up to \$500. If the provider is
3 arrested due to the improper billing, then the insurer shall
4 pay to the person 40 percent of the amount of the reduction,
5 up to \$500.

6 (g) An insurer may not systematically downcode with
7 the intent to deny reimbursement otherwise due. Such action
8 constitutes a material misrepresentation under s.
9 626.9541(1)(i)2.

10 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;
11 DISPUTES.--

12 (a) Every employer shall, if a request is made by an
13 insurer providing personal injury protection benefits under
14 ss. 627.730-627.7405 against whom a claim has been made,
15 furnish forthwith, in a form approved by the department, a
16 sworn statement of the earnings, since the time of the bodily
17 injury and for a reasonable period before the injury, of the
18 person upon whose injury the claim is based.

19 (b) Every physician, hospital, clinic, or other
20 medical institution providing, before or after bodily injury
21 upon which a claim for personal injury protection insurance
22 benefits is based, any products, services, or accommodations
23 in relation to that or any other injury, or in relation to a
24 condition claimed to be connected with that or any other
25 injury, shall, if requested to do so by the insurer against
26 whom the claim has been made, furnish forthwith a written
27 report of the history, condition, treatment, dates, and costs
28 of such treatment of the injured person and why the items
29 identified by the insurer were reasonable in amount and
30 medically necessary, together with a sworn statement that the
31 treatment or services rendered were reasonable and necessary

1 with respect to the bodily injury sustained and identifying
2 which portion of the expenses for such treatment or services
3 was incurred as a result of such bodily injury, and produce
4 forthwith, and permit the inspection and copying of, his or
5 her or its records regarding such history, condition,
6 treatment, dates, and costs of treatment; provided that this
7 shall not limit the introduction of evidence at trial. Such
8 sworn statement shall read as follows: "Under penalty of
9 perjury, I declare that I have read the foregoing, and the
10 facts alleged are true, to the best of my knowledge and
11 belief." No cause of action for violation of the
12 physician-patient privilege or invasion of the right of
13 privacy shall be permitted against any physician, hospital,
14 clinic, or other medical institution complying with the
15 provisions of this section. The person requesting such records
16 and such sworn statement shall pay all reasonable costs
17 connected therewith. If an insurer makes a written request for
18 documentation or information under this paragraph within 30
19 days after having received notice of the amount of a covered
20 loss under paragraph (4)(a), the amount or the partial amount
21 which is the subject of the insurer's inquiry shall become
22 overdue if the insurer does not pay in accordance with
23 paragraph (4)(b) or within 10 days after the insurer's receipt
24 of the requested documentation or information, whichever
25 occurs later. For purposes of this paragraph, the term
26 "receipt" includes, but is not limited to, inspection and
27 copying pursuant to this paragraph. Any insurer that requests
28 documentation or information pertaining to reasonableness of
29 charges or medical necessity under this paragraph without a
30 reasonable basis for such requests as a general business
31

1 practice is engaging in an unfair trade practice under the
2 insurance code.

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

18 (d) The injured person shall be furnished, upon
19 request, a copy of all information obtained by the insurer
20 under the provisions of this section, and shall pay a
21 reasonable charge, if required by the insurer.

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

24 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
25 REPORTS.--

26 (a) Whenever the mental or physical condition of an
27 injured person covered by personal injury protection is
28 material to any claim that has been or may be made for past or
29 future personal injury protection insurance benefits, such
30 person shall, upon the request of an insurer, submit to mental
31 or physical examination by a physician or physicians. The

1 costs of any examinations requested by an insurer shall be
2 borne entirely by the insurer. Such examination shall be
3 conducted within the municipality where the insured is
4 receiving treatment, or in a location reasonably accessible to
5 the insured, which, for purposes of this paragraph, means any
6 location within the municipality in which the insured resides,
7 or any location within 10 miles by road of the insured's
8 residence, provided such location is within the county in
9 which the insured resides. If the examination is to be
10 conducted in a location reasonably accessible to the insured,
11 and if there is no qualified physician to conduct the
12 examination in a location reasonably accessible to the
13 insured, then such examination shall be conducted in an area
14 of the closest proximity to the insured's residence. Personal
15 protection insurers are authorized to include reasonable
16 provisions in personal injury protection insurance policies
17 for mental and physical examination of those claiming personal
18 injury protection insurance benefits. An insurer may not
19 withdraw payment of a treating physician without the consent
20 of the injured person covered by the personal injury
21 protection, unless the insurer first obtains a valid report by
22 a Florida physician licensed under the same chapter as the
23 treating physician whose treatment authorization is sought to
24 be withdrawn, stating that treatment was not reasonable,
25 related, or necessary. A valid report is one that is prepared
26 and signed by the physician examining the injured person or
27 reviewing the treatment records of the injured person and is
28 factually supported by the examination and treatment records
29 if reviewed and that has not been modified by anyone other
30 than the physician. The physician preparing the report must be
31 in active practice, unless the physician is physically

1 disabled. Active practice means that during the 3 years
2 immediately preceding the date of the physical examination or
3 review of the treatment records the physician must have
4 devoted professional time to the active clinical practice of
5 evaluation, diagnosis, or treatment of medical conditions or
6 to the instruction of students in an accredited health
7 professional school or accredited residency program or a
8 clinical research program that is affiliated with an
9 accredited health professional school or teaching hospital or
10 accredited residency program. The physician preparing a report
11 at the request of an insurer and physicians rendering expert
12 opinions on behalf of persons claiming medical benefits for
13 personal injury protection, or on behalf of an insured through
14 an attorney or another entity, shall maintain, for at least 3
15 years, copies of all examination reports as medical records
16 and shall maintain, for at least 3 years, records of all
17 payments for the examinations and reports. Neither an insurer
18 nor any person acting at the direction of or on behalf of an
19 insurer may materially change an opinion in a report prepared
20 under this paragraph or direct the physician preparing the
21 report to change such opinion. The denial of a payment as the
22 result of such a changed opinion constitutes a material
23 misrepresentation under s. 626.9541(1)(i)2.; however, this
24 provision does not preclude the insurer from calling to the
25 attention of the physician errors of fact in the report based
26 upon information in the claim file.

27 (b) If requested by the person examined, a party
28 causing an examination to be made shall deliver to him or her
29 a copy of every written report concerning the examination
30 rendered by an examining physician, at least one of which
31 reports must set out the examining physician's findings and

1 conclusions in detail. After such request and delivery, the
2 party causing the examination to be made is entitled, upon
3 request, to receive from the person examined every written
4 report available to him or her or his or her representative
5 concerning any examination, previously or thereafter made, of
6 the same mental or physical condition. By requesting and
7 obtaining a report of the examination so ordered, or by taking
8 the deposition of the examiner, the person examined waives any
9 privilege he or she may have, in relation to the claim for
10 benefits, regarding the testimony of every other person who
11 has examined, or may thereafter examine, him or her in respect
12 to the same mental or physical condition. If a person
13 unreasonably refuses to submit to an examination, the personal
14 injury protection carrier is no longer liable for subsequent
15 personal injury protection benefits.

16 (11) DEMAND LETTER.--

17 (a) As a condition precedent to filing any action for
18 ~~an overdue claim for~~ benefits under this section ~~paragraph~~
19 ~~(4)(b)~~, the insurer must be provided with written notice of an
20 intent to initiate litigation; ~~provided, however, that, except~~
21 ~~with regard to a claim or amended claim or judgment for~~
22 ~~interest only which was not paid or was incorrectly~~
23 ~~calculated, such notice is not required for an overdue claim~~
24 ~~that the insurer has denied or reduced, nor is such notice~~
25 ~~required if the insurer has been provided documentation or~~
26 ~~information at the insurer's request pursuant to subsection~~
27 ~~(6)~~. Such notice may not be sent until the claim is overdue,
28 including any additional time the insurer has to pay the claim
29 pursuant to paragraph (4)(b).

30
31

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

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

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

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

26 (c) Each notice required by this subsection ~~section~~
27 must be delivered to the insurer by United States certified or
28 registered mail, return receipt requested. Such postal costs
29 shall be reimbursed by the insurer if so requested by the
30 claimant ~~provider~~ in the notice, when the insurer pays the
31 ~~overdue~~ claim. Such notice must be sent to the person and

1 address specified by the insurer for the purposes of receiving
2 notices under this subsection ~~section~~, ~~on the document denying~~
3 ~~or reducing the amount asserted by the filer to be overdue.~~
4 Each licensed insurer, whether domestic, foreign, or alien,
5 shall ~~may~~ file with the office ~~department~~ designation of the
6 name and address of the person to whom notices pursuant to
7 this subsection ~~section~~ shall be sent which the office shall
8 make available on its Internet website ~~when such document does~~
9 ~~not specify the name and address to whom the notices under~~
10 ~~this section are to be sent or when there is no such document.~~
11 The name and address on file with the office ~~department~~
12 pursuant to s. 624.422 shall be deemed the authorized
13 representative to accept notice pursuant to this subsection
14 ~~section~~ in the event no other designation has been made.

15 (d) If, within 15 ~~7~~ ~~business~~ days after receipt of
16 notice by the insurer, the overdue claim specified in the
17 notice is paid by the insurer together with applicable
18 interest and a penalty of 10 percent of the overdue amount
19 paid by the insurer, subject to a maximum penalty of \$250, no
20 action ~~for nonpayment or late payment~~ may be brought against
21 the insurer. If the demand involves an insurer's withdrawal of
22 payment under paragraph (7)(a) for future treatment not yet
23 rendered, no action may be brought against the insurer if,
24 within 15 days after its receipt of the notice, the insurer
25 mails to the person filing the notice a written statement of
26 the insurer's agreement to pay for such treatment in
27 accordance with the notice and to pay a penalty of 10 percent,
28 subject to a maximum penalty of \$250, when it pays for such
29 future treatment in accordance with the requirements of this
30 section. ~~To the extent the insurer determines not to pay~~ any
31 ~~the overdue~~ amount demanded, the penalty shall not be payable

1 in any subsequent action ~~for nonpayment or late payment~~. For
2 purposes of this subsection, payment or the insurer's
3 agreement shall be treated as being made on the date a draft
4 or other valid instrument that is equivalent to payment, or
5 the insurer's written statement of agreement, is placed in the
6 United States mail in a properly addressed, postpaid envelope,
7 or if not so posted, on the date of delivery. The insurer
8 shall not be obligated to pay any attorney's fees if the
9 insurer pays the claim or mails its agreement to pay for
10 future treatment within the time prescribed by this
11 subsection.

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

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

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

30 Section 9. Subsections (1) and (2) of section 627.739,
31 Florida Statutes, are amended to read:

1 627.739 Personal injury protection; optional
2 limitations; deductibles.--

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

16 (2) Insurers shall offer to each applicant and to each
17 policyholder, upon the renewal of an existing policy,
18 deductibles, in amounts of \$250, \$500, and \$1,000, ~~and \$2,000.~~
19 The deductible amount must be applied to 100 percent of the
20 expenses and losses described in s. 627.736. After the
21 deductible is met, each insured is eligible to receive up to
22 \$10,000 in total benefits described in s. 627.736(1). ~~such
23 amount to be deducted from the benefits otherwise due each
24 person subject to the deduction. However, this subsection
25 shall not be applied to reduce the amount of any benefits
26 received in accordance with s. 627.736(1)(c).~~

27 Section 10. Subsections (7), (8), and (9) of section
28 817.234, Florida Statutes, are amended to read:

29 817.234 False and fraudulent insurance claims.--

30 (7)(a) It shall constitute a material omission and
31 insurance fraud for any physician or other provider, other

1 than a hospital, to engage in a general business practice of
2 billing amounts as its usual and customary charge, if such
3 provider has agreed with the patient or intends to waive
4 deductibles or copayments, or does not for any other reason
5 intend to collect the total amount of such charge. With
6 respect to a determination as to whether a physician or other
7 provider has engaged in such general business practice,
8 consideration shall be given to evidence of whether the
9 physician or other provider made a good-faith attempt to
10 collect such deductible or copayment. This paragraph does not
11 apply to physicians or other providers who waive deductibles
12 or copayments or reduce their bills as part of a bodily injury
13 settlement or verdict.

14 (b) The provisions of this section shall also apply as
15 to any insurer or adjusting firm or its agents or
16 representatives who, with intent, injure, defraud, or deceive
17 any claimant with regard to any claim. The claimant shall
18 have the right to recover the damages provided in this
19 section.

20 (c) An insurer, or any person acting at the direction
21 of or on behalf of an insurer, may not change an opinion in a
22 mental or physical report prepared under s. 627.736(7) or
23 direct the physician preparing the report to change such
24 opinion; however, this provision does not preclude the insurer
25 from calling to the attention of the physician errors of fact
26 in the report based upon information in the claim file. Any
27 person who violates this paragraph commits a felony of the
28 third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 (8)(a) It is unlawful for any person intending to
31 defraud any other person, in his or her individual capacity or

1 ~~in his or her capacity as a public or private employee, or for~~
2 ~~any firm, corporation, partnership, or association, to solicit~~
3 ~~or cause to be solicited any business from a person involved~~
4 ~~in a motor vehicle accident by any means of communication~~
5 ~~other than advertising directed to the public for the purpose~~
6 ~~of making, adjusting, or settling motor vehicle tort claims or~~
7 ~~claims for personal injury protection benefits required by s.~~
8 ~~627.736. Charges for any services rendered by a health care~~
9 ~~provider or attorney who violates this subsection in regard to~~
10 ~~the person for whom such services were rendered are~~
11 ~~noncompensable and unenforceable as a matter of law. Any~~
12 ~~person who violates the provisions of this paragraph~~
13 ~~subsection commits a felony of the second ~~third~~ degree,~~
14 ~~punishable as provided in s. 775.082, s. 775.083, or s.~~
15 ~~775.084. A person who is convicted of a violation of this~~
16 ~~subsection shall be sentenced to a minimum term of~~
17 ~~imprisonment of 2 years.~~

18 (b) A person may not solicit or cause to be solicited
19 any business from a person involved in a motor vehicle
20 accident by any means of communication other than advertising
21 directed to the public for the purpose of making motor vehicle
22 tort claims or claims for personal injury protection benefits
23 required by s. 627.736, within 60 days after the occurrence of
24 the motor vehicle accident. Any person who violates this
25 paragraph commits a felony of the third degree, punishable as
26 provided in s. 775.082, s. 775.083, or s. 775.084.

27 (c) A lawyer, health care practitioner as defined in
28 s. 456.001, or owner or medical director of a clinic required
29 to be licensed pursuant to s. 400.903 may not, at any time
30 after 60 days have elapsed from the occurrence of a motor
31 vehicle accident, solicit or cause to be solicited any

1 business from a person involved in a motor vehicle accident by
2 means of in-person or telephone contact at the person's
3 residence, for the purpose of making motor vehicle tort claims
4 or claims for personal injury protection benefits required by
5 s. 627.736. Any person who violates this paragraph commits a
6 felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 (d) Charges for any services rendered by any person
9 who violates this subsection in regard to the person for whom
10 such services were rendered are noncompensable and
11 unenforceable as a matter of law.

12 (9) A person may not organize, plan, or knowingly
13 participate in an intentional motor vehicle crash for the
14 purpose of making motor vehicle tort claims or claims for
15 personal injury protection benefits as required by s. 627.736.
16 ~~It is unlawful for any attorney to solicit any business~~
17 ~~relating to the representation of a person involved in a motor~~
18 ~~vehicle accident for the purpose of filing a motor vehicle~~
19 ~~tort claim or a claim for personal injury protection benefits~~
20 ~~required by s. 627.736. The solicitation by advertising of~~
21 ~~any business by an attorney relating to the representation of~~
22 ~~a person injured in a specific motor vehicle accident is~~
23 ~~prohibited by this section.~~Any person attorney who violates
24 the provisions of this paragraph subsection commits a felony
25 of the ~~second~~ third degree, punishable as provided in s.
26 775.082, s. 775.083, or s. 775.084. A person who is convicted
27 of a violation of this subsection shall be sentenced to a
28 minimum term of imprisonment of 2 years.~~Whenever any circuit~~
29 ~~or special grievance committee acting under the jurisdiction~~
30 ~~of the Supreme Court finds probable cause to believe that an~~
31 ~~attorney is guilty of a violation of this section, such~~

1 ~~committee shall forward to the appropriate state attorney a~~
2 ~~copy of the finding of probable cause and the report being~~
3 ~~filed in the matter. This section shall not be interpreted to~~
4 ~~prohibit advertising by attorneys which does not entail a~~
5 ~~solicitation as described in this subsection and which is~~
6 ~~permitted by the rules regulating The Florida Bar as~~
7 ~~promulgated by the Florida Supreme Court.~~

8 Section 11. Section 817.236, Florida Statutes, is
9 amended to read:

10 817.236 False and fraudulent motor vehicle insurance
11 application.--Any person who, with intent to injure, defraud,
12 or deceive any motor vehicle insurer, including any
13 statutorily created underwriting association or pool of motor
14 vehicle insurers, presents or causes to be presented any
15 written application, or written statement in support thereof,
16 for motor vehicle insurance knowing that the application or
17 statement contains any false, incomplete, or misleading
18 information concerning any fact or matter material to the
19 application commits a felony ~~misdemeanor~~ of the third first
20 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083,
21 or s. 775.084.

22 Section 12. Section 817.2361, Florida Statutes, is
23 created to read:

24 817.2361 False or fraudulent motor vehicle insurance
25 card.--Any person who, with intent to deceive any other
26 person, creates, markets, or presents a false or fraudulent
27 motor vehicle insurance card commits a felony of the third
28 degree, punishable as provided in s. 775.082, s. 775.083, or
29 s. 775.084.

1 Section 13. Effective October 1, 2003, paragraphs (c)
 2 and (g) of subsection (3) of section 921.0022, Florida
 3 Statutes, are amended to read:

4 921.0022 Criminal Punishment Code; offense severity
 5 ranking chart.--

6 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
<u>119.10(3)</u>	<u>3rd</u>	<u>Unlawful use of confidential information from police reports.</u>
<u>316.066(3)(d)-(f)</u>	<u>3rd</u>	<u>Unlawfully obtaining or using confidential crash reports.</u>
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.

31

1	319.33(4)	3rd	With intent to defraud, possess,
2			sell, etc., a blank, forged, or
3			unlawfully obtained title or
4			registration.
5	327.35(2)(b)	3rd	Felony BUI.
6	328.05(2)	3rd	Possess, sell, or counterfeit
7			fictitious, stolen, or fraudulent
8			titles or bills of sale of
9			vessels.
10	328.07(4)	3rd	Manufacture, exchange, or possess
11			vessel with counterfeit or wrong
12			ID number.
13	376.302(5)	3rd	Fraud related to reimbursement
14			for cleanup expenses under the
15			Inland Protection Trust Fund.
16	<u>400.903(3)</u>	<u>3rd</u>	<u>Operating a clinic without a</u>
17			<u>license or filing false license</u>
18			<u>application or other required</u>
19			<u>information.</u>
20	501.001(2)(b)	2nd	Tampers with a consumer product
21			or the container using materially
22			false/misleading information.
23	697.08	3rd	Equity skimming.
24	790.15(3)	3rd	Person directs another to
25			discharge firearm from a vehicle.
26	796.05(1)	3rd	Live on earnings of a prostitute.
27	806.10(1)	3rd	Maliciously injure, destroy, or
28			interfere with vehicles or
29			equipment used in firefighting.
30			
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1	806.10(2)	3rd	Interferes with or assaults
2			firefighter in performance of
3			duty.
4	810.09(2)(c)	3rd	Trespass on property other than
5			structure or conveyance armed
6			with firearm or dangerous weapon.
7	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
8			less than \$10,000.
9	812.0145(2)(c)	3rd	Theft from person 65 years of age
10			or older; \$300 or more but less
11			than \$10,000.
12	815.04(4)(b)	2nd	Computer offense devised to
13			defraud or obtain property.
14	817.034(4)(a)3.	3rd	Engages in scheme to defraud
15			(Florida Communications Fraud
16			Act), property valued at less
17			than \$20,000.
18	817.233	3rd	Burning to defraud insurer.
19	817.234(8)		
20	(b)-(c)&(9)	3rd	Unlawful solicitation of persons
21			involved in motor vehicle
22			accidents.
23	817.234(11)(a)	3rd	Insurance fraud; property value
24			less than \$20,000.
25	<u>817.236</u>	<u>3rd</u>	<u>Filing a false motor vehicle</u>
26			<u>insurance application.</u>
27	<u>817.2361</u>	<u>3rd</u>	<u>Creating, marketing, or</u>
28			<u>presenting a false or fraudulent</u>
29			<u>motor vehicle insurance card.</u>
30	817.505(4)	3rd	Patient brokering.
31			

1	828.12(2)	3rd	Tortures any animal with intent
2			to inflict intense pain, serious
3			physical injury, or death.
4	831.28(2)(a)	3rd	Counterfeiting a payment
5			instrument with intent to defraud
6			or possessing a counterfeit
7			payment instrument.
8	831.29	2nd	Possession of instruments for
9			counterfeiting drivers' licenses
10			or identification cards.
11	838.021(3)(b)	3rd	Threatens unlawful harm to public
12			servant.
13	843.19	3rd	Injure, disable, or kill police
14			dog or horse.
15	870.01(2)	3rd	Riot; inciting or encouraging.
16	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
17			cannabis (or other s.
18			893.03(1)(c), (2)(c)1., (2)(c)2.,
19			(2)(c)3., (2)(c)5., (2)(c)6.,
20			(2)(c)7., (2)(c)8., (2)(c)9.,
21			(3), or (4) drugs).
22	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
23			893.03(1)(c), (2)(c)1., (2)(c)2.,
24			(2)(c)3., (2)(c)5., (2)(c)6.,
25			(2)(c)7., (2)(c)8., (2)(c)9.,
26			(3), or (4) drugs within 200 feet
27			of university or public park.
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1	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
2			893.03(1)(c), (2)(c)1., (2)(c)2.,
3			(2)(c)3., (2)(c)5., (2)(c)6.,
4			(2)(c)7., (2)(c)8., (2)(c)9.,
5			(3), or (4) drugs within 200 feet
6			of public housing facility.
7	893.13(6)(a)	3rd	Possession of any controlled
8			substance other than felony
9			possession of cannabis.
10	893.13(7)(a)8.	3rd	Withhold information from
11			practitioner regarding previous
12			receipt of or prescription for a
13			controlled substance.
14	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
15			controlled substance by fraud,
16			forgery, misrepresentation, etc.
17	893.13(7)(a)10.	3rd	Affix false or forged label to
18			package of controlled substance.
19	893.13(7)(a)11.	3rd	Furnish false or fraudulent
20			material information on any
21			document or record required by
22			chapter 893.
23	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
24			person, or owner of an animal in
25			obtaining a controlled substance
26			through deceptive, untrue, or
27			fraudulent representations in or
28			related to the practitioner's
29			practice.
30			
31			

1	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
2			practitioner's practice to assist
3			a patient, other person, or owner
4			of an animal in obtaining a
5			controlled substance.
6	893.13(8)(a)3.	3rd	Knowingly write a prescription
7			for a controlled substance for a
8			fictitious person.
9	893.13(8)(a)4.	3rd	Write a prescription for a
10			controlled substance for a
11			patient, other person, or an
12			animal if the sole purpose of
13			writing the prescription is a
14			monetary benefit for the
15			practitioner.
16	918.13(1)(a)	3rd	Alter, destroy, or conceal
17			investigation evidence.
18	944.47		
19	(1)(a)1.-2.	3rd	Introduce contraband to
20			correctional facility.
21	944.47(1)(c)	2nd	Possess contraband while upon the
22			grounds of a correctional
23			institution.
24	985.3141	3rd	Escapes from a juvenile facility
25			(secure detention or residential
26			commitment facility).
27			(g) LEVEL 7
28	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
29			injury.
30	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
31			bodily injury.

1	402.319(2)	2nd	Misrepresentation and negligence
2			or intentional act resulting in
3			great bodily harm, permanent
4			disfiguration, permanent
5			disability, or death.
6	409.920(2)	3rd	Medicaid provider fraud.
7	456.065(2)	3rd	Practicing a health care
8			profession without a license.
9	456.065(2)	2nd	Practicing a health care
10			profession without a license
11			which results in serious bodily
12			injury.
13	458.327(1)	3rd	Practicing medicine without a
14			license.
15	459.013(1)	3rd	Practicing osteopathic medicine
16			without a license.
17	460.411(1)	3rd	Practicing chiropractic medicine
18			without a license.
19	461.012(1)	3rd	Practicing podiatric medicine
20			without a license.
21	462.17	3rd	Practicing naturopathy without a
22			license.
23	463.015(1)	3rd	Practicing optometry without a
24			license.
25	464.016(1)	3rd	Practicing nursing without a
26			license.
27	465.015(2)	3rd	Practicing pharmacy without a
28			license.
29	466.026(1)	3rd	Practicing dentistry or dental
30			hygiene without a license.
31			

1	467.201	3rd	Practicing midwifery without a
2			license.
3	468.366	3rd	Delivering respiratory care
4			services without a license.
5	483.828(1)	3rd	Practicing as clinical laboratory
6			personnel without a license.
7	483.901(9)	3rd	Practicing medical physics
8			without a license.
9	484.013(1)(c)	3rd	Preparing or dispensing optical
10			devices without a prescription.
11	484.053	3rd	Dispensing hearing aids without a
12			license.
13	494.0018(2)	1st	Conviction of any violation of
14			ss. 494.001-494.0077 in which the
15			total money and property
16			unlawfully obtained exceeded
17			\$50,000 and there were five or
18			more victims.
19	560.123(8)(b)1.	3rd	Failure to report currency or
20			payment instruments exceeding
21			\$300 but less than \$20,000 by
22			money transmitter.
23	560.125(5)(a)	3rd	Money transmitter business by
24			unauthorized person, currency or
25			payment instruments exceeding
26			\$300 but less than \$20,000.
27	655.50(10)(b)1.	3rd	Failure to report financial
28			transactions exceeding \$300 but
29			less than \$20,000 by financial
30			institution.
31			

1	782.051(3)	2nd	Attempted felony murder of a
2			person by a person other than the
3			perpetrator or the perpetrator of
4			an attempted felony.
5	782.07(1)	2nd	Killing of a human being by the
6			act, procurement, or culpable
7			negligence of another
8			(manslaughter).
9	782.071	2nd	Killing of human being or viable
10			fetus by the operation of a motor
11			vehicle in a reckless manner
12			(vehicular homicide).
13	782.072	2nd	Killing of a human being by the
14			operation of a vessel in a
15			reckless manner (vessel
16			homicide).
17	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
18			causing great bodily harm or
19			disfigurement.
20	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
21			weapon.
22	784.045(1)(b)	2nd	Aggravated battery; perpetrator
23			aware victim pregnant.
24	784.048(4)	3rd	Aggravated stalking; violation of
25			injunction or court order.
26	784.07(2)(d)	1st	Aggravated battery on law
27			enforcement officer.
28	784.074(1)(a)	1st	Aggravated battery on sexually
29			violent predators facility staff.
30	784.08(2)(a)	1st	Aggravated battery on a person 65
31			years of age or older.

1	784.081(1)	1st	Aggravated battery on specified
2			official or employee.
3	784.082(1)	1st	Aggravated battery by detained
4			person on visitor or other
5			detainee.
6	784.083(1)	1st	Aggravated battery on code
7			inspector.
8	790.07(4)	1st	Specified weapons violation
9			subsequent to previous conviction
10			of s. 790.07(1) or (2).
11	790.16(1)	1st	Discharge of a machine gun under
12			specified circumstances.
13	790.165(2)	2nd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.165(3)	2nd	Possessing, displaying, or
16			threatening to use any hoax bomb
17			while committing or attempting to
18			commit a felony.
19	790.166(3)	2nd	Possessing, selling, using, or
20			attempting to use a hoax weapon
21			of mass destruction.
22	790.166(4)	2nd	Possessing, displaying, or
23			threatening to use a hoax weapon
24			of mass destruction while
25			committing or attempting to
26			commit a felony.
27	796.03	2nd	Procuring any person under 16
28			years for prostitution.
29	800.04(5)(c)1.	2nd	Lewd or lascivious molestation;
30			victim less than 12 years of age;
31			offender less than 18 years.

1	800.04(5)(c)2.	2nd	Lewd or lascivious molestation;
2			victim 12 years of age or older
3			but less than 16 years; offender
4			18 years or older.
5	806.01(2)	2nd	Maliciously damage structure by
6			fire or explosive.
7	810.02(3)(a)	2nd	Burglary of occupied dwelling;
8			unarmed; no assault or battery.
9	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
10			unarmed; no assault or battery.
11	810.02(3)(d)	2nd	Burglary of occupied conveyance;
12			unarmed; no assault or battery.
13	812.014(2)(a)	1st	Property stolen, valued at
14			\$100,000 or more; cargo stolen
15			valued at \$50,000 or more;
16			property stolen while causing
17			other property damage; 1st degree
18			grand theft.
19	812.014(2)(b)3.	2nd	Property stolen, emergency
20			medical equipment; 2nd degree
21			grand theft.
22	812.0145(2)(a)	1st	Theft from person 65 years of age
23			or older; \$50,000 or more.
24	812.019(2)	1st	Stolen property; initiates,
25			organizes, plans, etc., the theft
26			of property and traffics in
27			stolen property.
28	812.131(2)(a)	2nd	Robbery by sudden snatching.
29	812.133(2)(b)	1st	Carjacking; no firearm, deadly
30			weapon, or other weapon.
31			

1	<u>817.234(8)(a)</u>	<u>2nd</u>	<u>Solicitation of motor vehicle</u>
2			<u>accident victims with intent to</u>
3			<u>defraud.</u>
4	<u>817.234(9)</u>	<u>2nd</u>	<u>Organizing, planning, or</u>
5			<u>participating in an intentional</u>
6			<u>motor vehicle collision.</u>
7	817.234(11)(c)	1st	Insurance fraud; property value
8			\$100,000 or more.
9	825.102(3)(b)	2nd	Neglecting an elderly person or
10			disabled adult causing great
11			bodily harm, disability, or
12			disfigurement.
13	825.103(2)(b)	2nd	Exploiting an elderly person or
14			disabled adult and property is
15			valued at \$20,000 or more, but
16			less than \$100,000.
17	827.03(3)(b)	2nd	Neglect of a child causing great
18			bodily harm, disability, or
19			disfigurement.
20	827.04(3)	3rd	Impregnation of a child under 16
21			years of age by person 21 years
22			of age or older.
23	837.05(2)	3rd	Giving false information about
24			alleged capital felony to a law
25			enforcement officer.
26	872.06	2nd	Abuse of a dead human body.
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1	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other drug prohibited
3			under s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), (2)(b), or
5			(2)(c)4.) within 1,000 feet of a
6			child care facility or school.
7	893.13(1)(e)1.	1st	Sell, manufacture, or deliver
8			cocaine or other drug prohibited
9			under s. 893.03(1)(a), (1)(b),
10			(1)(d), (2)(a), (2)(b), or
11			(2)(c)4., within 1,000 feet of
12			property used for religious
13			services or a specified business
14			site.
15	893.13(4)(a)	1st	Deliver to minor cocaine (or
16			other s. 893.03(1)(a), (1)(b),
17			(1)(d), (2)(a), (2)(b), or
18			(2)(c)4. drugs).
19	893.135(1)(a)1.	1st	Trafficking in cannabis, more
20			than 25 lbs., less than 2,000
21			lbs.
22	893.135		
23	(1)(b)1.a.	1st	Trafficking in cocaine, more than
24			28 grams, less than 200 grams.
25	893.135		
26	(1)(c)1.a.	1st	Trafficking in illegal drugs,
27			more than 4 grams, less than 14
28			grams.
29			
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1	893.135		
2	(1)(d)1.	1st	Trafficking in phencyclidine,
3			more than 28 grams, less than 200
4			grams.
5	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
6			than 200 grams, less than 5
7			kilograms.
8	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
9			than 14 grams, less than 28
10			grams.
11	893.135		
12	(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4
13			grams or more, less than 14
14			grams.
15	893.135		
16	(1)(h)1.a.	1st	Trafficking in
17			gamma-hydroxybutyric acid (GHB),
18			1 kilogram or more, less than 5
19			kilograms.
20	893.135		
21	(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1
22			kilogram or more, less than 5
23			kilograms.
24	893.135		
25	(1)(k)2.a.	1st	Trafficking in Phenethylamines,
26			10 grams or more, less than 200
27			grams.
28	896.101(5)(a)	3rd	Money laundering, financial
29			transactions exceeding \$300 but
30			less than \$20,000.
31			

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

6 Section 14. The amendment made by this act to section
7 456.0375(1)(b), Florida Statutes, is intended to clarify the
8 legislative intent of this provision as it existed at the time
9 the provision initially took effect. Accordingly, section
10 456.0375(1)(b), Florida Statutes, as amended by this act shall
11 operate retroactively to October 1, 2001.

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

14 Section 16. (1) Any increase in benefits approved by
15 the Financial Services Commission under subsection (13) of
16 section 627.736, Florida Statutes, as added by this act, shall
17 apply to new and renewal policies that are effective 120 days
18 after the order issued by the commission becomes final.
19 Subsections (1) and (2) of section 627.739, Florida Statutes,
20 as amended by this act, shall apply to new and renewal
21 policies issued on or after October 1, 2003.

22 (2) Subsection (11) of section 627.736, Florida
23 Statutes, as amended by this act, shall apply to actions filed
24 on and after August 1, 2003.

25 (3) Paragraph (7)(a) of section 627.736, Florida
26 Statutes, as amended by this act, and paragraph (7)(c) of
27 section 817.234, Florida Statutes, as amended by this act,
28 shall apply to examinations conducted on and after October 1,
29 2003.

30
31

1 (4) Subsection (5) of section 627.736, Florida
2 Statutes, as amended by this act, shall apply to treatment and
3 services occurring on or after October 1, 2003.

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

15 Section 18. Effective July 1, 2003, there is
16 appropriated \$2.5 million from the Health Care Trust Fund, and
17 51 full-time equivalent positions are authorized, for the
18 Agency for Health Care Administration to implement the
19 provisions of this act.

20 Section 19. (1) Effective October 1, 2007, sections
21 627.730, 627.731, 627.732, 627.733, 627.734, 627.736, 627.737,
22 627.739, 627.7401, 627.7403, and 627.7405, Florida Statutes,
23 constituting the Florida Motor Vehicle No-Fault Law, are
24 repealed, unless reenacted by the Legislature during the 2006
25 Regular Session and such reenactment becomes law to take
26 effect for policies issued or renewed on or after October 1,
27 2006.

28 (2) Insurers are authorized to provide, in all
29 policies issued or renewed after October 1, 2006, that such
30 policies may terminate on or after October 1, 2007, as
31 provided in subsection (1).

1 Section 20. If any law that is amended by this act was
2 also amended by a law enacted at the 2003 Regular Session of
3 the Legislature, such laws shall be construed as if they had
4 been enacted during the same session of the Legislature, and
5 full effect should be given to each if that is possible.

6 Section 21. (1) Notwithstanding the amendment to
7 section 627.7295, Florida Statutes, by CS/SB 2364, paragraph
8 (a) of subsection (5) of section 627.7295, Florida Statutes is
9 not amended as provided by that act, but is reenacted to read:

10 627.7295 Motor vehicle insurance contracts.--

11 (5)(a) A licensed general lines agent may charge a
12 per-policy fee not to exceed \$10 to cover the administrative
13 costs of the agent associated with selling the motor vehicle
14 insurance policy if the policy covers only personal injury
15 protection coverage as provided by s. 627.736 and property
16 damage liability coverage as provided by s. 627.7275 and if no
17 other insurance is sold or issued in conjunction with or
18 collateral to the policy. The per-policy fee must be a
19 component of the insurer's rate filing and may not be charged
20 by an agent unless the fee is included in the filing. The fee
21 is not considered part of the premium except for purposes of
22 the department's review of expense factors in a filing made
23 pursuant to s. 627.062.

24 (2) This section shall take effect upon this act
25 becoming a law, except that, if this act does not become a law
26 before CS/SB 2364 becomes a law, this section shall operate
27 retroactively to the date that CS/SB 2364 becomes a law.

28 Section 22. Except as otherwise expressly provided in
29 this act, this act shall take effect October 1, 2003.

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