

1 A bill to be entitled

2 An act relating to offenses involving insurance; amending
3 s. 400.9935, F.S.; prohibiting clinical directors from
4 engaging in certain patient referral activities; providing
5 a definition; providing a criminal penalty; requiring
6 health care clinics to display signs displaying certain
7 information relating to insurance fraud; authorizing
8 compliance inspections by the Division of Insurance Fraud;
9 requiring clinics to allow inspection access; amending s.
10 440.105, F.S.; deleting the provision that a violation of
11 a stop-work order is a misdemeanor of the first degree;
12 increasing penalties for employers unlawfully failing to
13 secure workers' compensation insurance when an employee is
14 injured by or dies from a work-related injury; deleting
15 provisions relating to a prohibition against employers
16 participating in the creation of employment relationships
17 based on false, fraudulent, or misleading information;
18 deleting provisions relating to presentation of false,
19 fraudulent, or misleading information to obtain
20 employment; amending s. 448.09, F.S.; prohibiting the
21 presentation of certain false, fraudulent, or misleading
22 information for the purpose of obtaining employment;
23 providing penalties; revising penalties for unauthorized
24 employment of aliens; amending s. 624.15, F.S.; specifying
25 violations of rules of the Department of Financial
26 Services, Office of Insurance Regulation, or Financial
27 Services Commission as misdemeanors; specifying a
28 violation of emergency rules or orders as a felony of the

29 | third degree; providing penalties; providing for
30 | nonapplication to certain persons; amending s. 624.155,
31 | F.S.; providing that civil actions may be brought against
32 | any person acting as an insurer without a certificate of
33 | authority if damaged by such acting; amending s. 626.112,
34 | F.S.; providing a criminal penalty for transacting
35 | insurance without a license; amending s. 626.901, F.S.;
36 | clarifying nonapplication to certain independently
37 | procured coverage of a prohibition against representing or
38 | aiding an unauthorized insurer; amending s. 626.918, F.S.;
39 | providing that certain letters of credit issued or
40 | confirmed by a qualified United States financial
41 | institution may be used for certain purposes; providing a
42 | definition; amending s. 626.938, F.S.; revising provisions
43 | requiring a report and taxation of independently procured
44 | coverages; specifying nonauthorization of independent
45 | procurement of workers' compensation, life, or health
46 | insurance; amending s. 626.989, F.S.; including self-
47 | insured entities associated with the National Insurance
48 | Crime Bureau within a list of entities required to report
49 | insurance fraud; authorizing the division to adopt rules
50 | for standardized reporting of fraudulent activity;
51 | creating s. 626.9893, F.S.; authorizing the division to
52 | deposit certain revenues into the Insurance Regulatory
53 | Trust Fund; specifying accounting and uses of such
54 | revenues; providing for appropriation and use of such
55 | revenues; amending s. 817.234, F.S.; clarifying provisions
56 | specifying material omission and insurance fraud;

57 | prohibiting scheming to create documentation of a motor
58 | vehicle crash that did not occur; providing a criminal
59 | penalty; amending s. 817.2361, F.S.; providing that
60 | creating, presenting, or marketing fraudulent proof of
61 | motor vehicle insurance is a felony of the third degree;
62 | amending s. 817.50, F.S.; specifying nonapplication of
63 | provisions specifying evidence of intent to defraud to
64 | certain investigative actions taken by law enforcement
65 | officers; amending s. 817.505, F.S.; providing an
66 | additional patient brokering prohibition; revising a
67 | definition; amending s. 843.08, F.S.; providing a criminal
68 | penalty for falsely assuming or pretending to be an
69 | officer of the Department of Financial Services; amending
70 | s. 932.7055, F.S.; requiring certain proceeds seized by
71 | the division under the Florida Contraband Forfeiture Act
72 | to be deposited into certain trust funds; providing
73 | severability; providing an effective date.

74 |
75 | Be It Enacted by the Legislature of the State of Florida:

76 |
77 | Section 1. Paragraph (h) is added to subsection (1) of
78 | section 400.9935, Florida Statutes, and subsection (13) is added
79 | to said section, to read:

80 | 400.9935 Clinic responsibilities.--

81 | (1) Each clinic shall appoint a medical director or clinic
82 | director who shall agree in writing to accept legal
83 | responsibility for the following activities on behalf of the
84 | clinic. The medical director or the clinic director shall:

85 (h) Not engage in referring patients to the clinic if the
86 clinic performs magnetic resonance imaging, static radiographs,
87 computed tomography, or positron emission tomography. The term
88 "referring patients" means referring one or more patients of the
89 medical or clinic director or a member of the medical or clinic
90 director's group practice to the clinic for magnetic resonance
91 imaging, static radiographs, computed tomography, or positron
92 emission tomography. A medical or clinic director who is found
93 to violate this paragraph commits a felony of the third degree,
94 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

95 (13) The clinic shall display a sign in a conspicuous
96 location within the clinic readily visible to all patients
97 indicating that, pursuant to s. 626.9892, the Department of
98 Financial Services may pay rewards of up to \$25,000 to persons
99 providing information leading to the arrest and conviction of
100 persons committing crimes investigated by the Division of
101 Insurance Fraud arising from violations of s. 440.105, s.
102 624.15, s. 626.9541, s. 626.989, or s. 817.234. An authorized
103 employee of the Division of Insurance Fraud may make unannounced
104 inspections of a clinic licensed under this part as necessary to
105 determine whether the clinic is in compliance with this
106 subsection. A licensed clinic shall allow full and complete
107 access to the premises to such authorized employee of the
108 division who makes an inspection to determine compliance with
109 this subsection.

110 Section 2. Subsections (2), (3), and (4) of section
111 440.105, Florida Statutes, are amended to read:

112 440.105 Prohibited activities; reports; penalties;
113 limitations.--

114 (2) Whoever violates any provision of this subsection
115 commits a misdemeanor of the first degree, punishable as
116 provided in s. 775.082 or s. 775.083.

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

118 1. Coerce or attempt to coerce, as a precondition to
119 employment or otherwise, an employee to obtain a certificate of
120 election of exemption pursuant to s. 440.05.

121 2. Discharge or refuse to hire an employee or job
122 applicant because the employee or applicant has filed a claim
123 for benefits under this chapter.

124 3. Discharge, discipline, or take any other adverse
125 personnel action against any employee for disclosing information
126 to the department or any law enforcement agency relating to any
127 violation or suspected violation of any of the provisions of
128 this chapter or rules promulgated hereunder.

129 ~~4. Violate a stop work order issued by the department~~
130 ~~pursuant to s. 440.107.~~

131 (b) It shall be unlawful for any insurance entity to
132 revoke or cancel a workers' compensation insurance policy or
133 membership because an employer has returned an employee to work
134 or hired an employee who has filed a workers' compensation
135 claim.

136 (3) Whoever violates any provision of this subsection
137 commits a misdemeanor of the first degree, punishable as
138 provided in s. 775.082 or s. 775.083.

139 (a) It shall be unlawful for any employer to knowingly
140 fail to update applications for coverage as required by s.
141 440.381(1) and department rules within 7 days after the
142 reporting date for any change in the required information, or to
143 post notice of coverage pursuant to s. 440.40.

144 ~~(b) It shall be unlawful for any employer to knowingly~~
145 ~~participate in the creation of the employment relationship in~~
146 ~~which the employee has used any false, fraudulent, or misleading~~
147 ~~oral or written statement as evidence of identity.~~

148 (b)(e) It is unlawful for any attorney or other person, in
149 his or her individual capacity or in his or her capacity as a
150 public or private employee, or for any firm, corporation,
151 partnership, or association to receive any fee or other
152 consideration or any gratuity from a person on account of
153 services rendered for a person in connection with any
154 proceedings arising under this chapter, unless such fee,
155 consideration, or gratuity is approved by a judge of
156 compensation claims or by the Deputy Chief Judge of Compensation
157 Claims.

158 (4) Unless otherwise specifically provided, whoever
159 violates any provision of this subsection commits insurance
160 fraud, punishable as provided in paragraph (f).

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

162 1. Present or cause to be presented any false, fraudulent,
163 or misleading oral or written statement to any person as
164 evidence of compliance with s. 440.38.

165 2. Make a deduction from the pay of any employee entitled
166 to the benefits of this chapter for the purpose of requiring the

167 employee to pay any portion of premium paid by the employer to a
168 carrier or to contribute to a benefit fund or department
169 maintained by such employer for the purpose of providing
170 compensation or medical services and supplies as required by
171 this chapter.

172 3. Fail to secure workers' ~~payment~~ of compensation if
173 required to do so by this chapter.

174 a. However, if an employer knowingly fails to secure
175 workers' compensation coverage for an employee when required by
176 this chapter and such employee subsequently suffers a work-
177 related injury requiring medical treatment, the employer commits
178 a felony of the second degree, punishable as provided in s.
179 775.082, s. 775.083, or s. 775.084.

180 b. However, if an employer knowingly fails to secure
181 workers' compensation coverage for an employee when required by
182 this chapter and such employee subsequently suffers a work-
183 related death, the employer commits a felony of the first
184 degree, punishable as provided in s. 775.082, s. 775.083, or s.
185 775.084.

186 (b) It ~~is shall be~~ unlawful for any person:

187 1. To knowingly make, or cause to be made, any false,
188 fraudulent, or misleading oral or written statement for the
189 purpose of obtaining or denying any benefit or payment under
190 this chapter.

191 2. To present or cause to be presented any written or oral
192 statement as part of, or in support of, a claim for payment or
193 other benefit pursuant to any provision of this chapter, knowing
194 that such statement contains any false, incomplete, or

195 misleading information concerning any fact or thing material to
196 such claim.

197 3. To prepare or cause to be prepared any written or oral
198 statement that is intended to be presented to any employer,
199 insurance company, or self-insured program in connection with,
200 or in support of, any claim for payment or other benefit
201 pursuant to any provision of this chapter, knowing that such
202 statement contains any false, incomplete, or misleading
203 information concerning any fact or thing material to such claim.

204 4. To knowingly assist, conspire with, or urge any person
205 to engage in activity prohibited by this section.

206 5. To knowingly make any false, fraudulent, or misleading
207 oral or written statement, or to knowingly omit or conceal
208 material information, required by s. 440.185 or s. 440.381, for
209 the purpose of obtaining workers' compensation coverage or for
210 the purpose of avoiding, delaying, or diminishing the amount of
211 payment of any workers' compensation premiums.

212 6. To knowingly misrepresent or conceal payroll,
213 classification of workers, or information regarding an
214 employer's loss history which would be material to the
215 computation and application of an experience rating modification
216 factor for the purpose of avoiding or diminishing the amount of
217 payment of any workers' compensation premiums.

218 7. To knowingly present or cause to be presented any
219 false, fraudulent, or misleading oral or written statement to
220 any person as evidence of compliance with s. 440.38, as evidence
221 of eligibility for a certificate of exemption under s. 440.05.

222 8. To knowingly violate a stop-work order issued by the
 223 department pursuant to s. 440.107.

224 ~~9. To knowingly present or cause to be presented any~~
 225 ~~false, fraudulent, or misleading oral or written statement to~~
 226 ~~any person as evidence of identity for the purpose of obtaining~~
 227 ~~employment or filing or supporting a claim for workers'~~
 228 ~~compensation benefits.~~

229 (c) It shall be unlawful for any physician licensed under
 230 chapter 458, osteopathic physician licensed under chapter 459,
 231 chiropractic physician licensed under chapter 460, podiatric
 232 physician licensed under chapter 461, optometric physician
 233 licensed under chapter 463, or any other practitioner licensed
 234 under the laws of this state to knowingly and willfully assist,
 235 conspire with, or urge any person to fraudulently violate any of
 236 the provisions of this chapter.

237 (d) It shall be unlawful for any person or governmental
 238 entity licensed under chapter 395 to maintain or operate a
 239 hospital in such a manner so that such person or governmental
 240 entity knowingly and willfully allows the use of the facilities
 241 of such hospital by any person, in a scheme or conspiracy to
 242 fraudulently violate any of the provisions of this chapter.

243 (e) It shall be unlawful for any attorney or other person,
 244 in his or her individual capacity or in his or her capacity as a
 245 public or private employee, or any firm, corporation,
 246 partnership, or association, to knowingly assist, conspire with,
 247 or urge any person to fraudulently violate any of the provisions
 248 of this chapter.

249 (f) If the monetary value of any violation of this
 250 subsection:

251 1. Is less than \$20,000, the offender commits a felony of
 252 the third degree, punishable as provided in s. 775.082, s.
 253 775.083, or s. 775.084.

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

257 3. Is \$100,000 or more, the offender commits a felony of
 258 the first degree, punishable as provided in s. 775.082, s.
 259 775.083, or s. 775.084.

260 Section 3. Section 448.09, Florida Statutes, is amended to
 261 read:

262 448.09 Unauthorized aliens; employment prohibited.--

263 (1) It is ~~shall be~~ unlawful for any person knowingly to
 264 employ, hire, recruit, or refer, either for herself or himself
 265 or on behalf of another, for private or public employment within
 266 the state, an alien who is not duly authorized to work by the
 267 immigration laws or the Attorney General of the United States.

268 (2) It is unlawful to knowingly present or cause to be
 269 presented any false, fraudulent, or misleading oral or written
 270 statements to any person as evidence of identity for the purpose
 271 of obtaining employment. ~~The first violation of subsection (1)~~
 272 ~~shall be a noncriminal violation as defined in s. 775.08(3) and,~~
 273 ~~upon conviction, shall be punishable as provided in s.~~
 274 ~~775.082(5) by a civil fine of not more than \$500, regardless of~~
 275 ~~the number of aliens with respect to whom the violation~~
 276 ~~occurred.~~

277 (3) Any person who violates ~~has been previously convicted~~
278 ~~for a violation of~~ subsection (1) or subsection (2) is and who
279 ~~thereafter violates subsection (1), shall be~~ guilty of a
280 misdemeanor of the first ~~second~~ degree, punishable as provided
281 in s. 775.082 or s. 775.083. ~~Any such subsequent violation of~~
282 ~~this section shall constitute a separate offense with respect to~~
283 ~~each unauthorized alien.~~

284 Section 4. Section 624.15, Florida Statutes, is amended to
285 read:

286 624.15 General penalty.--

287 (1) Each willful violation of this code or rule of the
288 department, office, or commission as to which a greater penalty
289 is not provided by another provision of this code or rule of the
290 department, office, or commission or by other applicable laws of
291 this state is a misdemeanor of the second degree and is, in
292 addition to any prescribed applicable denial, suspension, or
293 revocation of certificate of authority, license, or permit,
294 punishable as provided in s. 775.082 or s. 775.083. Each
295 instance of such violation shall be considered a separate
296 offense.

297 (2) Each willful violation of an emergency rule or order
298 of the department, office, or commission by a person who is not
299 licensed, authorized, or eligible to engage in business in
300 accordance with the Florida Insurance Code is a felony of the
301 third degree, punishable as provided in s. 775.082, s. 775.083,
302 or s. 775.084. Each instance of such violation is a separate
303 offense. This subsection does not apply to licensees or
304 affiliated parties of licensees.

305 Section 5. Subsection (2) of section 624.155, Florida
 306 Statutes, is amended to read:

307 624.155 Civil remedy.--

308 (2) Any party may bring a civil action against any person
 309 acting as an ~~unauthorized~~ insurer without a certificate of
 310 authority if such party is damaged by a violation of s. 624.401
 311 by that person ~~the unauthorized insurer~~.

312 Section 6. Subsection (9) is added to section 626.112,
 313 Florida Statutes, to read:

314 626.112 License and appointment required; agents, customer
 315 representatives, adjusters, insurance agencies, service
 316 representatives, managing general agents.--

317 (9) Any person who transacts insurance or otherwise
 318 engages in insurance activities in this state without a license
 319 in violation of this section commits a felony of the third
 320 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 321 775.084.

322 Section 7. Paragraph (d) of subsection (4) of section
 323 626.901, Florida Statutes, is amended to read:

324 626.901 Representing or aiding unauthorized insurer
 325 prohibited.--

326 (4) This section does not apply to:

327 (d) Independently procured coverage written pursuant to s.
 328 626.938 which is not solicited, marketed, or sold within this
 329 state.

330 Section 8. Section 626.918, Florida Statutes, is amended
 331 to read:

332 626.918 Eligible surplus lines insurers.--

333 (1) A ~~No~~ surplus lines agent may not ~~shall~~ place any
334 coverage with any unauthorized insurer which is not then an
335 eligible surplus lines insurer, except as permitted under
336 subsections (6)~~(5)~~ and (7)~~(6)~~.

337 (2) An ~~No~~ unauthorized insurer may not ~~shall~~ be or become
338 an eligible surplus lines insurer unless made eligible by the
339 office in accordance with the following conditions:

340 (a) Eligibility of the insurer must be requested in
341 writing by the Florida Surplus Lines Service Office;

342 (b) The insurer must be currently an authorized insurer in
343 the state or country of its domicile as to the kind or kinds of
344 insurance proposed to be so placed and must have been such an
345 insurer for not less than the 3 years next preceding or must be
346 the wholly owned subsidiary of such authorized insurer or must
347 be the wholly owned subsidiary of an already eligible surplus
348 lines insurer as to the kind or kinds of insurance proposed for
349 a period of not less than the 3 years next preceding. However,
350 the office may waive the 3-year requirement if the insurer
351 provides a product or service not readily available to the
352 consumers of this state or has operated successfully for a
353 period of at least 1 year next preceding and has capital and
354 surplus of not less than \$25 million;

355 (c) Before granting eligibility, the requesting surplus
356 lines agent or the insurer shall furnish the office with a duly
357 authenticated copy of its current annual financial statement in
358 the English language and with all monetary values therein
359 expressed in United States dollars, at an exchange rate (in the
360 case of statements originally made in the currencies of other

361 countries) then-current and shown in the statement, and with
362 such additional information relative to the insurer as the
363 office may request;

364 (d)1. The insurer must have and maintain surplus as to
365 policyholders of not less than \$15 million; in addition, an
366 alien insurer must also have and maintain in the United States a
367 trust fund for the protection of all its policyholders in the
368 United States under terms deemed by the office to be reasonably
369 adequate, in an amount not less than \$5.4 million. Any such
370 surplus as to policyholders or trust fund shall be represented
371 by investments consisting of eligible investments for like funds
372 of like domestic insurers under part II of chapter 625 provided,
373 however, that in the case of an alien insurance company, any
374 such surplus as to policyholders may be represented by
375 investments permitted by the domestic regulator of such alien
376 insurance company if such investments are substantially similar
377 in terms of quality, liquidity, and security to eligible
378 investments for like funds of like domestic insurers under part
379 II of chapter 625. Clean, irrevocable, unconditional, and
380 evergreen letters of credit issued or confirmed by a qualified
381 United States financial institution, as defined in subsection
382 (3), may be used to fund the trust;

383 2. For those surplus lines insurers that were eligible on
384 January 1, 1994, and that maintained their eligibility
385 thereafter, the required surplus as to policyholders shall be:

386 a. On December 31, 1994, and until December 30, 1995, \$2.5
387 million.

388 b. On December 31, 1995, and until December 30, 1996, \$3.5
389 million.

390 c. On December 31, 1996, and until December 30, 1997, \$4.5
391 million.

392 d. On December 31, 1997, and until December 30, 1998, \$5.5
393 million.

394 e. On December 31, 1998, and until December 30, 1999, \$6.5
395 million.

396 f. On December 31, 1999, and until December 30, 2000, \$8
397 million.

398 g. On December 31, 2000, and until December 30, 2001, \$9.5
399 million.

400 h. On December 31, 2001, and until December 30, 2002, \$11
401 million.

402 i. On December 31, 2002, and until December 30, 2003, \$13
403 million.

404 j. On December 31, 2003, and thereafter, \$15 million.

405 3. The capital and surplus requirements as set forth in
406 subparagraph 2. do not apply in the case of an insurance
407 exchange created by the laws of individual states, where the
408 exchange maintains capital and surplus pursuant to the
409 requirements of that state, or maintains capital and surplus in
410 an amount not less than \$50 million in the aggregate. For an
411 insurance exchange which maintains funds in the amount of at
412 least \$12 million for the protection of all insurance exchange
413 policyholders, each individual syndicate shall maintain minimum
414 capital and surplus in an amount not less than \$3 million. If
415 the insurance exchange does not maintain funds in the amount of

416 at least \$12 million for the protection of all insurance
417 exchange policyholders, each individual syndicate shall meet the
418 minimum capital and surplus requirements set forth in
419 subparagraph 2.;

420 4. A surplus lines insurer which is a member of an
421 insurance holding company that includes a member which is a
422 Florida domestic insurer as set forth in its holding company
423 registration statement, as set forth in s. 628.801 and rules
424 adopted thereunder, may elect to maintain surplus as to
425 policyholders in an amount equal to the requirements of s.
426 624.408, subject to the requirement that the surplus lines
427 insurer shall at all times be in compliance with the
428 requirements of chapter 625.

429

430 The election shall be submitted to the office and shall be
431 effective upon the office's being satisfied that the
432 requirements of subparagraph 4. have been met. The initial date
433 of election shall be the date of office approval. The election
434 approval application shall be on a form adopted by commission
435 rule. The office may approve an election form submitted pursuant
436 to subparagraph 4. only if it was on file with the former
437 Department of Insurance before February 28, 1998;

438 (e) The insurer must be of good reputation as to the
439 providing of service to its policyholders and the payment of
440 losses and claims;

441 (f) The insurer must be eligible, as for authority to
442 transact insurance in this state, under s. 624.404(3); and

443 (g) This subsection does not apply as to unauthorized
444 insurers made eligible under s. 626.917 as to wet marine and
445 aviation risks.

446 (3) For purposes of subsection (2) relating to letters of
447 credit, the term "qualified United States financial institution"
448 means an institution that:

449 (a) Is organized or, in the case of a United States office
450 of a foreign banking organization, is licensed under the laws of
451 the United States or any state thereof.

452 (b) Is regulated, supervised, and examined by United
453 States or state authorities having regulatory authority over
454 banks and trust companies.

455 (c) Has been determined by the office or the Securities
456 Valuation Office of the National Association of Insurance
457 Commissioners to meet such standards of financial condition and
458 standing as are considered necessary and appropriate to regulate
459 the quality of financial institutions whose letters of credit
460 are acceptable to the office.

461 (4)-(3) The office shall from time to time publish a list
462 of all currently eligible surplus lines insurers and shall mail
463 a copy thereof to each licensed surplus lines agent at his or
464 her office of record with the office.

465 (5)-(4) This section shall not be deemed to cast upon the
466 office any duty or responsibility to determine the actual
467 financial condition or claims practices of any unauthorized
468 insurer; and the status of eligibility, if granted by the
469 office, shall indicate only that the insurer appears to be sound

470 financially and to have satisfactory claims practices and that
471 the office has no credible evidence to the contrary.

472 (6)~~(5)~~ When it appears that any particular insurance risk
473 which is eligible for export, but on which insurance coverage,
474 in whole or in part, is not procurable from the eligible surplus
475 lines insurers, after a search of eligible surplus lines
476 insurers, then the surplus lines agent may file a supplemental
477 signed statement setting forth such facts and advising the
478 office that such part of the risk as shall be unprocurable, as
479 aforesaid, is being placed with named unauthorized insurers, in
480 the amounts and percentages set forth in the statement. Such
481 named unauthorized insurer shall, however, before accepting any
482 risk in this state, deposit with the department cash or
483 securities acceptable to the office and department of the market
484 value of \$50,000 for each individual risk, contract, or
485 certificate, which deposit shall be held by the department for
486 the benefit of Florida policyholders only; and the surplus lines
487 agent shall procure from such unauthorized insurer and file with
488 the office a certified copy of its statement of condition as of
489 the close of the last calendar year. If such statement reveals,
490 including both capital and surplus, net assets of at least that
491 amount required for licensure of a domestic insurer, then the
492 surplus lines agent may proceed to consummate such contract of
493 insurance. Whenever any insurance risk, or any part thereof, is
494 placed with an unauthorized insurer, as provided herein, the
495 policy, binder, or cover note shall contain a statement signed
496 by the insured and the agent with the following notation: "The
497 insured is aware that certain insurers participating in this

498 risk have not been approved to transact business in Florida nor
 499 have they been declared eligible as surplus lines insurers by
 500 the Office of Insurance Regulation of Florida. The placing of
 501 such insurance by a duly licensed surplus lines agent in Florida
 502 shall not be construed as approval of such insurer by the Office
 503 of Insurance Regulation of Florida. Consequently, the insured is
 504 aware that the insured has severely limited the assistance
 505 available under the insurance laws of Florida. The insured is
 506 further aware that he or she may be charged a reasonable per
 507 policy fee, as provided in s. 626.916(4), Florida Statutes, for
 508 each policy certified for export." All other provisions of this
 509 code shall apply to such placement the same as if such risks
 510 were placed with an eligible surplus lines insurer.

511 (7)~~(6)~~ When any particular insurance risk subject to
 512 subsection (6)~~(5)~~ is eligible for placement with an unauthorized
 513 insurer and not more than 12.5 percent of the risk is so
 514 subject, the office may, at its discretion, permit the agent to
 515 obtain from the insured a signed statement as indicated in
 516 subsection (6)~~(5)~~. All other provisions of this code apply to
 517 such placement the same as if such risks were placed with an
 518 eligible surplus lines insurer.

519 Section 9. Subsections (1), (2), and (9) of section
 520 626.938, Florida Statutes, are amended to read:

521 626.938 Report and tax of independently procured
 522 coverages.--

523 (1) Every insured who in this state procures or causes to
 524 be procured or continues or renews insurance from another state
 525 or country with an unauthorized foreign or alien insurer

526 legitimately licensed in that jurisdiction, or any self-insurer
527 who in this state so procures or continues excess loss,
528 catastrophe, or other insurance, upon a subject of insurance
529 resident, located, or to be performed within this state, other
530 than insurance procured through a surplus lines agent pursuant
531 to the Surplus Lines Law of this state or exempted from tax
532 under s. 626.932(4), shall, within 30 days after the date such
533 insurance was so procured, continued, or renewed, file a report
534 of the same with the Florida Surplus Lines Service Office in
535 writing and upon forms designated by the Florida Surplus Lines
536 Service Office and furnished to such an insured upon request, or
537 in a computer readable format as determined by the Florida
538 Surplus Lines Service Office. The report shall show the name and
539 address of the insured or insureds, the name and address of the
540 insurer, the subject of the insurance, a general description of
541 the coverage, the amount of premium currently charged therefor,
542 and such additional pertinent information as is reasonably
543 requested by the Florida Surplus Lines Service Office.

544 (2) Any insurance on a risk located in this state in an
545 unauthorized insurer legitimately licensed in another state or
546 country procured through solicitations, negotiations, or an
547 application, ~~in whole or in part~~ occurring or made outside
548 ~~within or from within this state, or for which premiums in whole~~
549 ~~or in part are remitted directly or indirectly from within this~~
550 ~~state~~, shall be deemed to be insurance procured, continued, or
551 renewed ~~in this state~~ within the intent of subsection (1).

552 (9) This section does not authorize independent
553 procurement of workers' compensation insurance, apply as to life
554 insurance, or health insurance.

555 Section 10. Subsection (6) of section 626.989, Florida
556 Statutes, is amended to read:

557 626.989 Investigation by department or Division of
558 Insurance Fraud; compliance; immunity; confidential information;
559 reports to division; division investigator's power of arrest.--

560 (6) Any person, ~~other than an insurer, agent, or other~~
561 ~~person licensed under the code, or an employee thereof,~~ having
562 knowledge or who believes that a fraudulent insurance act or any
563 other act or practice which, upon conviction, constitutes a
564 felony or a misdemeanor under the code, or under s. 817.234, is
565 being or has been committed may send to the Division of
566 Insurance Fraud a report or information pertinent to such
567 knowledge or belief and such additional information relative
568 thereto as the department may request. However, any professional
569 practitioner licensed or regulated by the Department of Business
570 and Professional Regulation, except as otherwise provided by
571 law, any medical review committee as defined in s. 766.101, any
572 private medical review committee, any self-insured entity
573 contracting or associated with the National Insurance Crime
574 Bureau, and any insurer, agent, or other person licensed under
575 the code, or an employee thereof, having knowledge or who
576 believes that a fraudulent insurance act or any other act or
577 practice which, upon conviction, constitutes a felony or a
578 misdemeanor under the code, or under s. 817.234, is being or has
579 been committed shall send to the Division of Insurance Fraud a

580 report or information pertinent to such knowledge or belief and
581 such additional information relative thereto as the department
582 may require. The Division of Insurance Fraud shall review such
583 information or reports and select such information or reports
584 as, in its judgment, may require further investigation. It shall
585 then cause an independent examination of the facts surrounding
586 such information or report to be made to determine the extent,
587 if any, to which a fraudulent insurance act or any other act or
588 practice which, upon conviction, constitutes a felony or a
589 misdemeanor under the code, or under s. 817.234, is being
590 committed. The Division of Insurance Fraud shall report any
591 alleged violations of law which its investigations disclose to
592 the appropriate licensing agency and state attorney or other
593 prosecuting agency having jurisdiction with respect to any such
594 violation, as provided in s. 624.310. If prosecution by the
595 state attorney or other prosecuting agency having jurisdiction
596 with respect to such violation is not begun within 60 days of
597 the division's report, the state attorney or other prosecuting
598 agency having jurisdiction with respect to such violation shall
599 inform the division of the reasons for the lack of prosecution.
600 The division may adopt rules which set forth requirements for
601 the manner in which suspected fraudulent activity shall be
602 reported to the division through the use of a standard referral
603 form.

604 Section 11. Section 626.9893, Florida Statutes, is created
605 to read:

606 626.9893 Disposition of revenues; criminal or forfeiture
607 proceedings.--

608 (1) The Division of Insurance Fraud of the Department of
609 Financial Services may deposit revenues received as a result of
610 criminal proceedings or forfeiture proceedings, other than
611 revenues deposited into the Department of Financial Services'
612 Federal Equitable Sharing Trust Fund under s. 17.43, into the
613 Insurance Regulatory Trust Fund. Moneys deposited pursuant to
614 this section shall be separately accounted for and shall be used
615 solely for the division to carry out its duties and
616 responsibilities.

617 (2) Moneys deposited into the Insurance Regulatory Trust
618 Fund pursuant to this section shall be appropriated by the
619 Legislature, pursuant to the provisions of chapter 216, for the
620 sole purpose of enabling the division to carry out its duties
621 and responsibilities.

622 (3) Notwithstanding the provisions of s. 216.301 and
623 pursuant to s. 216.351, any balance of moneys deposited into the
624 Insurance Regulatory Trust Fund pursuant to this section
625 remaining at the end of any fiscal year shall remain in the
626 trust fund at the end of that year and shall be available for
627 carrying out the duties and responsibilities of the division.

628 Section 12. Paragraph (a) of subsection (7) and subsection
629 (9) of section 817.234, Florida Statutes, are amended to read:

630 817.234 False and fraudulent insurance claims.--

631 (7) (a) It shall constitute a material omission and
632 insurance fraud, punishable as provided in subsection (11), for
633 any service ~~physician or other~~ provider, other than a hospital,
634 to engage in a general business practice of billing amounts as
635 its usual and customary charge, if such provider has agreed with

636 the insured ~~patient~~ or intends to waive deductibles or
 637 copayments, or does not for any other reason intend to collect
 638 the total amount of such charge. With respect to a determination
 639 as to whether a service ~~physician or other~~ provider has engaged
 640 in such general business practice, consideration shall be given
 641 to evidence of whether the service ~~physician or other~~ provider
 642 made a good faith attempt to collect such deductible or
 643 copayment. This paragraph does not apply to physicians or other
 644 providers who waive deductibles or copayments or reduce their
 645 bills as part of a bodily injury settlement or verdict.

646 (9) A person may not organize, plan, or knowingly
 647 participate in an intentional motor vehicle crash or a scheme to
 648 create documentation of a motor vehicle crash that did not occur
 649 for the purpose of making motor vehicle tort claims or claims
 650 for personal injury protection benefits as required by s.
 651 627.736. Any person who violates this subsection commits a
 652 felony of the second degree, punishable as provided in s.
 653 775.082, s. 775.083, or s. 775.084. A person who is convicted of
 654 a violation of this subsection shall be sentenced to a minimum
 655 term of imprisonment of 2 years.

656 Section 13. Section 817.2361, Florida Statutes, is amended
 657 to read:

658 817.2361 False or fraudulent proof of motor vehicle
 659 insurance ~~card~~.--Any person who, with intent to deceive any
 660 other person, creates, markets, or presents a false or
 661 fraudulent proof of motor vehicle insurance ~~card~~ commits a
 662 felony of the third degree, punishable as provided in s.
 663 775.082, s. 775.083, or s. 775.084.

664 Section 14. Subsection (2) of section 817.50, Florida
 665 Statutes, is amended to read:

666 817.50 Fraudulently obtaining goods, services, etc., from
 667 a health care provider.--

668 (2) If any person gives to any health care provider in
 669 this state a false or fictitious name or a false or fictitious
 670 address or assigns to any health care provider the proceeds of
 671 any health maintenance contract or insurance contract, then
 672 knowing that such contract is no longer in force, is invalid, or
 673 is void for any reason, such action shall be prima facie
 674 evidence of the intent of such person to defraud the health care
 675 provider. However, this subsection does not apply to
 676 investigative actions taken by law enforcement officers for law
 677 enforcement purposes in the course of their official duties.

678 Section 15. Subsection (1) and paragraph (a) of subsection
 679 (2) of section 817.505, Florida Statutes, are amended to read:

680 817.505 Patient brokering prohibited; exceptions;
 681 penalties.--

682 (1) It is unlawful for any person, including any health
 683 care provider or health care facility, to:

684 (a) Offer or pay any commission, bonus, rebate, kickback,
 685 or bribe, directly or indirectly, in cash or in kind, or engage
 686 in any split-fee arrangement, in any form whatsoever, to induce
 687 the referral of patients or patronage to or from a health care
 688 provider or health care facility;

689 (b) Solicit or receive any commission, bonus, rebate,
 690 kickback, or bribe, directly or indirectly, in cash or in kind,
 691 or engage in any split-fee arrangement, in any form whatsoever,

692 | in return for referring patients or patronage to or from a
 693 | health care provider or health care facility; ~~or~~

694 | (c) Solicit or receive any commission, bonus, rebate,
 695 | kickback, or bribe, directly or indirectly, in cash or in kind,
 696 | or engage in any split-fee arrangement, in any form whatsoever,
 697 | in return for the acceptance or acknowledgement of treatment
 698 | from a health care provider or health care facility; or

699 | (d)~~(e)~~ Aid, abet, advise, or otherwise participate in the
 700 | conduct prohibited under paragraph (a), ~~or~~ paragraph (b), or
 701 | paragraph (c).

702 | (2) For the purposes of this section, the term:

703 | (a) "Health care provider or health care facility" means
 704 | any person or entity licensed, certified, or registered;
 705 | required to be licensed, certified, or registered; or lawfully
 706 | exempt from being required to be licensed, certified, or
 707 | registered with the Agency for Health Care Administration; any
 708 | person or entity that has contracted with the Agency for Health
 709 | Care Administration to provide goods or services to Medicaid
 710 | recipients as provided under s. 409.907; a county health
 711 | department established under part I of chapter 154; any
 712 | community service provider contracting with the Department of
 713 | Children and Family Services to furnish alcohol, drug abuse, or
 714 | mental health services under part IV of chapter 394; any
 715 | substance abuse service provider licensed under chapter 397; or
 716 | any federally supported primary care program such as a migrant
 717 | or community health center authorized under ss. 329 and 330 of
 718 | the United States Public Health Services Act.

719 Section 16. Section 843.08, Florida Statutes, is amended
720 to read:

721 843.08 Falsely personating officer, etc.--A person who
722 falsely assumes or pretends to be a sheriff, officer of the
723 Florida Highway Patrol, officer of the Fish and Wildlife
724 Conservation Commission, officer of the Department of
725 Environmental Protection, officer of the Department of
726 Transportation, officer of the Department of Financial Services,
727 officer of the Department of Corrections, correctional probation
728 officer, deputy sheriff, state attorney or assistant state
729 attorney, statewide prosecutor or assistant statewide
730 prosecutor, state attorney investigator, coroner, police
731 officer, lottery special agent or lottery investigator, beverage
732 enforcement agent, or watchman, or any member of the Parole
733 Commission and any administrative aide or supervisor employed by
734 the commission, or any personnel or representative of the
735 Department of Law Enforcement, and takes upon himself or herself
736 to act as such, or to require any other person to aid or assist
737 him or her in a matter pertaining to the duty of any such
738 officer, commits a felony of the third degree, punishable as
739 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
740 person who falsely personates any such officer during the course
741 of the commission of a felony commits a felony of the second
742 degree, punishable as provided in s. 775.082, s. 775.083, or s.
743 775.084; except that if the commission of the felony results in
744 the death or personal injury of another human being, the person
745 commits a felony of the first degree, punishable as provided in
746 s. 775.082, s. 775.083, or s. 775.084.

747 Section 17. Paragraph (m) is added to subsection (6) of
748 section 932.7055, Florida Statutes, to read:

749 932.7055 Disposition of liens and forfeited property.--

750 (6) If the seizing agency is a state agency, all remaining
751 proceeds shall be deposited into the General Revenue Fund.

752 However, if the seizing agency is:

753 (m) The Division of Insurance Fraud of the Department of
754 Financial Services, the proceeds accrued pursuant to the
755 provisions of the Florida Contraband Forfeiture Act shall be
756 deposited into Insurance Regulatory Trust Fund as provided in s.
757 626.9893 or into the Department of Financial Services' Federal
758 Equitable Sharing Trust Fund as provided in s. 17.43, as
759 applicable.

760 Section 18. If any provision of this act or the
761 application thereof to any person or circumstance is held
762 invalid, the invalidity does not affect other provisions or
763 applications of the act which can be given effect without the
764 invalid provision or application, and to this end, the
765 provisions of this act are declared severable.

766 Section 19. This act shall take effect July 1, 2005.