

By the Committee on Banking and Insurance; and Senator Campbell

311-1316-04

1                                   A bill to be entitled  
2           An act relating to motor vehicle insurance  
3           costs; amending s. 627.732, F.S.; defining the  
4           terms "biometrics" and "biometric time date  
5           technology"; amending s. 627.736, F.S.;  
6           providing a presumption and revising a  
7           procedure with respect to the use of biometric  
8           time date technology under personal injury  
9           protection benefits; providing an effective  
10          date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Subsections (16) and (17) are added to  
15 section 627.732, Florida Statutes, to read:

16           627.732 Definitions.--As used in ss. 627.730-627.7405,  
17 the term:

18           (16) "Biometrics" means a computer-based biological  
19 imprint.

20           (17) "Biometric time date technology" means technology  
21 that uses biometric imprints to document the exact date and  
22 time a biological imprint was made or recognized.

23           Section 2. Paragraphs (a) and (e) of subsection (5) of  
24 section 627.736, Florida Statutes, are amended to read:

25           627.736 Required personal injury protection benefits;  
26 exclusions; priority; claims.--

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

28           (a) Any physician, hospital, clinic, or other person  
29 or institution lawfully rendering treatment to an injured  
30 person for a bodily injury covered by personal injury  
31 protection insurance may charge the insurer and injured party

1 only a reasonable amount pursuant to this section for the  
2 services and supplies rendered, and the insurer providing such  
3 coverage may pay for such charges directly to such person or  
4 institution lawfully rendering such treatment, if the insured  
5 receiving such treatment or his or her guardian has  
6 countersigned the properly completed invoice, bill, or claim  
7 form approved by the office upon which such charges are to be  
8 paid for as having actually been rendered, to the best  
9 knowledge of the insured or his or her guardian. In no event,  
10 however, may such a charge be in excess of the amount the  
11 person or institution customarily charges for like services or  
12 supplies. With respect to a determination of whether a charge  
13 for a particular service, treatment, or otherwise is  
14 reasonable, consideration may be given to evidence of usual  
15 and customary charges and payments accepted by the provider  
16 involved in the dispute, and reimbursement levels in the  
17 community and various federal and state medical fee schedules  
18 applicable to automobile and other insurance coverages, and  
19 other information relevant to the reasonableness of the  
20 reimbursement for the service, treatment, or supply. It shall  
21 be presumed that the insured was present in the provider's  
22 office for the time the billed services were rendered if the  
23 provider uses biometric time date technology that verified  
24 that fact.

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

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

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

7           c. The insured, or his or her guardian, was not  
8 solicited by any person to seek any services from the medical  
9 provider;

10          d. That the physician, other licensed professional,  
11 clinic, or other medical institution rendering services for  
12 which payment is being claimed explained the services to the  
13 insured or his or her guardian; and

14          e. If the insured notifies the insurer in writing of a  
15 billing error, the insured may be entitled to a certain  
16 percentage of a reduction in the amounts paid by the insured's  
17 motor vehicle insurer.

18          2. The physician, other licensed professional, clinic,  
19 or other medical institution rendering services for which  
20 payment is being claimed has the affirmative duty to explain  
21 the services rendered to the insured, or his or her guardian,  
22 so that the insured, or his or her guardian, countersigns the  
23 form with informed consent.

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

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

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1           5. The original completed disclosure and  
2 acknowledgment form shall be furnished to the insurer pursuant  
3 to paragraph (4)(b) and may not be electronically furnished.

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

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

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

23           9. The requirements of this paragraph apply only with  
24 respect to the initial treatment or service of the insured by  
25 a provider. For subsequent treatments or service, the provider  
26 must maintain a patient log signed by the patient, in  
27 chronological order by date of service, that is consistent  
28 with the services being rendered to the patient as claimed.  
29 For purposes of the patient signing a patient log, the  
30 provider may use biometric time date technology in lieu of the  
31 patient signing the log.The requirements of this subparagraph

1 for maintaining a patient log signed by the patient may be met  
2 by a hospital that maintains medical records as required by s.  
3 395.3025 and applicable rules and makes such records available  
4 to the insurer upon request.

5 Section 3. This act shall take effect July 1, 2004.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
8 COMMITTEE SUBSTITUTE FOR  
9 Senate Bill 1094

10 Narrows the legal presumption to apply only when the use of  
11 biometric time date technology verifies that the insured was  
12 present in the provider's office for the time the billed  
13 services were rendered. Removes the provision in the  
14 presumption that the insured received the specified treatment  
15 or services.

16 Removes the provision that the patient's countersignature  
17 could be done by biometric or electronic means in signing the  
18 disclosure and acknowledgement form. Provides that the  
19 provider may use biometric time date technology in lieu of the  
20 insured signing the patient log.  
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