

1 A bill to be entitled
2 An act relating to insurance fraud; amending s. 322.21,
3 F.S.; requiring an additional fee for certain offenses for
4 purposes of reinstatement of a driver's license; amending
5 s. 322.26, F.S.; specifying additional circumstances for
6 mandatory revocation of a driver's license by the
7 Department of Highway Safety and Motor Vehicles; amending
8 s. 456.072, F.S.; specifying additional acts constituting
9 grounds for certain disciplinary actions against health
10 care professionals; amending s. 626.989, F.S.; authorizing
11 the Division of Insurance Fraud to adopt rules for
12 reporting suspected fraudulent activity; requiring the
13 division to develop and maintain a World Wide Web site for
14 certain purposes; creating s. 626.9893, F.S.; authorizing
15 the Division of Insurance Fraud to deposit certain
16 revenues from criminal or forfeiture proceedings into the
17 Insurance Regulatory Trust Fund; specifying accounting and
18 use requirements; providing for appropriation of such
19 revenues; providing for carrying forward moneys remaining
20 in the fund each year; amending s. 627.736, F.S.;
21 requiring insurers to provide a notice to insureds or
22 persons for whom certain reimbursement claims are filed;
23 specifying notice contents; amending s. 817.234, F.S.;
24 revising provisions specifying what constitutes a material
25 omission and insurance fraud; prohibiting organizing,
26 planning, or participating in a scheme to create
27 documentation of a nonoccurring motor vehicle crash;
28 providing penalties; amending s. 817.2361, F.S.; applying

29 a criminal penalty to activities relating to false or
 30 fraudulent proof of motor vehicle insurance; amending s.
 31 817.50, F.S.; specifying nonapplication to certain law
 32 enforcement investigative actions of provisions relating
 33 to evidence of intent to defraud a health care provider;
 34 amending s. 817.505, F.S.; specifying an additional
 35 circumstance of prohibited patient brokering, to which
 36 penalties apply; revising the definition of "health care
 37 provider or health care facility"; amending s. 843.08,
 38 F.S.; including officers of the Department of Financial
 39 Services among the list of personnel for which a criminal
 40 penalty is provided for falsely personating such
 41 personnel; amending s. 932.7055, F.S.; providing for
 42 deposit of certain proceeds seized by the division into
 43 certain trust funds; repealing s. 19, ch. 2003-411, Laws
 44 of Florida, relating to the future repeal of the Florida
 45 Motor Vehicle No-Fault Law; providing severability;
 46 providing appropriations for certain purposes; providing
 47 effective dates.

48

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

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51 Section 1. Subsection (8) of section 322.21, Florida
 52 Statutes, is amended to read:

53 322.21 License fees; procedure for handling and collecting
 54 fees.--

55 (8) Any person who applies for reinstatement following the
 56 suspension or revocation of the person's driver's license shall

57 | pay a service fee of \$35 following a suspension, and \$60
58 | following a revocation, which is in addition to the fee for a
59 | license. Any person who applies for reinstatement of a
60 | commercial driver's license following the disqualification of
61 | the person's privilege to operate a commercial motor vehicle
62 | shall pay a service fee of \$60, which is in addition to the fee
63 | for a license. The department shall collect all of these fees at
64 | the time of reinstatement. The department shall issue proper
65 | receipts for such fees and shall promptly transmit all funds
66 | received by it as follows:

67 | (a) Of the \$35 fee received from a licensee for
68 | reinstatement following a suspension, the department shall
69 | deposit \$15 in the General Revenue Fund and \$20 in the Highway
70 | Safety Operating Trust Fund.

71 | (b) Of the \$60 fee received from a licensee for
72 | reinstatement following a revocation or disqualification, the
73 | department shall deposit \$35 in the General Revenue Fund and \$25
74 | in the Highway Safety Operating Trust Fund.

75 |
76 | If the revocation or suspension of the driver's license was for
77 | a violation of s. 316.193, or for refusal to submit to a lawful
78 | breath, blood, or urine test, an additional fee of \$115 must be
79 | charged. However, only one \$115 fee may be collected from one
80 | person convicted of violations arising out of the same incident.
81 | The department shall collect the \$115 fee and deposit the fee
82 | into the Highway Safety Operating Trust Fund at the time of
83 | reinstatement of the person's driver's license, but the fee may
84 | not be collected if the suspension or revocation is overturned.

85 If the revocation or suspension of the driver's license was for
 86 a conviction for violation of s. 817.234(8)(b) or (c) or (9) or
 87 s. 817.505(1)(b)2. or (c), an additional fee of \$180 must be
 88 charged for each offense. The department shall collect and
 89 deposit the additional \$180 fee into the Highway Safety
 90 Operating Trust Fund at the time of reinstatement of the
 91 person's driver's license.

92 Section 2. Subsection (9) is added to section 322.26,
 93 Florida Statutes, to read:

94 322.26 Mandatory revocation of license by department.--The
 95 department shall forthwith revoke the license or driving
 96 privilege of any person upon receiving a record of such person's
 97 conviction of any of the following offenses:

98 (9) Conviction in any court having jurisdiction over
 99 offenses committed under s. 817.234(8)(b) or (c) or (9) or s.
 100 817.505(1)(b)2. or (c).

101 Section 3. Paragraphs (hh) and (ii) are added to
 102 subsection (1) of section 456.072, Florida Statutes, to read:

103 456.072 Grounds for discipline; penalties; enforcement.--

104 (1) The following acts shall constitute grounds for which
 105 the disciplinary actions specified in subsection (2) may be
 106 taken:

107 (hh) Paying or receiving any commission, bonus, kickback,
 108 or rebate or engaging in any split-fee arrangement, in any form
 109 whatsoever, with a physician, organization, agency, or person,
 110 directly or indirectly, for patients referred to providers of
 111 health care goods and services, including, but not limited to,
 112 hospitals, nursing homes, clinical laboratories, ambulatory

113 surgical centers, or pharmacies. The provisions of this
 114 paragraph shall not be construed to prevent a health care
 115 provider from receiving a fee for professional consultation
 116 services.

117 (ii) Submitting a claim for payment of diagnostic or
 118 treatment services of a person injured in an automobile crash
 119 when the licensee knows the automobile crash was staged or did
 120 not occur.

121 Section 4. Subsection (6) of section 626.989, Florida
 122 Statutes, is amended, and subsection (10) is added to that
 123 section, to read:

124 626.989 Investigation by department or Division of
 125 Insurance Fraud; compliance; immunity; confidential information;
 126 reports to division; division investigator's power of arrest.--

127 (6) Any person, other than an insurer, agent, or other
 128 person licensed under the code, or an employee thereof, having
 129 knowledge or who believes that a fraudulent insurance act or any
 130 other act or practice which, upon conviction, constitutes a
 131 felony or a misdemeanor under the code, or under s. 817.234, is
 132 being or has been committed may send to the Division of
 133 Insurance Fraud a report or information pertinent to such
 134 knowledge or belief and such additional information relative
 135 thereto as the department may request. Any professional
 136 practitioner licensed or regulated by the Department of Business
 137 and Professional Regulation, except as otherwise provided by
 138 law, any medical review committee as defined in s. 766.101, any
 139 private medical review committee, and any insurer, agent, or
 140 other person licensed under the code, or an employee thereof,

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141 having knowledge or who believes that a fraudulent insurance act
142 or any other act or practice which, upon conviction, constitutes
143 a felony or a misdemeanor under the code, or under s. 817.234,
144 is being or has been committed shall send to the Division of
145 Insurance Fraud a report or information pertinent to such
146 knowledge or belief and such additional information relative
147 thereto as the department may require. The Division of Insurance
148 Fraud shall review such information or reports and select such
149 information or reports as, in its judgment, may require further
150 investigation. It shall then cause an independent examination of
151 the facts surrounding such information or report to be made to
152 determine the extent, if any, to which a fraudulent insurance
153 act or any other act or practice which, upon conviction,
154 constitutes a felony or a misdemeanor under the code, or under
155 s. 817.234, is being committed. The Division of Insurance Fraud
156 shall report any alleged violations of law which its
157 investigations disclose to the appropriate licensing agency and
158 state attorney or other prosecuting agency having jurisdiction
159 with respect to any such violation, as provided in s. 624.310.
160 If prosecution by the state attorney or other prosecuting agency
161 having jurisdiction with respect to such violation is not begun
162 within 60 days of the division's report, the state attorney or
163 other prosecuting agency having jurisdiction with respect to
164 such violation shall inform the division of the reasons for the
165 lack of prosecution. The division may adopt rules that set forth
166 requirements for the manner in which suspected fraudulent
167 activity shall be reported to the division through the use of a
168 standard referral form.

169 (10) The Division of Insurance Fraud may develop and
 170 maintain a World Wide Web site page for the purpose of posting
 171 the identities and photographs of persons convicted of violating
 172 s. 817.234(9).

173 Section 5. Section 626.9893, Florida Statutes, is created
 174 to read:

175 626.9893 Disposition of revenues; criminal or forfeiture
 176 proceedings.--

177 (1) The Division of Insurance Fraud of the Department of
 178 Financial Services may deposit revenues received as a result of
 179 criminal proceedings or forfeiture proceedings, other than
 180 revenues deposited into the Department of Financial Services'
 181 Federal Equitable Sharing Trust Fund under s. 17.43, into the
 182 Insurance Regulatory Trust Fund. Moneys deposited pursuant to
 183 this subsection shall be separately accounted for and shall be
 184 used solely for the division to carry out its duties and
 185 responsibilities.

186 (2) Moneys deposited into the Insurance Regulatory Trust
 187 Fund pursuant to subsection (1) shall be appropriated by the
 188 Legislature, pursuant to the provisions of chapter 216, for the
 189 sole purpose of enabling the division to carry out its duties
 190 and responsibilities.

191 (3) Notwithstanding the provisions of s. 216.301 and
 192 pursuant to s. 216.351, any balance of moneys deposited into the
 193 Insurance Regulatory Trust Fund pursuant to subsection (1)
 194 remaining at the end of any fiscal year shall remain in the
 195 trust fund at the end of that year and shall be available for
 196 carrying out the duties and responsibilities of the Division of

197 Insurance Fraud.

198 Section 6. Subsection (14) is added to section 627.736,
 199 Florida Statutes, to read:

200 627.736 Required personal injury protection benefits;
 201 exclusions; priority; claims.--

202 (14) FRAUD ADVISORY NOTICE.--Upon receiving notice of a
 203 claim under this section, an insurer shall provide to the
 204 insured or to a person for whom a claim for reimbursement for
 205 diagnosis or treatment of injuries has been filed, a notice that
 206 shall advise that:

207 (a) Pursuant to s. 626.9892, the Department of Financial
 208 Services may pay rewards of up to \$25,000 to persons providing
 209 information leading to the arrest and conviction of persons
 210 committing crimes investigated by the Division of Insurance
 211 Fraud arising from violations of s. 440.105, s. 624.15, s.
 212 626.9541, s. 626.989, or s. 817.234.

213 (b) Solicitation of a person injured in an automobile
 214 crash to be treated or represented by a particular health care
 215 provider or attorney could be a violation of s. 817.234, s.
 216 817.505, or the rules regulating The Florida Bar and should
 217 immediately be reported to the department if illegal or
 218 unethical conduct is suspected.

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

221 817.234 False and fraudulent insurance claims.--

222 (7)(a) It shall constitute a material omission and
 223 insurance fraud, punishable as provided in subsection (11), for
 224 any service ~~physician or other~~ provider, other than a hospital,

225 to engage in a general business practice of billing amounts as
 226 its usual and customary charge, if such provider has agreed with
 227 the insured patient or intends to waive deductibles or
 228 copayments, or does not for any other reason intend to collect
 229 the total amount of such charge. With respect to a determination
 230 as to whether a service physician or other provider has engaged
 231 in such general business practice, consideration shall be given
 232 to evidence of whether the service physician or other provider
 233 made a good faith attempt to collect such deductible or
 234 copayment. This paragraph does not apply to service physicians
 235 ~~or other~~ providers who waive deductibles or copayments or reduce
 236 their bills as part of a bodily injury settlement or verdict.

237 (9) A person may not organize, plan, or knowingly
 238 participate in an intentional motor vehicle crash or a scheme to
 239 create documentation of a motor vehicle crash that did not occur
 240 for the purpose of making motor vehicle tort claims or claims
 241 for personal injury protection benefits as required by s.
 242 627.736. Any person who violates this subsection commits a
 243 felony of the second degree, punishable as provided in s.
 244 775.082, s. 775.083, or s. 775.084. A person who is convicted of
 245 a violation of this subsection shall be sentenced to a minimum
 246 term of imprisonment of 2 years.

247 Section 8. Section 817.2361, Florida Statutes, is amended
 248 to read:

249 817.2361 False or fraudulent proof of motor vehicle
 250 insurance ~~card~~.--Any person who, with intent to deceive any
 251 other person, creates, markets, or presents a false or
 252 fraudulent proof of motor vehicle insurance ~~card~~ commits a

253 felony of the third degree, punishable as provided in s.
 254 775.082, s. 775.083, or s. 775.084.

255 Section 9. Subsection (2) of section 817.50, Florida
 256 Statutes, is amended to read:

257 817.50 Fraudulently obtaining goods, services, etc., from
 258 a health care provider.--

259 (2) If any person gives to any health care provider in
 260 this state a false or fictitious name or a false or fictitious
 261 address or assigns to any health care provider the proceeds of
 262 any health maintenance contract or insurance contract, then
 263 knowing that such contract is no longer in force, is invalid, or
 264 is void for any reason, such action shall be prima facie
 265 evidence of the intent of such person to defraud the health care
 266 provider. However, this subsection does not apply to
 267 investigative actions taken by law enforcement officers for law
 268 enforcement purposes in the course of their official duties.

269 Section 10. Paragraph (b) of subsection (1) and paragraph
 270 (a) of subsection (2) of section 817.505, Florida Statutes, are
 271 amended to read:

272 817.505 Patient brokering prohibited; exceptions;
 273 penalties.--

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

276 (b) Solicit or receive any commission, bonus, rebate,
 277 kickback, or bribe, directly or indirectly, in cash or in kind,
 278 or engage in any split-fee arrangement, in any form whatsoever,
 279 in return for:

280 1. Referring patients or patronage to a health care
 281 provider or health care facility; or
 282 2. Signing a disclosure and acknowledgment form or a
 283 patient log required by s. 627.736(5) when such medical
 284 treatment is intentionally not provided; or
 285 (2) For the purposes of this section, the term:
 286 (a) "Health care provider or health care facility" means
 287 any person or entity licensed, certified, or registered, or
 288 required to be licensed, certified, or registered, under part I,
 289 part II, part III, or part IV of chapter 395, part XIII of
 290 chapter 400, chapter 457, chapter 458, chapter 459, chapter 460,
 291 chapter 461, chapter 462, chapter 463, chapter 464, chapter 465,
 292 chapter 466, chapter 467, part I, part II, part III, part IV,
 293 part X, part XIII, or part XIV of chapter 468, chapter 480,
 294 chapter 484, chapter 486, chapter 490, or chapter 491, or
 295 lawfully exempt from such licensure, certification, or
 296 registration with the Agency for Health Care Administration; any
 297 person or entity that has contracted with the Agency for Health
 298 Care Administration to provide goods or services to Medicaid
 299 recipients as provided under s. 409.907; a county health
 300 department established under part I of chapter 154; any
 301 community service provider contracting with the Department of
 302 Children and Family Services to furnish alcohol, drug abuse, or
 303 mental health services under part IV of chapter 394; any
 304 substance abuse service provider licensed under chapter 397; or
 305 any federally supported primary care program such as a migrant
 306 or community health center authorized under ss. 329 and 330 of
 307 the United States Public Health Services Act.

CODING: Words **stricken** are deletions; words **underlined** are additions.

308 Section 11. Section 843.08, Florida Statutes, is amended
309 to read:

310 843.08 Falsely personating officer, etc.--A person who
311 falsely assumes or pretends to be a sheriff, officer of the
312 Florida Highway Patrol, officer of the Fish and Wildlife
313 Conservation Commission, officer of the Department of
314 Environmental Protection, officer of the Department of
315 Transportation, officer of the Department of Corrections,
316 officer of the Department of Financial Services, correctional
317 probation officer, deputy sheriff, state attorney or assistant
318 state attorney, statewide prosecutor or assistant statewide
319 prosecutor, state attorney investigator, coroner, police
320 officer, lottery special agent or lottery investigator, beverage
321 enforcement agent, or watchman, or any member of the Parole
322 Commission and any administrative aide or supervisor employed by
323 the commission, or any personnel or representative of the
324 Department of Law Enforcement, and takes upon himself or herself
325 to act as such, or to require any other person to aid or assist
326 him or her in a matter pertaining to the duty of any such
327 officer, commits a felony of the third degree, punishable as
328 provided in s. 775.082, s. 775.083, or s. 775.084; however, a
329 person who falsely personates any such officer during the course
330 of the commission of a felony commits a felony of the second
331 degree, punishable as provided in s. 775.082, s. 775.083, or s.
332 775.084; except that if the commission of the felony results in
333 the death or personal injury of another human being, the person
334 commits a felony of the first degree, punishable as provided in
335 s. 775.082, s. 775.083, or s. 775.084.

336 Section 12. Paragraph (n) is added to subsection (6) of
 337 section 932.7055, Florida Statutes, to read:

338 932.7055 Disposition of liens and forfeited property.--

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

341 However, if the seizing agency is:

342 (n) The Division of Insurance Fraud of the Department of
 343 Financial Services, the proceeds accrued under the Florida
 344 Contraband Forfeiture Act shall be deposited into the Insurance
 345 Regulatory Trust Fund as provided in s. 626.9893 or into the
 346 Department of Financial Services' Federal Equitable Sharing
 347 Trust Fund as provided in s. 17.43, as applicable.

348 Section 13. Effective upon this act becoming a law,
 349 section 19 of chapter 2003-411, Laws of Florida, is repealed.

350 Section 14. If any provision of this act or its
 351 application to any person or circumstance is held invalid, the
 352 invalidity does not affect other provisions or applications of
 353 the act which can be given effect without the invalid provision
 354 or application, and to this end the provisions of this act are
 355 declared severable.

356 Section 15. For the 2006-2007 fiscal year:

357 (1) The sum of \$1,670,000 in recurring funds is
 358 appropriated from the Insurance Regulatory Trust Fund, and nine
 359 new positions are authorized to the Division of Insurance Fraud
 360 within the Department of Financial Services. The purposes of
 361 this appropriation are to administer and implement the
 362 provisions of s. 626.989, Florida Statutes, establish a new
 363 fraud unit in the Division of Insurance Fraud of the Department

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364 of Financial Services, and provide an approximate \$10,000 salary
365 increase for each of the 122 existing sworn fraud law
366 enforcement investigators within the Division of Insurance Fraud
367 to achieve relative parity with investigators who have similar
368 responsibilities at other state law enforcement agencies. The
369 Legislature recognizes and finds that without such an increase,
370 the Division of Insurance Fraud will continue to have difficulty
371 recruiting, training, and retaining qualified and experienced
372 fraud investigators.

373 (2) The sum of \$750,000 in recurring funds is appropriated
374 to the state attorneys' offices in the six judicial circuits
375 comprising Broward, Palm Beach, Hillsborough, Pinellas/Pasco,
376 Duval, and Orange Counties. The purpose of this appropriation is
377 to establish and fund six new prosecutors dedicated to insurance
378 fraud cases.

379 Section 16. Except as otherwise expressly provided in this
380 act, this act shall take effect July 1, 2006.