

1 A bill to be entitled

2 An act relating to motor vehicle insurance; amending s.  
3 316.646, F.S.; requiring each person operating a motor  
4 vehicle to have in his or her possession proof of property  
5 damage liability coverage; conforming a cross-reference to  
6 changes made by the act; amending s. 320.02, F.S.;  
7 clarifying the requirements concerning insurance and  
8 liability coverage for certain motor vehicles registered  
9 in this state; amending s. 321.245, F.S., relating to the  
10 disposition of certain funds in the Highway Safety  
11 Operating Trust Fund; conforming a cross-reference;  
12 amending s. 324.022, F.S.; revising provisions requiring  
13 the owner or operator of a motor vehicle to maintain  
14 property damage liability coverage; specifying the  
15 requirements that apply to such a policy; providing  
16 definitions; requiring that a nonresident owner or  
17 registrant of a motor vehicle maintain property damage  
18 liability coverage if the motor vehicle is in the state  
19 longer than a specified period; providing an exception for  
20 a member of the United States Armed Forces who is on  
21 active duty outside the United States; creating s.  
22 324.0221, F.S.; requiring insurers to report to the  
23 Department of Highway Safety and Motor Vehicles the  
24 renewal, cancellation, or nonrenewal of a policy providing  
25 personal injury protection coverage or motor vehicle  
26 property damage liability coverage; authorizing the  
27 department to adopt rules for the reports; providing that  
28 failure to report as required is a violation of the

29 Florida Insurance Code; requiring that an insurer notify  
30 the named insured that a cancelled or nonrenewed policy  
31 will be reported to the department; requiring that the  
32 department suspend the registration and driver's license  
33 of an owner or registrant of a motor vehicle who fails to  
34 maintain the required liability coverage; providing for  
35 the reinstatement of a registration or driver's license  
36 upon payment of certain fees; requiring that a person  
37 obtain noncancelable coverage following such  
38 reinstatement; providing for the deposit and use of  
39 reinstatement fees; amending ss. 627.7275 and 627.7295,  
40 F.S., relating to motor vehicle insurance policies and  
41 contracts; conforming provisions to changes made by the  
42 act; reviving and reenacting ss. 627.730, 627.731,  
43 627.732, 627.734, 627.737, 627.739, 627.7401, 627.7403,  
44 and 627.7405, F.S., and reviving, reenacting, and amending  
45 ss. 627.733 and 627.736, the Florida Motor Vehicle No-  
46 Fault Law, notwithstanding the repeal of such law provided  
47 in s. 19, chapter 2003-411, Laws of Florida; deleting  
48 certain provisions relating to the suspension and  
49 reinstatement of a driver's license and registration and  
50 notice to the Department of Highway Safety and Motor  
51 Vehicles; conforming provisions to changes made by the  
52 act; providing legislative intent with respect to the  
53 reenactment and codification of the Florida Motor Vehicle  
54 No-Fault Law, notwithstanding its prior repeal; amending  
55 s. 627.736, F.S., as reenacted and amended; revising  
56 provisions governing the medical benefits provided as

57 required personal injury protection benefits; providing  
58 medical benefits for services and care ordered or  
59 prescribed by a physician or provided by certain persons  
60 or entities that meet certain requirements; requiring the  
61 Financial services Commission to adopt rules; revising a  
62 limitation on the amount of death benefits payable;  
63 requiring personal injury protection insurers to reserve  
64 benefits for certain providers for a specified period;  
65 tolling the time period for the insurer to pay claims from  
66 other providers; authorizing an insurer to limit  
67 reimbursement for personal injury protection benefits to a  
68 specified percentage of a schedule of maximum charges;  
69 prohibiting provider from billing or attempting to collect  
70 amounts in excess of such limits, except for amounts that  
71 are not covered by personal injury protection coverage;  
72 deleting provisions specifying allowable amounts for  
73 certain tests and services; providing for electronic  
74 transmission of certain statements; extending the period  
75 during which an insurer may pay an overdue claim following  
76 receipt of a demand letter without incurring a penalty;  
77 providing for penalties to be imposed against certain  
78 insurers for failing to pay claims for personal injury  
79 protection; authorizing the Department of Legal Affairs to  
80 investigate violations and initiate enforcement action;  
81 requiring that all claims related to the same health care  
82 provider for the same injured person be brought in one act  
83 unless good cause is shown; requiring that the  
84 transmission of electronic notices and communications

85 required or authorized under the Florida Motor Vehicle No-  
86 Fault Law be consistent with state and federal privacy and  
87 security laws; amending s. 627.739, F.S., as reenacted;  
88 deleting provisions authorizing an insurer to offer  
89 certain deductibles with respect to a policy of personal  
90 injury protection; providing legislative intent concerning  
91 the application of the act; requiring insurers to deliver  
92 revised notices of premium and policy changes to certain  
93 policyholders; requiring an insurer to cancel the policy  
94 and return any unearned premium if the insured fails to  
95 timely respond to the notice; providing for calculating  
96 the amount of unearned premium; requiring that insurers  
97 continue to use certain forms and rates until a specified  
98 date unless the Office of Insurance Regulation approves  
99 new forms or rates or are otherwise legally allowed;  
100 providing that a person purchasing a motor vehicle  
101 insurance policy without personal injury protection  
102 coverage is exempt from the requirement for such coverage  
103 and is not subject to certain liability provisions for a  
104 specified period; requiring that insurers provide notice  
105 of the requirement for personal injury protection coverage  
106 or add an endorsement to the policy providing such  
107 coverage; providing effective dates.

108  
109 Be It Enacted by the Legislature of the State of Florida:

110  
111 Section 1. Subsections (1) and (3) of section 316.646,  
112 Florida Statutes, are amended to read:

113           316.646 Security required; proof of security and display  
 114 thereof; dismissal of cases.--

115           (1) Any person required by s. 324.022 to maintain property  
 116 damage liability security, required by s. 324.023 to maintain  
 117 liability security for bodily injury or death, ~~or any person~~  
 118 required by s. 627.733 to maintain personal injury protection  
 119 security on a motor vehicle shall have in his or her immediate  
 120 possession at all times while operating such motor vehicle  
 121 proper proof of maintenance of the required security. Such proof  
 122 shall be ~~either~~ a uniform proof-of-insurance card in a form  
 123 prescribed by the department, a valid insurance policy, an  
 124 insurance policy binder, a certificate of insurance, or such  
 125 other proof as may be prescribed by the department.

126           (3) Any person who violates this section commits a  
 127 nonmoving traffic infraction subject to the penalty provided in  
 128 chapter 318 and shall be required to furnish proof of security  
 129 as provided in this section. If any person charged with a  
 130 violation of this section fails to furnish proof, at or before  
 131 the scheduled court appearance date, that security was in effect  
 132 at the time of the violation, the court may immediately suspend  
 133 the registration and driver's license of such person. Such  
 134 license and registration may ~~only~~ be reinstated only as provided  
 135 in s. 324.0221 ~~627.733~~.

136           Section 2. Paragraphs (a) and (d) of subsection (5) of  
 137 section 320.02, Florida Statutes, are amended to read:

138           320.02 Registration required; application for  
 139 registration; forms.--

140           (5) (a) Proof that personal injury protection benefits have

141 | been purchased when required under s. 627.733, that property  
 142 | damage liability coverage has been purchased as required under  
 143 | s. 324.022, that bodily injury or death coverage has been  
 144 | purchased if required under s. 324.023, and that combined bodily  
 145 | liability insurance and property damage liability insurance have  
 146 | been purchased when required under s. 627.7415 shall be provided  
 147 | in the manner prescribed by law by the applicant at the time of  
 148 | application for registration of any motor vehicle that is  
 149 | subject to such requirements ~~owned as defined in s. 627.732~~. The  
 150 | issuing agent shall refuse to issue registration if such proof  
 151 | of purchase is not provided. Insurers shall furnish uniform  
 152 | proof-of-purchase cards in a form prescribed by the department  
 153 | and shall include the name of the insured's insurance company,  
 154 | the coverage identification number, and the make, year, and  
 155 | vehicle identification number of the vehicle insured. The card  
 156 | shall contain a statement notifying the applicant of the penalty  
 157 | specified in s. 316.646(4). The card or insurance policy,  
 158 | insurance policy binder, or certificate of insurance or a  
 159 | photocopy of any of these; an affidavit containing the name of  
 160 | the insured's insurance company, the insured's policy number,  
 161 | and the make and year of the vehicle insured; or such other  
 162 | proof as may be prescribed by the department shall constitute  
 163 | sufficient proof of purchase. If an affidavit is provided as  
 164 | proof, it shall be in substantially the following form:

165 |  
 166 | Under penalty of perjury, I (Name of insured) do hereby  
 167 | certify that I have (Personal Injury Protection, Property  
 168 | Damage Liability, and, when required, Bodily Injury Liability)

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169 Insurance currently in effect with (Name of insurance company)  
 170 under (policy number) covering (make, year, and vehicle  
 171 identification number of vehicle) . (Signature of Insured)  
 172

173 Such affidavit shall include the following warning:  
 174

175 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE  
 176 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA  
 177 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS  
 178 SUBJECT TO PROSECUTION.  
 179

180 When an application is made through a licensed motor vehicle  
 181 dealer as required in s. 319.23, the original or a photostatic  
 182 copy of such card, insurance policy, insurance policy binder, or  
 183 certificate of insurance or the original affidavit from the  
 184 insured shall be forwarded by the dealer to the tax collector of  
 185 the county or the Department of Highway Safety and Motor  
 186 Vehicles for processing. By executing the aforesaid affidavit,  
 187 no licensed motor vehicle dealer will be liable in damages for  
 188 any inadequacy, insufficiency, or falsification of any statement  
 189 contained therein. A card shall also indicate the existence of  
 190 any bodily injury liability insurance voluntarily purchased.

191 (d) The verifying of proof of personal injury protection  
 192 insurance, proof of property damage liability insurance, proof  
 193 of combined bodily liability insurance and property damage  
 194 liability insurance, or proof of financial responsibility  
 195 insurance and the issuance or failure to issue the motor vehicle  
 196 registration under the provisions of this chapter may not be

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197 construed in any court as a warranty of the reliability or  
 198 accuracy of the evidence of such proof. Neither the department  
 199 nor any tax collector is liable in damages for any inadequacy,  
 200 insufficiency, falsification, or unauthorized modification of  
 201 any item of the proof of personal injury protection insurance,  
 202 proof of property damage liability insurance, proof of combined  
 203 bodily liability insurance and property damage liability  
 204 insurance, or proof of financial responsibility insurance ~~either~~  
 205 prior to, during, or subsequent to the verification of the  
 206 proof. The issuance of a motor vehicle registration does not  
 207 constitute prima facie evidence or a presumption of insurance  
 208 coverage.

209 Section 3. Section 321.245, Florida Statutes, is amended  
 210 to read:

211 321.245 Disposition of certain funds in the Highway Safety  
 212 Operating Trust Fund.--The director of the Florida Highway  
 213 Patrol, after receiving recommendations from the commander of  
 214 the auxiliary, is authorized to purchase uniforms and equipment  
 215 for auxiliary law enforcement officers as defined in s. 321.24  
 216 from funds described in s. 324.0221(3) ~~627.733(7)~~. The amounts  
 217 expended under this section shall not exceed \$50,000 in any one  
 218 fiscal year.

219 Section 4. Section 324.022, Florida Statutes, is amended  
 220 to read:

221 324.022 Financial responsibility for property damage.--

222 (1) Every owner or operator of a motor vehicle, ~~which~~  
 223 ~~motor vehicle is subject to the requirements of ss. 627.730-~~  
 224 ~~627.7405 and~~ required to be registered in this state, shall, ~~by~~



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225 ~~one of the methods established in s. 324.031 or by having a~~  
226 ~~policy that complies with s. 627.7275,~~ establish and maintain  
227 the ability to respond in damages for liability on account of  
228 accidents arising out of the use of the motor vehicle in the  
229 amount of \$10,000 because of damage to, or destruction of,  
230 property of others in any one crash. The requirements of this  
231 section may be met by one of the methods established in s.  
232 324.031; by self-insuring as authorized by s. 768.28(16); or by  
233 maintaining an insurance policy providing coverage for property  
234 damage liability in the amount of at least \$10,000 because of  
235 damage to, or destruction of, property of others in any one  
236 accident arising out of the use of the motor vehicle. The  
237 requirements of this section may also be met by having a policy  
238 which provides coverage in the amount of at least \$30,000 for  
239 combined property damage liability and bodily injury liability  
240 for any one crash arising out of the use of the motor vehicle.  
241 The policy, with respect to coverage for property damage  
242 liability, must meet the applicable requirements of s. 324.151,  
243 subject to the usual policy exclusions that have been approved  
244 in policy forms by the Office of Insurance Regulation. No  
245 insurer shall have any duty to defend uncovered claims  
246 irrespective of their joinder with covered claims.

247 (2) As used in this section, the term:

248 (a) "Motor vehicle" means any self-propelled vehicle that  
249 has four or more wheels and that is of a type designed and  
250 required to be licensed for use on the highways of this state,  
251 and any trailer or semitrailer designed for use with such  
252 vehicle. The term does not include:

253 1. A mobile home.

254 2. A motor vehicle that is used in mass transit and  
255 designed to transport more than five passengers, exclusive of  
256 the operator of the motor vehicle, and that is owned by a  
257 municipality, transit authority, or political subdivision of the  
258 state.

259 3. A school bus as defined in s. 1006.25.

260 4. A vehicle providing for-hire transportation that is  
261 subject to the provisions of s. 324.031. A taxicab shall  
262 maintain security as required under s. 324.032(1).

263 (b) "Owner" means the person who holds legal title to a  
264 motor vehicle or the debtor or lessee who has the right to  
265 possession of a motor vehicle that is the subject of a security  
266 agreement or lease with an option to purchase.

267 (3) Each nonresident owner or registrant of a motor  
268 vehicle that, whether operated or not, has been physically  
269 present within this state for more than 90 days during the  
270 preceding 365 days shall maintain security as required by  
271 subsection (1) that is in effect continuously throughout the  
272 period the motor vehicle remains within this state.

273 (4) The owner or registrant of a motor vehicle is exempt  
274 from the requirements of this section if she or he is a member  
275 of the United States Armed Forces and is called to or on active  
276 duty outside the United States in an emergency situation. The  
277 exemption provided by this subsection applies only as long as  
278 the member of the Armed Forces is on such active duty outside  
279 the United States and applies only while the vehicle is not  
280 operated by any person. Upon receipt of a written request by the

281 insured to whom the exemption provided in this subsection  
 282 applies, the insurer shall cancel the coverages and return any  
 283 unearned premium or suspend the security required by this  
 284 section. Notwithstanding s. 324.0221(3), the department may not  
 285 suspend the registration or operator's license of any owner or  
 286 registrant of a motor vehicle during the time she or he  
 287 qualifies for an exemption under this subsection. Any owner or  
 288 registrant of a motor vehicle who qualifies for an exemption  
 289 under this subsection shall immediately notify the department  
 290 prior to and at the end of the expiration of the exemption.

291 Section 5. Section 324.0221, Florida Statutes, is created  
 292 to read:

293 324.0221 Reports by insurers to the department; suspension  
 294 of driver's license and vehicle registrations; reinstatement.--

295 (1) (a) Each insurer that has issued a policy providing  
 296 personal injury protection coverage or property damage liability  
 297 coverage shall report the renewal, cancellation, or nonrenewal  
 298 thereof to the department within 45 days after the effective  
 299 date of each renewal, cancellation, or nonrenewal. Upon the  
 300 issuance of a policy providing personal injury protection  
 301 coverage or property damage liability coverage to a named  
 302 insured not previously insured by the insurer during that  
 303 calendar year, the insurer shall report the issuance of the new  
 304 policy to the department within 30 days. The report shall be in  
 305 the form and format and contain any information required by the  
 306 department and must be provided in a format that is compatible  
 307 with the data-processing capabilities of the department. The  
 308 department may adopt rules regarding the form and documentation

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309 required. Failure by an insurer to file proper reports with the  
310 department as required by this subsection or rules adopted with  
311 respect to the requirements of this subsection constitutes a  
312 violation of the Florida Insurance Code. These records shall be  
313 used by the department only for enforcement and regulatory  
314 purposes, including the generation by the department of data  
315 regarding compliance by owners of motor vehicles with the  
316 requirements for financial responsibility coverage.

317 (b) With respect to an insurance policy providing personal  
318 injury protection coverage or property damage liability  
319 coverage, each insurer shall notify the named insured, or the  
320 first-named insured in the case of a commercial fleet policy, in  
321 writing that any cancellation or nonrenewal of the policy will  
322 be reported by the insurer to the department. The notice must  
323 also inform the named insured that failure to maintain personal  
324 injury protection coverage and property damage liability  
325 coverage on a motor vehicle when required by law may result in  
326 the loss of registration and driving privileges in this state  
327 and inform the named insured of the amount of the reinstatement  
328 fees required by this section. This notice is for informational  
329 purposes only, and an insurer is not civilly liable for failing  
330 to provide this notice.

331 (2) The department shall suspend, after due notice and an  
332 opportunity to be heard, the registration and driver's license  
333 of any owner or registrant of a motor vehicle with respect to  
334 which security is required under ss. 324.022 and 627.733 upon:

335 (a) The department's records showing that the owner or  
336 registrant of such motor vehicle did not have in full force and

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337 effect when required security that complies with the  
338 requirements of ss. 324.022 and 627.733; or  
339 (b) Notification by the insurer to the department, in a  
340 form approved by the department, of cancellation or termination  
341 of the required security.  
342 (3) An operator or owner whose driver's license or  
343 registration has been suspended under this section or s. 316.646  
344 may effect its reinstatement upon compliance with the  
345 requirements of this section and upon payment to the department  
346 of a nonrefundable reinstatement fee of \$150 for the first  
347 reinstatement. The reinstatement fee is \$250 for the second  
348 reinstatement and \$500 for each subsequent reinstatement during  
349 the 3 years following the first reinstatement. A person  
350 reinstating her or his insurance under this subsection must also  
351 secure noncancelable coverage as described in ss. 324.021(8),  
352 324.023, and 627.7275(2) and present to the appropriate person  
353 proof that the coverage is in force on a form adopted by the  
354 department, and such proof shall be maintained for 2 years. If  
355 the person does not have a second reinstatement within 3 years  
356 after her or his initial reinstatement, the reinstatement fee is  
357 \$150 for the first reinstatement after that 3-year period. If a  
358 person's license and registration are suspended under this  
359 section or s. 316.646, only one reinstatement fee must be paid  
360 to reinstate the license and the registration. All fees shall be  
361 collected by the department at the time of reinstatement. The  
362 department shall issue proper receipts for such fees and shall  
363 promptly deposit those fees in the Highway Safety Operating  
364 Trust Fund. One-third of the fees collected under this

365 subsection shall be distributed from the Highway Safety  
 366 Operating Trust Fund to the local governmental entity or state  
 367 agency that employed the law enforcement officer seizing the  
 368 license plate pursuant to s. 324.201. The funds may be used by  
 369 the local governmental entity or state agency for any authorized  
 370 purpose.

371 Section 6. Section 627.7275, Florida Statutes, is amended  
 372 to read:

373 627.7275 Motor vehicle liability.--

374 (1) A motor vehicle insurance policy providing personal  
 375 injury protection as set forth in s. 627.736 may not be  
 376 delivered or issued for delivery in this state with respect to  
 377 any specifically insured or identified motor vehicle registered  
 378 or principally garaged in this state unless the policy also  
 379 provides coverage for property damage liability as required by  
 380 s. 324.022 ~~in the amount of at least \$10,000 because of damage~~  
 381 ~~to, or destruction of, property of others in any one accident~~  
 382 ~~arising out of the use of the motor vehicle or unless the policy~~  
 383 ~~provides coverage in the amount of at least \$30,000 for combined~~  
 384 ~~property damage liability and bodily injury liability in any one~~  
 385 ~~accident arising out of the use of the motor vehicle. The~~  
 386 ~~policy, as to coverage of property damage liability, must meet~~  
 387 ~~the applicable requirements of s. 324.151, subject to the usual~~  
 388 ~~policy exclusions that have been approved in policy forms by the~~  
 389 ~~office.~~

390 (2) (a) Insurers writing motor vehicle insurance in this  
 391 state shall make available, subject to the insurers' usual  
 392 underwriting restrictions:

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393 1. Coverage under policies as described in subsection (1)  
394 to any applicant for private passenger motor vehicle insurance  
395 coverage who is seeking the coverage in order to reinstate the  
396 applicant's driving privileges in this state when the driving  
397 privileges were revoked or suspended pursuant to s. 316.646 or  
398 s. 324.0221 ~~627.733~~ due to the failure of the applicant to  
399 maintain required security.

400 2. Coverage under policies as described in subsection (1),  
401 which also provides liability coverage for bodily injury, death,  
402 and property damage arising out of the ownership, maintenance,  
403 or use of the motor vehicle in an amount not less than the  
404 limits described in s. 324.021(7) and conforms to the  
405 requirements of s. 324.151, to any applicant for private  
406 passenger motor vehicle insurance coverage who is seeking the  
407 coverage in order to reinstate the applicant's driving  
408 privileges in this state after such privileges were revoked or  
409 suspended under s. 316.193 or s. 322.26(2) for driving under the  
410 influence.

411 (b) The policies described in paragraph (a) shall be  
412 issued for a period of at least 6 months and as to the minimum  
413 coverages required under this section shall not be cancelable by  
414 the insured for any reason or by the insurer after a period not  
415 to exceed 30 days during which the insurer must complete  
416 underwriting of the policy. After the insurer has completed  
417 underwriting the policy within the 30-day period, the insurer  
418 shall notify the Department of Highway Safety and Motor Vehicles  
419 that the policy is in full force and effect and the policy shall  
420 not be cancelable for the remainder of the policy period. A

421 premium shall be collected and coverage shall be in effect for  
422 the 30-day period during which the insurer is completing the  
423 underwriting of the policy whether or not the person's driver  
424 license, motor vehicle tag, and motor vehicle registration are  
425 in effect. Once the noncancelable provisions of the policy  
426 become effective, the coverage or risk shall not be changed  
427 during the policy period and the premium shall be nonrefundable.  
428 If, during the pendency of the 2-year proof of insurance period  
429 required under s. 324.0221 ~~627.733(7)~~ or during the 3-year proof  
430 of financial responsibility required under s. 324.131, whichever  
431 is applicable, the insured obtains additional coverage or  
432 coverage for an additional risk or changes territories, the  
433 insured must obtain a new 6-month noncancelable policy in  
434 accordance with the provisions of this section. However, if the  
435 insured must obtain a new 6-month policy and obtains the policy  
436 from the same insurer, the policyholder shall receive credit on  
437 the new policy for any premium paid on the previously issued  
438 policy.

439 (c) This subsection controls to the extent of any conflict  
440 with any other section.

441 (d) An insurer issuing a policy subject to this section  
442 may cancel the policy if, during the policy term, the named  
443 insured or any other operator, who resides in the same household  
444 or customarily operates an automobile insured under the policy,  
445 has his or her driver's license suspended or revoked.

446 (e) Nothing in this subsection requires an insurer to  
447 offer a policy of insurance to an applicant if such offer would  
448 be inconsistent with the insurer's underwriting guidelines and



449 procedures.

450 Section 7. Paragraph (a) of subsection (1) of section  
451 627.7295, Florida Statutes, is amended to read:

452 627.7295 Motor vehicle insurance contracts.--

453 (1) As used in this section, the term:

454 (a) "Policy" means a motor vehicle insurance policy that  
455 provides personal injury protection coverage, ~~and~~ property  
456 damage liability coverage, or both.

457 Section 8. Notwithstanding the repeal of the Florida Motor  
458 Vehicle No-Fault Law, which occurred on October 1, 2007, section  
459 627.730, Florida Statutes, is revived and reenacted to read:

460 627.730 Florida Motor Vehicle No-Fault Law.--Sections  
461 627.730-627.7405 may be cited and known as the "Florida Motor  
462 Vehicle No-Fault Law."

463 Section 9. Notwithstanding the repeal of the Florida Motor  
464 Vehicle No-Fault Law, which occurred on October 1, 2007, section  
465 627.731, Florida Statutes, is revived and reenacted to read:

466 627.731 Purpose.--The purpose of ss. 627.730-627.7405 is  
467 to provide for medical, surgical, funeral, and disability  
468 insurance benefits without regard to fault, and to require motor  
469 vehicle insurance securing such benefits, for motor vehicles  
470 required to be registered in this state and, with respect to  
471 motor vehicle accidents, a limitation on the right to claim  
472 damages for pain, suffering, mental anguish, and inconvenience.

473 Section 10. Notwithstanding the repeal of the Florida  
474 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
475 section 627.732, Florida Statutes, is revived and reenacted to  
476 read:

477 627.732 Definitions.--As used in ss. 627.730-627.7405, the  
 478 term:

479 (1) "Broker" means any person not possessing a license  
 480 under chapter 395, chapter 400, chapter 429, chapter 458,  
 481 chapter 459, chapter 460, chapter 461, or chapter 641 who  
 482 charges or receives compensation for any use of medical  
 483 equipment and is not the 100-percent owner or the 100-percent  
 484 lessee of such equipment. For purposes of this section, such  
 485 owner or lessee may be an individual, a corporation, a  
 486 partnership, or any other entity and any of its 100-percent-  
 487 owned affiliates and subsidiaries. For purposes of this  
 488 subsection, the term "lessee" means a long-term lessee under a  
 489 capital or operating lease, but does not include a part-time  
 490 lessee. The term "broker" does not include a hospital or  
 491 physician management company whose medical equipment is  
 492 ancillary to the practices managed, a debt collection agency, or  
 493 an entity that has contracted with the insurer to obtain a  
 494 discounted rate for such services; nor does the term include a  
 495 management company that has contracted to provide general  
 496 management services for a licensed physician or health care  
 497 facility and whose compensation is not materially affected by  
 498 the usage or frequency of usage of medical equipment or an  
 499 entity that is 100-percent owned by one or more hospitals or  
 500 physicians. The term "broker" does not include a person or  
 501 entity that certifies, upon request of an insurer, that:

- 502 (a) It is a clinic licensed under ss. 400.990-400.995;
- 503 (b) It is a 100-percent owner of medical equipment; and
- 504 (c) The owner's only part-time lease of medical equipment

505 for personal injury protection patients is on a temporary basis  
506 not to exceed 30 days in a 12-month period, and such lease is  
507 solely for the purposes of necessary repair or maintenance of  
508 the 100-percent-owned medical equipment or pending the arrival  
509 and installation of the newly purchased or a replacement for the  
510 100-percent-owned medical equipment, or for patients for whom,  
511 because of physical size or claustrophobia, it is determined by  
512 the medical director or clinical director to be medically  
513 necessary that the test be performed in medical equipment that  
514 is open-style. The leased medical equipment cannot be used by  
515 patients who are not patients of the registered clinic for  
516 medical treatment of services. Any person or entity making a  
517 false certification under this subsection commits insurance  
518 fraud as defined in s. 817.234. However, the 30-day period  
519 provided in this paragraph may be extended for an additional 60  
520 days as applicable to magnetic resonance imaging equipment if  
521 the owner certifies that the extension otherwise complies with  
522 this paragraph.

523 (2) "Medically necessary" refers to a medical service or  
524 supply that a prudent physician would provide for the purpose of  
525 preventing, diagnosing, or treating an illness, injury, disease,  
526 or symptom in a manner that is:

527 (a) In accordance with generally accepted standards of  
528 medical practice;

529 (b) Clinically appropriate in terms of type, frequency,  
530 extent, site, and duration; and

531 (c) Not primarily for the convenience of the patient,  
532 physician, or other health care provider.

533 (3) "Motor vehicle" means any self-propelled vehicle with  
534 four or more wheels which is of a type both designed and  
535 required to be licensed for use on the highways of this state  
536 and any trailer or semitrailer designed for use with such  
537 vehicle and includes:

538 (a) A "private passenger motor vehicle," which is any  
539 motor vehicle which is a sedan, station wagon, or jeep-type  
540 vehicle and, if not used primarily for occupational,  
541 professional, or business purposes, a motor vehicle of the  
542 pickup, panel, van, camper, or motor home type.

543 (b) A "commercial motor vehicle," which is any motor  
544 vehicle which is not a private passenger motor vehicle.

545  
546 The term "motor vehicle" does not include a mobile home or any  
547 motor vehicle which is used in mass transit, other than public  
548 school transportation, and designed to transport more than five  
549 passengers exclusive of the operator of the motor vehicle and  
550 which is owned by a municipality, a transit authority, or a  
551 political subdivision of the state.

552 (4) "Named insured" means a person, usually the owner of a  
553 vehicle, identified in a policy by name as the insured under the  
554 policy.

555 (5) "Owner" means a person who holds the legal title to a  
556 motor vehicle; or, in the event a motor vehicle is the subject  
557 of a security agreement or lease with an option to purchase with  
558 the debtor or lessee having the right to possession, then the  
559 debtor or lessee shall be deemed the owner for the purposes of  
560 ss. 627.730-627.7405.

561 (6) "Relative residing in the same household" means a  
562 relative of any degree by blood or by marriage who usually makes  
563 her or his home in the same family unit, whether or not  
564 temporarily living elsewhere.

565 (7) "Certify" means to swear or attest to being true or  
566 represented in writing.

567 (8) "Immediate personal supervision," as it relates to the  
568 performance of medical services by nonphysicians not in a  
569 hospital, means that an individual licensed to perform the  
570 medical service or provide the medical supplies must be present  
571 within the confines of the physical structure where the medical  
572 services are performed or where the medical supplies are  
573 provided such that the licensed individual can respond  
574 immediately to any emergencies if needed.

575 (9) "Incident," with respect to services considered as  
576 incident to a physician's professional service, for a physician  
577 licensed under chapter 458, chapter 459, chapter 460, or chapter  
578 461, if not furnished in a hospital, means such services must be  
579 an integral, even if incidental, part of a covered physician's  
580 service.

581 (10) "Knowingly" means that a person, with respect to  
582 information, has actual knowledge of the information; acts in  
583 deliberate ignorance of the truth or falsity of the information;  
584 or acts in reckless disregard of the information, and proof of  
585 specific intent to defraud is not required.

586 (11) "Lawful" or "lawfully" means in substantial  
587 compliance with all relevant applicable criminal, civil, and  
588 administrative requirements of state and federal law related to

589 the provision of medical services or treatment.

590 (12) "Hospital" means a facility that, at the time  
 591 services or treatment were rendered, was licensed under chapter  
 592 395.

593 (13) "Properly completed" means providing truthful,  
 594 substantially complete, and substantially accurate responses as  
 595 to all material elements to each applicable request for  
 596 information or statement by a means that may lawfully be  
 597 provided and that complies with this section, or as agreed by  
 598 the parties.

599 (14) "Upcoding" means an action that submits a billing  
 600 code that would result in payment greater in amount than would  
 601 be paid using a billing code that accurately describes the  
 602 services performed. The term does not include an otherwise  
 603 lawful bill by a magnetic resonance imaging facility, which  
 604 globally combines both technical and professional components, if  
 605 the amount of the global bill is not more than the components if  
 606 billed separately; however, payment of such a bill constitutes  
 607 payment in full for all components of such service.

608 (15) "Unbundling" means an action that submits a billing  
 609 code that is properly billed under one billing code, but that  
 610 has been separated into two or more billing codes, and would  
 611 result in payment greater in amount than would be paid using one  
 612 billing code.

613 Section 11. Notwithstanding the repeal of the Florida  
 614 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
 615 section 627.733, Florida Statutes, is revived, reenacted, and  
 616 amended to read:

617 627.733 Required security.--

618 (1) (a) Every owner or registrant of a motor vehicle, other  
619 than a motor vehicle used as a school bus as defined in s.  
620 1006.25 or limousine, required to be registered and licensed in  
621 this state shall maintain security as required by subsection (3)  
622 in effect continuously throughout the registration or licensing  
623 period.

624 (b) Every owner or registrant of a motor vehicle used as a  
625 taxicab shall not be governed by paragraph (1) (a) but shall  
626 maintain security as required under s. 324.032(1), and s.  
627 627.737 shall not apply to any motor vehicle used as a taxicab.

628 (2) Every nonresident owner or registrant of a motor  
629 vehicle which, whether operated or not, has been physically  
630 present within this state for more than 90 days during the  
631 preceding 365 days shall thereafter maintain security as defined  
632 by subsection (3) in effect continuously throughout the period  
633 such motor vehicle remains within this state.

634 (3) Such security shall be provided:

635 (a) By an insurance policy delivered or issued for  
636 delivery in this state by an authorized or eligible motor  
637 vehicle liability insurer which provides the benefits and  
638 exemptions contained in ss. 627.730-627.7405. Any policy of  
639 insurance represented or sold as providing the security required  
640 hereunder shall be deemed to provide insurance for the payment  
641 of the required benefits; or

642 (b) By any other method authorized by s. 324.031(2), (3),  
643 or (4) and approved by the Department of Highway Safety and  
644 Motor Vehicles as affording security equivalent to that afforded

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645 by a policy of insurance or by self-insuring as authorized by s.  
646 768.28(16). The person filing such security shall have all of  
647 the obligations and rights of an insurer under ss. 627.730-  
648 627.7405.

649 (4) An owner of a motor vehicle with respect to which  
650 security is required by this section who fails to have such  
651 security in effect at the time of an accident shall have no  
652 immunity from tort liability, but shall be personally liable for  
653 the payment of benefits under s. 627.736. With respect to such  
654 benefits, such an owner shall have all of the rights and  
655 obligations of an insurer under ss. 627.730-627.7405.

656 (5) In addition to other persons who are not required to  
657 provide required security as required under this section and s.  
658 324.022, the owner or registrant of a motor vehicle is exempt  
659 from such requirements if she or he is a member of the United  
660 States Armed Forces and is called to or on active duty outside  
661 the United States in an emergency situation. The exemption  
662 provided by this subsection applies only as long as the member  
663 of the armed forces is on such active duty outside the United  
664 States and applies only while the vehicle covered by the  
665 security required by this section and s. 324.022 is not operated  
666 by any person. Upon receipt of a written request by the insured  
667 to whom the exemption provided in this subsection applies, the  
668 insurer shall cancel the coverages and return any unearned  
669 premium or suspend the security required by this section and s.  
670 324.022. Notwithstanding s. 324.0221(2) ~~subsection (6)~~, the  
671 Department of Highway Safety and Motor Vehicles may not suspend  
672 the registration or operator's license of any owner or



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673 registrant of a motor vehicle during the time she or he  
674 qualifies for an exemption under this subsection. Any owner or  
675 registrant of a motor vehicle who qualifies for an exemption  
676 under this subsection shall immediately notify the department  
677 prior to and at the end of the expiration of the exemption.

678 ~~(6) The Department of Highway Safety and Motor Vehicles~~  
679 ~~shall suspend, after due notice and an opportunity to be heard,~~  
680 ~~the registration and driver's license of any owner or registrant~~  
681 ~~of a motor vehicle with respect to which security is required~~  
682 ~~under this section and s. 324.022.~~

683 ~~(a) Upon its records showing that the owner or registrant~~  
684 ~~of such motor vehicle did not have in full force and effect when~~  
685 ~~required security complying with the terms of this section; or~~

686 ~~(b) Upon notification by the insurer to the Department of~~  
687 ~~Highway Safety and Motor Vehicles, in a form approved by the~~  
688 ~~department, of cancellation or termination of the required~~  
689 ~~security.~~

690 ~~(7) Any operator or owner whose driver's license or~~  
691 ~~registration has been suspended pursuant to this section or s.~~  
692 ~~316.646 may effect its reinstatement upon compliance with the~~  
693 ~~requirements of this section and upon payment to the Department~~  
694 ~~of Highway Safety and Motor Vehicles of a nonrefundable~~  
695 ~~reinstatement fee of \$150 for the first reinstatement. Such~~  
696 ~~reinstatement fee shall be \$250 for the second reinstatement and~~  
697 ~~\$500 for each subsequent reinstatement during the 3 years~~  
698 ~~following the first reinstatement. Any person reinstating her or~~  
699 ~~his insurance under this subsection must also secure~~  
700 ~~noncancelable coverage as described in ss. 324.021(8), 324.023,~~

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701 ~~and 627.7275(2) and present to the appropriate person proof that~~  
702 ~~the coverage is in force on a form promulgated by the Department~~  
703 ~~of Highway Safety and Motor Vehicles, such proof to be~~  
704 ~~maintained for 2 years. If the person does not have a second~~  
705 ~~reinstatement within 3 years after her or his initial~~  
706 ~~reinstatement, the reinstatement fee shall be \$150 for the first~~  
707 ~~reinstatement after that 3-year period. In the event that a~~  
708 ~~person's license and registration are suspended pursuant to this~~  
709 ~~section or s. 316.646, only one reinstatement fee shall be paid~~  
710 ~~to reinstate the license and the registration. All fees shall be~~  
711 ~~collected by the Department of Highway Safety and Motor Vehicles~~  
712 ~~at the time of reinstatement. The Department of Highway Safety~~  
713 ~~and Motor Vehicles shall issue proper receipts for such fees and~~  
714 ~~shall promptly deposit those fees in the Highway Safety~~  
715 ~~Operating Trust Fund. One third of the fee collected under this~~  
716 ~~subsection shall be distributed from the Highway Safety~~  
717 ~~Operating Trust Fund to the local government entity or state~~  
718 ~~agency which employed the law enforcement officer who seizes a~~  
719 ~~license plate pursuant to s. 324.201. Such funds may be used by~~  
720 ~~the local government entity or state agency for any authorized~~  
721 ~~purpose.~~

722 Section 12. Notwithstanding the repeal of the Florida  
723 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
724 section 627.734, Florida Statutes, is revived and reenacted to  
725 read:

726 627.734 Proof of security; security requirements;  
727 penalties.--

728 (1) The provisions of chapter 324 which pertain to the

729 method of giving and maintaining proof of financial  
 730 responsibility and which govern and define a motor vehicle  
 731 liability policy shall apply to filing and maintaining proof of  
 732 security required by ss. 627.730-627.7405.

733 (2) Any person who:

734 (a) Gives information required in a report or otherwise as  
 735 provided for in ss. 627.730-627.7405, knowing or having reason  
 736 to believe that such information is false;

737 (b) Forges or, without authority, signs any evidence of  
 738 proof of security; or

739 (c) Files, or offers for filing, any such evidence of  
 740 proof, knowing or having reason to believe that it is forged or  
 741 signed without authority,

742  
 743 is guilty of a misdemeanor of the first degree, punishable as  
 744 provided in s. 775.082 or s. 775.083.

745 Section 13. Notwithstanding the repeal of the Florida  
 746 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
 747 section 627.736, Florida Statutes, is revived, reenacted, and  
 748 amended to read:

749 627.736 Required personal injury protection benefits;  
 750 exclusions; priority; claims.--

751 (1) REQUIRED BENEFITS--Every insurance policy complying  
 752 with the security requirements of s. 627.733 shall provide  
 753 personal injury protection to the named insured, relatives  
 754 residing in the same household, persons operating the insured  
 755 motor vehicle, passengers in such motor vehicle, and other  
 756 persons struck by such motor vehicle and suffering bodily injury

757 while not an occupant of a self-propelled vehicle, subject to  
758 the provisions of subsection (2) and paragraph (4)(d), to a  
759 limit of \$10,000 for loss sustained by any such person as a  
760 result of bodily injury, sickness, disease, or death arising out  
761 of the ownership, maintenance, or use of a motor vehicle as  
762 follows:

763 (a) Medical benefits.--Eighty percent of all reasonable  
764 expenses for medically necessary medical, surgical, X-ray,  
765 dental, and rehabilitative services, including prosthetic  
766 devices, and medically necessary ambulance, hospital, and  
767 nursing services. Such benefits shall also include necessary  
768 remedial treatment and services recognized and permitted under  
769 the laws of the state for an injured person who relies upon  
770 spiritual means through prayer alone for healing, in accordance  
771 with his or her religious beliefs; however, this sentence does  
772 not affect the determination of what other services or  
773 procedures are medically necessary.

774 (b) Disability benefits.--Sixty percent of any loss of  
775 gross income and loss of earning capacity per individual from  
776 inability to work proximately caused by the injury sustained by  
777 the injured person, plus all expenses reasonably incurred in  
778 obtaining from others ordinary and necessary services in lieu of  
779 those that, but for the injury, the injured person would have  
780 performed without income for the benefit of his or her  
781 household. All disability benefits payable under this provision  
782 shall be paid not less than every 2 weeks.

783 (c) Death benefits.--Death benefits of \$5,000 per  
784 individual. The insurer may pay such benefits to the executor

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785 or administrator of the deceased, to any of the deceased's  
786 relatives by blood or legal adoption or connection by marriage,  
787 or to any person appearing to the insurer to be equitably  
788 entitled thereto.

789  
790 Only insurers writing motor vehicle liability insurance in this  
791 state may provide the required benefits of this section, and no  
792 such insurer shall require the purchase of any other motor  
793 vehicle coverage other than the purchase of property damage  
794 liability coverage as required by s. 627.7275 as a condition for  
795 providing such required benefits. Insurers may not require that  
796 property damage liability insurance in an amount greater than  
797 \$10,000 be purchased in conjunction with personal injury  
798 protection. Such insurers shall make benefits and required  
799 property damage liability insurance coverage available through  
800 normal marketing channels. Any insurer writing motor vehicle  
801 liability insurance in this state who fails to comply with such  
802 availability requirement as a general business practice shall be  
803 deemed to have violated part IX of chapter 626, and such  
804 violation shall constitute an unfair method of competition or an  
805 unfair or deceptive act or practice involving the business of  
806 insurance; and any such insurer committing such violation shall  
807 be subject to the penalties afforded in such part, as well as  
808 those which may be afforded elsewhere in the insurance code.

809 (2) AUTHORIZED EXCLUSIONS.--Any insurer may exclude  
810 benefits:

811 (a) For injury sustained by the named insured and  
812 relatives residing in the same household while occupying another

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813 motor vehicle owned by the named insured and not insured under  
814 the policy or for injury sustained by any person operating the  
815 insured motor vehicle without the express or implied consent of  
816 the insured.

817 (b) To any injured person, if such person's conduct  
818 contributed to his or her injury under any of the following  
819 circumstances:

- 820 1. Causing injury to himself or herself intentionally; or
- 821 2. Being injured while committing a felony.

822

823 Whenever an insured is charged with conduct as set forth in  
824 subparagraph 2., the 30-day payment provision of paragraph  
825 (4)(b) shall be held in abeyance, and the insurer shall withhold  
826 payment of any personal injury protection benefits pending the  
827 outcome of the case at the trial level. If the charge is nolle  
828 prossed or dismissed or the insured is acquitted, the 30-day  
829 payment provision shall run from the date the insurer is  
830 notified of such action.

831 (3) INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN  
832 TORT CLAIMS.--No insurer shall have a lien on any recovery in  
833 tort by judgment, settlement, or otherwise for personal injury  
834 protection benefits, whether suit has been filed or settlement  
835 has been reached without suit. An injured party who is entitled  
836 to bring suit under the provisions of ss. 627.730-627.7405, or  
837 his or her legal representative, shall have no right to recover  
838 any damages for which personal injury protection benefits are  
839 paid or payable. The plaintiff may prove all of his or her  
840 special damages notwithstanding this limitation, but if special

841 damages are introduced in evidence, the trier of facts, whether  
842 judge or jury, shall not award damages for personal injury  
843 protection benefits paid or payable. In all cases in which a  
844 jury is required to fix damages, the court shall instruct the  
845 jury that the plaintiff shall not recover such special damages  
846 for personal injury protection benefits paid or payable.

847 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer  
848 under ss. 627.730-627.7405 shall be primary, except that  
849 benefits received under any workers' compensation law shall be  
850 credited against the benefits provided by subsection (1) and  
851 shall be due and payable as loss accrues, upon receipt of  
852 reasonable proof of such loss and the amount of expenses and  
853 loss incurred which are covered by the policy issued under ss.  
854 627.730-627.7405. When the Agency for Health Care Administration  
855 provides, pays, or becomes liable for medical assistance under  
856 the Medicaid program related to injury, sickness, disease, or  
857 death arising out of the ownership, maintenance, or use of a  
858 motor vehicle, benefits under ss. 627.730-627.7405 shall be  
859 subject to the provisions of the Medicaid program.

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

864 (b) Personal injury protection insurance benefits paid  
865 pursuant to this section shall be overdue if not paid within 30  
866 days after the insurer is furnished written notice of the fact  
867 of a covered loss and of the amount of same. If such written  
868 notice is not furnished to the insurer as to the entire claim,

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869 any partial amount supported by written notice is overdue if not  
870 paid within 30 days after such written notice is furnished to  
871 the insurer. Any part or all of the remainder of the claim that  
872 is subsequently supported by written notice is overdue if not  
873 paid within 30 days after such written notice is furnished to  
874 the insurer. When an insurer pays only a portion of a claim or  
875 rejects a claim, the insurer shall provide at the time of the  
876 partial payment or rejection an itemized specification of each  
877 item that the insurer had reduced, omitted, or declined to pay  
878 and any information that the insurer desires the claimant to  
879 consider related to the medical necessity of the denied  
880 treatment or to explain the reasonableness of the reduced  
881 charge, provided that this shall not limit the introduction of  
882 evidence at trial; and the insurer shall include the name and  
883 address of the person to whom the claimant should respond and a  
884 claim number to be referenced in future correspondence. However,  
885 notwithstanding the fact that written notice has been furnished  
886 to the insurer, any payment shall not be deemed overdue when the  
887 insurer has reasonable proof to establish that the insurer is  
888 not responsible for the payment. For the purpose of calculating  
889 the extent to which any benefits are overdue, payment shall be  
890 treated as being made on the date a draft or other valid  
891 instrument which is equivalent to payment was placed in the  
892 United States mail in a properly addressed, postpaid envelope  
893 or, if not so posted, on the date of delivery. This paragraph  
894 does not preclude or limit the ability of the insurer to assert  
895 that the claim was unrelated, was not medically necessary, or  
896 was unreasonable or that the amount of the charge was in excess



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897 of that permitted under, or in violation of, subsection (5).  
898 Such assertion by the insurer may be made at any time, including  
899 after payment of the claim or after the 30-day time period for  
900 payment set forth in this paragraph.

901 (c) All overdue payments shall bear simple interest at the  
902 rate established under s. 55.03 or the rate established in the  
903 insurance contract, whichever is greater, for the year in which  
904 the payment became overdue, calculated from the date the insurer  
905 was furnished with written notice of the amount of covered loss.  
906 Interest shall be due at the time payment of the overdue claim  
907 is made.

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

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

914 2. Accidental bodily injury sustained outside this state,  
915 but within the United States of America or its territories or  
916 possessions or Canada, by the owner while occupying the owner's  
917 motor vehicle.

918 3. Accidental bodily injury sustained by a relative of the  
919 owner residing in the same household, under the circumstances  
920 described in subparagraph 1. or subparagraph 2., provided the  
921 relative at the time of the accident is domiciled in the owner's  
922 household and is not himself or herself the owner of a motor  
923 vehicle with respect to which security is required under ss.  
924 627.730-627.7405.

925 4. Accidental bodily injury sustained in this state by any  
 926 other person while occupying the owner's motor vehicle or, if a  
 927 resident of this state, while not an occupant of a self-  
 928 propelled vehicle, if the injury is caused by physical contact  
 929 with such motor vehicle, provided the injured person is not  
 930 himself or herself:

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

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

935 (e) If two or more insurers are liable to pay personal  
 936 injury protection benefits for the same injury to any one  
 937 person, the maximum payable shall be as specified in subsection  
 938 (1), and any insurer paying the benefits shall be entitled to  
 939 recover from each of the other insurers an equitable pro rata  
 940 share of the benefits paid and expenses incurred in processing  
 941 the claim.

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

946 (g) Benefits shall not be due or payable to or on the  
 947 behalf of an insured person if that person has committed, by a  
 948 material act or omission, any insurance fraud relating to  
 949 personal injury protection coverage under his or her policy, if  
 950 the fraud is admitted to in a sworn statement by the insured or  
 951 if it is established in a court of competent jurisdiction. Any  
 952 insurance fraud shall void all coverage arising from the claim

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953 related to such fraud under the personal injury protection  
954 coverage of the insured person who committed the fraud,  
955 irrespective of whether a portion of the insured person's claim  
956 may be legitimate, and any benefits paid prior to the discovery  
957 of the insured person's insurance fraud shall be recoverable by  
958 the insurer from the person who committed insurance fraud in  
959 their entirety. The prevailing party is entitled to its costs  
960 and attorney's fees in any action in which it prevails in an  
961 insurer's action to enforce its right of recovery under this  
962 paragraph.

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

964 (a) Any physician, hospital, clinic, or other person or  
965 institution lawfully rendering treatment to an injured person  
966 for a bodily injury covered by personal injury protection  
967 insurance may charge the insurer and injured party only a  
968 reasonable amount pursuant to this section for the services and  
969 supplies rendered, and the insurer providing such coverage may  
970 pay for such charges directly to such person or institution  
971 lawfully rendering such treatment, if the insured receiving such  
972 treatment or his or her guardian has countersigned the properly  
973 completed invoice, bill, or claim form approved by the office  
974 upon which such charges are to be paid for as having actually  
975 been rendered, to the best knowledge of the insured or his or  
976 her guardian. In no event, however, may such a charge be in  
977 excess of the amount the person or institution customarily  
978 charges for like services or supplies. With respect to a  
979 determination of whether a charge for a particular service,  
980 treatment, or otherwise is reasonable, consideration may be

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981 given to evidence of usual and customary charges and payments  
982 accepted by the provider involved in the dispute, and  
983 reimbursement levels in the community and various federal and  
984 state medical fee schedules applicable to automobile and other  
985 insurance coverages, and other information relevant to the  
986 reasonableness of the reimbursement for the service, treatment,  
987 or supply.

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

990 a. Made by a broker or by a person making a claim on  
991 behalf of a broker;

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

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

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

998 e. For any treatment or service that is upcoded, or that  
999 is unbundled when such treatment or services should be bundled,  
1000 in accordance with paragraph (d). To facilitate prompt payment  
1001 of lawful services, an insurer may change codes that it  
1002 determines to have been improperly or incorrectly upcoded or  
1003 unbundled, and may make payment based on the changed codes,  
1004 without affecting the right of the provider to dispute the  
1005 change by the insurer, provided that before doing so, the  
1006 insurer must contact the health care provider and discuss the  
1007 reasons for the insurer's change and the health care provider's  
1008 reason for the coding, or make a reasonable good faith effort to

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1009 do so, as documented in the insurer's file; and

1010 f. For medical services or treatment billed by a physician  
 1011 and not provided in a hospital unless such services are rendered  
 1012 by the physician or are incident to his or her professional  
 1013 services and are included on the physician's bill, including  
 1014 documentation verifying that the physician is responsible for  
 1015 the medical services that were rendered and billed.

1016 2. Charges for medically necessary cephalic thermograms,  
 1017 peripheral thermograms, spinal ultrasounds, extremity  
 1018 ultrasounds, video fluoroscopy, and surface electromyography  
 1019 shall not exceed the maximum reimbursement allowance for such  
 1020 procedures as set forth in the applicable fee schedule or other  
 1021 payment methodology established pursuant to s. 440.13.

1022 3. Allowable amounts that may be charged to a personal  
 1023 injury protection insurance insurer and insured for medically  
 1024 necessary nerve conduction testing when done in conjunction with  
 1025 a needle electromyography procedure and both are performed and  
 1026 billed solely by a physician licensed under chapter 458, chapter  
 1027 459, chapter 460, or chapter 461 who is also certified by the  
 1028 American Board of Electrodiagnostic Medicine or by a board  
 1029 recognized by the American Board of Medical Specialties or the  
 1030 American Osteopathic Association or who holds diplomate status  
 1031 with the American Chiropractic Neurology Board or its  
 1032 predecessors shall not exceed 200 percent of the allowable  
 1033 amount under the participating physician fee schedule of  
 1034 Medicare Part B for year 2001, for the area in which the  
 1035 treatment was rendered, adjusted annually on August 1 to reflect  
 1036 the prior calendar year's changes in the annual Medical Care

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1037 Item of the Consumer Price Index for All Urban Consumers in the  
 1038 South Region as determined by the Bureau of Labor Statistics of  
 1039 the United States Department of Labor.

1040 4. Allowable amounts that may be charged to a personal  
 1041 injury protection insurance insurer and insured for medically  
 1042 necessary nerve conduction testing that does not meet the  
 1043 requirements of subparagraph 3. shall not exceed the applicable  
 1044 fee schedule or other payment methodology established pursuant  
 1045 to s. 440.13.

1046 5. Allowable amounts that may be charged to a personal  
 1047 injury protection insurance insurer and insured for magnetic  
 1048 resonance imaging services shall not exceed 175 percent of the  
 1049 allowable amount under the participating physician fee schedule  
 1050 of Medicare Part B for year 2001, for the area in which the  
 1051 treatment was rendered, adjusted annually on August 1 to reflect  
 1052 the prior calendar year's changes in the annual Medical Care  
 1053 Item of the Consumer Price Index for All Urban Consumers in the  
 1054 South Region as determined by the Bureau of Labor Statistics of  
 1055 the United States Department of Labor for the 12-month period  
 1056 ending June 30 of that year, except that allowable amounts that  
 1057 may be charged to a personal injury protection insurance insurer  
 1058 and insured for magnetic resonance imaging services provided in  
 1059 facilities accredited by the Accreditation Association for  
 1060 Ambulatory Health Care, the American College of Radiology, or  
 1061 the Joint Commission on Accreditation of Healthcare  
 1062 Organizations shall not exceed 200 percent of the allowable  
 1063 amount under the participating physician fee schedule of  
 1064 Medicare Part B for year 2001, for the area in which the

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1065 treatment was rendered, adjusted annually on August 1 to reflect  
1066 the prior calendar year's changes in the annual Medical Care  
1067 Item of the Consumer Price Index for All Urban Consumers in the  
1068 South Region as determined by the Bureau of Labor Statistics of  
1069 the United States Department of Labor for the 12-month period  
1070 ending June 30 of that year. This paragraph does not apply to  
1071 charges for magnetic resonance imaging services and nerve  
1072 conduction testing for inpatients and emergency services and  
1073 care as defined in chapter 395 rendered by facilities licensed  
1074 under chapter 395.

1075         6. The Department of Health, in consultation with the  
1076 appropriate professional licensing boards, shall adopt, by rule,  
1077 a list of diagnostic tests deemed not to be medically necessary  
1078 for use in the treatment of persons sustaining bodily injury  
1079 covered by personal injury protection benefits under this  
1080 section. The initial list shall be adopted by January 1, 2004,  
1081 and shall be revised from time to time as determined by the  
1082 Department of Health, in consultation with the respective  
1083 professional licensing boards. Inclusion of a test on the list  
1084 of invalid diagnostic tests shall be based on lack of  
1085 demonstrated medical value and a level of general acceptance by  
1086 the relevant provider community and shall not be dependent for  
1087 results entirely upon subjective patient response.  
1088 Notwithstanding its inclusion on a fee schedule in this  
1089 subsection, an insurer or insured is not required to pay any  
1090 charges or reimburse claims for any invalid diagnostic test as  
1091 determined by the Department of Health.

1092         (c)1. With respect to any treatment or service, other than

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1093 medical services billed by a hospital or other provider for  
1094 emergency services as defined in s. 395.002 or inpatient  
1095 services rendered at a hospital-owned facility, the statement of  
1096 charges must be furnished to the insurer by the provider and may  
1097 not include, and the insurer is not required to pay, charges for  
1098 treatment or services rendered more than 35 days before the  
1099 postmark date of the statement, except for past due amounts  
1100 previously billed on a timely basis under this paragraph, and  
1101 except that, if the provider submits to the insurer a notice of  
1102 initiation of treatment within 21 days after its first  
1103 examination or treatment of the claimant, the statement may  
1104 include charges for treatment or services rendered up to, but  
1105 not more than, 75 days before the postmark date of the  
1106 statement. The injured party is not liable for, and the provider  
1107 shall not bill the injured party for, charges that are unpaid  
1108 because of the provider's failure to comply with this paragraph.  
1109 Any agreement requiring the injured person or insured to pay for  
1110 such charges is unenforceable.

1111 2. If, however, the insured fails to furnish the provider  
1112 with the correct name and address of the insured's personal  
1113 injury protection insurer, the provider has 35 days from the  
1114 date the provider obtains the correct information to furnish the  
1115 insurer with a statement of the charges. The insurer is not  
1116 required to pay for such charges unless the provider includes  
1117 with the statement documentary evidence that was provided by the  
1118 insured during the 35-day period demonstrating that the provider  
1119 reasonably relied on erroneous information from the insured and  
1120 either:



1121           a. A denial letter from the incorrect insurer; or  
 1122           b. Proof of mailing, which may include an affidavit under  
 1123 penalty of perjury, reflecting timely mailing to the incorrect  
 1124 address or insurer.

1125           3. For emergency services and care as defined in s.  
 1126 395.002 rendered in a hospital emergency department or for  
 1127 transport and treatment rendered by an ambulance provider  
 1128 licensed pursuant to part III of chapter 401, the provider is  
 1129 not required to furnish the statement of charges within the time  
 1130 periods established by this paragraph; and the insurer shall not  
 1131 be considered to have been furnished with notice of the amount  
 1132 of covered loss for purposes of paragraph (4)(b) until it  
 1133 receives a statement complying with paragraph (d), or copy  
 1134 thereof, which specifically identifies the place of service to  
 1135 be a hospital emergency department or an ambulance in accordance  
 1136 with billing standards recognized by the Health Care Finance  
 1137 Administration.

1138           4. Each notice of insured's rights under s. 627.7401 must  
 1139 include the following statement in type no smaller than 12  
 1140 points:

1141

1142 BILLING REQUIREMENTS.--Florida Statutes provide that with  
 1143 respect to any treatment or services, other than certain  
 1144 hospital and emergency services, the statement of charges  
 1145 furnished to the insurer by the provider may not include, and  
 1146 the insurer and the injured party are not required to pay,  
 1147 charges for treatment or services rendered more than 35 days  
 1148 before the postmark date of the statement, except for past due

1149 amounts previously billed on a timely basis, and except that, if  
 1150 the provider submits to the insurer a notice of initiation of  
 1151 treatment within 21 days after its first examination or  
 1152 treatment of the claimant, the statement may include charges for  
 1153 treatment or services rendered up to, but not more than, 75 days  
 1154 before the postmark date of the statement.

1155 (d) All statements and bills for medical services rendered  
 1156 by any physician, hospital, clinic, or other person or  
 1157 institution shall be submitted to the insurer on a properly  
 1158 completed Centers for Medicare and Medicaid Services (CMS) 1500  
 1159 form, UB 92 forms, or any other standard form approved by the  
 1160 office or adopted by the commission for purposes of this  
 1161 paragraph. All billings for such services rendered by providers  
 1162 shall, to the extent applicable, follow the Physicians' Current  
 1163 Procedural Terminology (CPT) or Healthcare Correct Procedural  
 1164 Coding System (HCPCS), or ICD-9 in effect for the year in which  
 1165 services are rendered and comply with the Centers for Medicare  
 1166 and Medicaid Services (CMS) 1500 form instructions and the  
 1167 American Medical Association Current Procedural Terminology  
 1168 (CPT) Editorial Panel and Healthcare Correct Procedural Coding  
 1169 System (HCPCS). All providers other than hospitals shall include  
 1170 on the applicable claim form the professional license number of  
 1171 the provider in the line or space provided for "Signature of  
 1172 Physician or Supplier, Including Degrees or Credentials." In  
 1173 determining compliance with applicable CPT and HCPCS coding,  
 1174 guidance shall be provided by the Physicians' Current Procedural  
 1175 Terminology (CPT) or the Healthcare Correct Procedural Coding  
 1176 System (HCPCS) in effect for the year in which services were

1177 rendered, the Office of the Inspector General (OIG), Physicians  
1178 Compliance Guidelines, and other authoritative treatises  
1179 designated by rule by the Agency for Health Care Administration.  
1180 No statement of medical services may include charges for medical  
1181 services of a person or entity that performed such services  
1182 without possessing the valid licenses required to perform such  
1183 services. For purposes of paragraph (4) (b), an insurer shall not  
1184 be considered to have been furnished with notice of the amount  
1185 of covered loss or medical bills due unless the statements or  
1186 bills comply with this paragraph, and unless the statements or  
1187 bills are properly completed in their entirety as to all  
1188 material provisions, with all relevant information being  
1189 provided therein.

1190 (e)1. At the initial treatment or service provided, each  
1191 physician, other licensed professional, clinic, or other medical  
1192 institution providing medical services upon which a claim for  
1193 personal injury protection benefits is based shall require an  
1194 insured person, or his or her guardian, to execute a disclosure  
1195 and acknowledgment form, which reflects at a minimum that:

1196 a. The insured, or his or her guardian, must countersign  
1197 the form attesting to the fact that the services set forth  
1198 therein were actually rendered;

1199 b. The insured, or his or her guardian, has both the right  
1200 and affirmative duty to confirm that the services were actually  
1201 rendered;

1202 c. The insured, or his or her guardian, was not solicited  
1203 by any person to seek any services from the medical provider;

1204 d. That the physician, other licensed professional,

1205 clinic, or other medical institution rendering services for  
 1206 which payment is being claimed explained the services to the  
 1207 insured or his or her guardian; and

1208 e. If the insured notifies the insurer in writing of a  
 1209 billing error, the insured may be entitled to a certain  
 1210 percentage of a reduction in the amounts paid by the insured's  
 1211 motor vehicle insurer.

1212 2. The physician, other licensed professional, clinic, or  
 1213 other medical institution rendering services for which payment  
 1214 is being claimed has the affirmative duty to explain the  
 1215 services rendered to the insured, or his or her guardian, so  
 1216 that the insured, or his or her guardian, countersigns the form  
 1217 with informed consent.

1218 3. Countersignature by the insured, or his or her  
 1219 guardian, is not required for the reading of diagnostic tests or  
 1220 other services that are of such a nature that they are not  
 1221 required to be performed in the presence of the insured.

1222 4. The licensed medical professional rendering treatment  
 1223 for which payment is being claimed must sign, by his or her own  
 1224 hand, the form complying with this paragraph.

1225 5. The original completed disclosure and acknowledgment  
 1226 form shall be furnished to the insurer pursuant to paragraph  
 1227 (4) (b) and may not be electronically furnished.

1228 6. This disclosure and acknowledgment form is not required  
 1229 for services billed by a provider for emergency services as  
 1230 defined in s. 395.002, for emergency services and care as  
 1231 defined in s. 395.002 rendered in a hospital emergency  
 1232 department, or for transport and treatment rendered by an

1233 ambulance provider licensed pursuant to part III of chapter 401.

1234         7. The Financial Services Commission shall adopt, by rule,  
 1235 a standard disclosure and acknowledgment form that shall be used  
 1236 to fulfill the requirements of this paragraph, effective 90 days  
 1237 after such form is adopted and becomes final. The commission  
 1238 shall adopt a proposed rule by October 1, 2003. Until the rule  
 1239 is final, the provider may use a form of its own which otherwise  
 1240 complies with the requirements of this paragraph.

1241         8. As used in this paragraph, "countersigned" means a  
 1242 second or verifying signature, as on a previously signed  
 1243 document, and is not satisfied by the statement "signature on  
 1244 file" or any similar statement.

1245         9. The requirements of this paragraph apply only with  
 1246 respect to the initial treatment or service of the insured by a  
 1247 provider. For subsequent treatments or service, the provider  
 1248 must maintain a patient log signed by the patient, in  
 1249 chronological order by date of service, that is consistent with  
 1250 the services being rendered to the patient as claimed. The  
 1251 requirements of this subparagraph for maintaining a patient log  
 1252 signed by the patient may be met by a hospital that maintains  
 1253 medical records as required by s. 395.3025 and applicable rules  
 1254 and makes such records available to the insurer upon request.

1255         (f) Upon written notification by any person, an insurer  
 1256 shall investigate any claim of improper billing by a physician  
 1257 or other medical provider. The insurer shall determine if the  
 1258 insured was properly billed for only those services and  
 1259 treatments that the insured actually received. If the insurer  
 1260 determines that the insured has been improperly billed, the

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1261 insurer shall notify the insured, the person making the written  
 1262 notification and the provider of its findings and shall reduce  
 1263 the amount of payment to the provider by the amount determined  
 1264 to be improperly billed. If a reduction is made due to such  
 1265 written notification by any person, the insurer shall pay to the  
 1266 person 20 percent of the amount of the reduction, up to \$500. If  
 1267 the provider is arrested due to the improper billing, then the  
 1268 insurer shall pay to the person 40 percent of the amount of the  
 1269 reduction, up to \$500.

1270 (g) An insurer may not systematically downcode with the  
 1271 intent to deny reimbursement otherwise due. Such action  
 1272 constitutes a material misrepresentation under s.  
 1273 626.9541(1)(i)2.

1274 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;  
 1275 DISPUTES.--

1276 (a) Every employer shall, if a request is made by an  
 1277 insurer providing personal injury protection benefits under ss.  
 1278 627.730-627.7405 against whom a claim has been made, furnish  
 1279 forthwith, in a form approved by the office, a sworn statement  
 1280 of the earnings, since the time of the bodily injury and for a  
 1281 reasonable period before the injury, of the person upon whose  
 1282 injury the claim is based.

1283 (b) Every physician, hospital, clinic, or other medical  
 1284 institution providing, before or after bodily injury upon which  
 1285 a claim for personal injury protection insurance benefits is  
 1286 based, any products, services, or accommodations in relation to  
 1287 that or any other injury, or in relation to a condition claimed  
 1288 to be connected with that or any other injury, shall, if

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1289 requested to do so by the insurer against whom the claim has  
1290 been made, furnish forthwith a written report of the history,  
1291 condition, treatment, dates, and costs of such treatment of the  
1292 injured person and why the items identified by the insurer were  
1293 reasonable in amount and medically necessary, together with a  
1294 sworn statement that the treatment or services rendered were  
1295 reasonable and necessary with respect to the bodily injury  
1296 sustained and identifying which portion of the expenses for such  
1297 treatment or services was incurred as a result of such bodily  
1298 injury, and produce forthwith, and permit the inspection and  
1299 copying of, his or her or its records regarding such history,  
1300 condition, treatment, dates, and costs of treatment; provided  
1301 that this shall not limit the introduction of evidence at trial.  
1302 Such sworn statement shall read as follows: "Under penalty of  
1303 perjury, I declare that I have read the foregoing, and the facts  
1304 alleged are true, to the best of my knowledge and belief." No  
1305 cause of action for violation of the physician-patient privilege  
1306 or invasion of the right of privacy shall be permitted against  
1307 any physician, hospital, clinic, or other medical institution  
1308 complying with the provisions of this section. The person  
1309 requesting such records and such sworn statement shall pay all  
1310 reasonable costs connected therewith. If an insurer makes a  
1311 written request for documentation or information under this  
1312 paragraph within 30 days after having received notice of the  
1313 amount of a covered loss under paragraph (4) (a), the amount or  
1314 the partial amount which is the subject of the insurer's inquiry  
1315 shall become overdue if the insurer does not pay in accordance  
1316 with paragraph (4) (b) or within 10 days after the insurer's

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1317 receipt of the requested documentation or information, whichever  
 1318 occurs later. For purposes of this paragraph, the term "receipt"  
 1319 includes, but is not limited to, inspection and copying pursuant  
 1320 to this paragraph. Any insurer that requests documentation or  
 1321 information pertaining to reasonableness of charges or medical  
 1322 necessity under this paragraph without a reasonable basis for  
 1323 such requests as a general business practice is engaging in an  
 1324 unfair trade practice under the insurance code.

1325 (c) In the event of any dispute regarding an insurer's  
 1326 right to discovery of facts under this section, the insurer may  
 1327 petition a court of competent jurisdiction to enter an order  
 1328 permitting such discovery. The order may be made only on motion  
 1329 for good cause shown and upon notice to all persons having an  
 1330 interest, and it shall specify the time, place, manner,  
 1331 conditions, and scope of the discovery. Such court may, in order  
 1332 to protect against annoyance, embarrassment, or oppression, as  
 1333 justice requires, enter an order refusing discovery or  
 1334 specifying conditions of discovery and may order payments of  
 1335 costs and expenses of the proceeding, including reasonable fees  
 1336 for the appearance of attorneys at the proceedings, as justice  
 1337 requires.

1338 (d) The injured person shall be furnished, upon request, a  
 1339 copy of all information obtained by the insurer under the  
 1340 provisions of this section, and shall pay a reasonable charge,  
 1341 if required by the insurer.

1342 (e) Notice to an insurer of the existence of a claim shall  
 1343 not be unreasonably withheld by an insured.

1344 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;



1345 REPORTS.--

1346 (a) Whenever the mental or physical condition of an

1347 injured person covered by personal injury protection is material

1348 to any claim that has been or may be made for past or future

1349 personal injury protection insurance benefits, such person

1350 shall, upon the request of an insurer, submit to mental or

1351 physical examination by a physician or physicians. The costs of

1352 any examinations requested by an insurer shall be borne entirely

1353 by the insurer. Such examination shall be conducted within the

1354 municipality where the insured is receiving treatment, or in a

1355 location reasonably accessible to the insured, which, for

1356 purposes of this paragraph, means any location within the

1357 municipality in which the insured resides, or any location

1358 within 10 miles by road of the insured's residence, provided

1359 such location is within the county in which the insured resides.

1360 If the examination is to be conducted in a location reasonably

1361 accessible to the insured, and if there is no qualified

1362 physician to conduct the examination in a location reasonably

1363 accessible to the insured, then such examination shall be

1364 conducted in an area of the closest proximity to the insured's

1365 residence. Personal protection insurers are authorized to

1366 include reasonable provisions in personal injury protection

1367 insurance policies for mental and physical examination of those

1368 claiming personal injury protection insurance benefits. An

1369 insurer may not withdraw payment of a treating physician without

1370 the consent of the injured person covered by the personal injury

1371 protection, unless the insurer first obtains a valid report by a

1372 Florida physician licensed under the same chapter as the

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1373 treating physician whose treatment authorization is sought to be  
1374 withdrawn, stating that treatment was not reasonable, related,  
1375 or necessary. A valid report is one that is prepared and signed  
1376 by the physician examining the injured person or reviewing the  
1377 treatment records of the injured person and is factually  
1378 supported by the examination and treatment records if reviewed  
1379 and that has not been modified by anyone other than the  
1380 physician. The physician preparing the report must be in active  
1381 practice, unless the physician is physically disabled. Active  
1382 practice means that during the 3 years immediately preceding the  
1383 date of the physical examination or review of the treatment  
1384 records the physician must have devoted professional time to the  
1385 active clinical practice of evaluation, diagnosis, or treatment  
1386 of medical conditions or to the instruction of students in an  
1387 accredited health professional school or accredited residency  
1388 program or a clinical research program that is affiliated with  
1389 an accredited health professional school or teaching hospital or  
1390 accredited residency program. The physician preparing a report  
1391 at the request of an insurer and physicians rendering expert  
1392 opinions on behalf of persons claiming medical benefits for  
1393 personal injury protection, or on behalf of an insured through  
1394 an attorney or another entity, shall maintain, for at least 3  
1395 years, copies of all examination reports as medical records and  
1396 shall maintain, for at least 3 years, records of all payments  
1397 for the examinations and reports. Neither an insurer nor any  
1398 person acting at the direction of or on behalf of an insurer may  
1399 materially change an opinion in a report prepared under this  
1400 paragraph or direct the physician preparing the report to change

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1401 such opinion. The denial of a payment as the result of such a  
1402 changed opinion constitutes a material misrepresentation under  
1403 s. 626.9541(1)(i)2.; however, this provision does not preclude  
1404 the insurer from calling to the attention of the physician  
1405 errors of fact in the report based upon information in the claim  
1406 file.

1407 (b) If requested by the person examined, a party causing  
1408 an examination to be made shall deliver to him or her a copy of  
1409 every written report concerning the examination rendered by an  
1410 examining physician, at least one of which reports must set out  
1411 the examining physician's findings and conclusions in detail.  
1412 After such request and delivery, the party causing the  
1413 examination to be made is entitled, upon request, to receive  
1414 from the person examined every written report available to him  
1415 or her or his or her representative concerning any examination,  
1416 previously or thereafter made, of the same mental or physical  
1417 condition. By requesting and obtaining a report of the  
1418 examination so ordered, or by taking the deposition of the  
1419 examiner, the person examined waives any privilege he or she may  
1420 have, in relation to the claim for benefits, regarding the  
1421 testimony of every other person who has examined, or may  
1422 thereafter examine, him or her in respect to the same mental or  
1423 physical condition. If a person unreasonably refuses to submit  
1424 to an examination, the personal injury protection carrier is no  
1425 longer liable for subsequent personal injury protection  
1426 benefits.

1427 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S  
1428 FEES.--With respect to any dispute under the provisions of ss.

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1429 627.730-627.7405 between the insured and the insurer, or between  
 1430 an assignee of an insured's rights and the insurer, the  
 1431 provisions of s. 627.428 shall apply, except as provided in  
 1432 subsection (10) ~~(11)~~.

1433 ~~(9) (a) Each insurer which has issued a policy providing~~  
 1434 ~~personal injury protection benefits shall report the renewal,~~  
 1435 ~~cancellation, or nonrenewal thereof to the Department of Highway~~  
 1436 ~~Safety and Motor Vehicles within 45 days from the effective date~~  
 1437 ~~of the renewal, cancellation, or nonrenewal. Upon the issuance~~  
 1438 ~~of a policy providing personal injury protection benefits to a~~  
 1439 ~~named insured not previously insured by the insurer thereof~~  
 1440 ~~during that calendar year, the insurer shall report the issuance~~  
 1441 ~~of the new policy to the Department of Highway Safety and Motor~~  
 1442 ~~Vehicles within 30 days. The report shall be in such form and~~  
 1443 ~~format and contain such information as may be required by the~~  
 1444 ~~Department of Highway Safety and Motor Vehicles which shall~~  
 1445 ~~include a format compatible with the data processing~~  
 1446 ~~capabilities of said department, and the Department of Highway~~  
 1447 ~~Safety and Motor Vehicles is authorized to adopt rules necessary~~  
 1448 ~~with respect thereto. Failure by an insurer to file proper~~  
 1449 ~~reports with the Department of Highway Safety and Motor Vehicles~~  
 1450 ~~as required by this subsection or rules adopted with respect to~~  
 1451 ~~the requirements of this subsection constitutes a violation of~~  
 1452 ~~the Florida Insurance Code. Reports of cancellations and policy~~  
 1453 ~~renewals and reports of the issuance of new policies received by~~  
 1454 ~~the Department of Highway Safety and Motor Vehicles are~~  
 1455 ~~confidential and exempt from the provisions of s. 119.07(1).~~  
 1456 ~~These records are to be used for enforcement and regulatory~~

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1457 ~~purposes only, including the generation by the department of~~  
1458 ~~data regarding compliance by owners of motor vehicles with~~  
1459 ~~financial responsibility coverage requirements. In addition, the~~  
1460 ~~Department of Highway Safety and Motor Vehicles shall release,~~  
1461 ~~upon a written request by a person involved in a motor vehicle~~  
1462 ~~accident, by the person's attorney, or by a representative of~~  
1463 ~~the person's motor vehicle insurer, the name of the insurance~~  
1464 ~~company and the policy number for the policy covering the~~  
1465 ~~vehicle named by the requesting party. The written request must~~  
1466 ~~include a copy of the appropriate accident form as provided in~~  
1467 ~~s. 316.065, s. 316.066, or s. 316.068.~~

1468 ~~(b) Every insurer with respect to each insurance policy~~  
1469 ~~providing personal injury protection benefits shall notify the~~  
1470 ~~named insured or in the case of a commercial fleet policy, the~~  
1471 ~~first named insured in writing that any cancellation or~~  
1472 ~~nonrenewal of the policy will be reported by the insurer to the~~  
1473 ~~Department of Highway Safety and Motor Vehicles. The notice~~  
1474 ~~shall also inform the named insured that failure to maintain~~  
1475 ~~personal injury protection and property damage liability~~  
1476 ~~insurance on a motor vehicle when required by law may result in~~  
1477 ~~the loss of registration and driving privileges in this state,~~  
1478 ~~and the notice shall inform the named insured of the amount of~~  
1479 ~~the reinstatement fees required by s. 627.733(7). This notice~~  
1480 ~~is for informational purposes only, and no civil liability shall~~  
1481 ~~attach to an insurer due to failure to provide this notice.~~

1482 ~~(9)~~(10) An insurer may negotiate and enter into contracts  
1483 with licensed health care providers for the benefits described  
1484 in this section, referred to in this section as "preferred

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1485 providers," which shall include health care providers licensed  
1486 under chapters 458, 459, 460, 461, and 463. The insurer may  
1487 provide an option to an insured to use a preferred provider at  
1488 the time of purchase of the policy for personal injury  
1489 protection benefits, if the requirements of this subsection are  
1490 met. If the insured elects to use a provider who is not a  
1491 preferred provider, whether the insured purchased a preferred  
1492 provider policy or a nonpreferred provider policy, the medical  
1493 benefits provided by the insurer shall be as required by this  
1494 section. If the insured elects to use a provider who is a  
1495 preferred provider, the insurer may pay medical benefits in  
1496 excess of the benefits required by this section and may waive or  
1497 lower the amount of any deductible that applies to such medical  
1498 benefits. If the insurer offers a preferred provider policy to a  
1499 policyholder or applicant, it must also offer a nonpreferred  
1500 provider policy. The insurer shall provide each policyholder  
1501 with a current roster of preferred providers in the county in  
1502 which the insured resides at the time of purchase of such  
1503 policy, and shall make such list available for public inspection  
1504 during regular business hours at the principal office of the  
1505 insurer within the state.

1506 (10)~~(11)~~ DEMAND LETTER.--

1507 (a) As a condition precedent to filing any action for  
1508 benefits under this section, the insurer must be provided with  
1509 written notice of an intent to initiate litigation. Such notice  
1510 may not be sent until the claim is overdue, including any  
1511 additional time the insurer has to pay the claim pursuant to  
1512 paragraph (4) (b).

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1513 (b) The notice required shall state that it is a "demand  
1514 letter under s. 627.736 (10) ~~(11)~~" and shall state with  
1515 specificity:

1516 1. The name of the insured upon which such benefits are  
1517 being sought, including a copy of the assignment giving rights  
1518 to the claimant if the claimant is not the insured.

1519 2. The claim number or policy number upon which such claim  
1520 was originally submitted to the insurer.

1521 3. To the extent applicable, the name of any medical  
1522 provider who rendered to an insured the treatment, services,  
1523 accommodations, or supplies that form the basis of such claim;  
1524 and an itemized statement specifying each exact amount, the date  
1525 of treatment, service, or accommodation, and the type of benefit  
1526 claimed to be due. A completed form satisfying the requirements  
1527 of paragraph (5) (d) or the lost-wage statement previously  
1528 submitted may be used as the itemized statement. To the extent  
1529 that the demand involves an insurer's withdrawal of payment  
1530 under paragraph (7) (a) for future treatment not yet rendered,  
1531 the claimant shall attach a copy of the insurer's notice  
1532 withdrawing such payment and an itemized statement of the type,  
1533 frequency, and duration of future treatment claimed to be  
1534 reasonable and medically necessary.

1535 (c) Each notice required by this subsection must be  
1536 delivered to the insurer by United States certified or  
1537 registered mail, return receipt requested. Such postal costs  
1538 shall be reimbursed by the insurer if so requested by the  
1539 claimant in the notice, when the insurer pays the claim. Such  
1540 notice must be sent to the person and address specified by the

1541 insurer for the purposes of receiving notices under this  
1542 subsection. Each licensed insurer, whether domestic, foreign, or  
1543 alien, shall file with the office designation of the name and  
1544 address of the person to whom notices pursuant to this  
1545 subsection shall be sent which the office shall make available  
1546 on its Internet website. The name and address on file with the  
1547 office pursuant to s. 624.422 shall be deemed the authorized  
1548 representative to accept notice pursuant to this subsection in  
1549 the event no other designation has been made.

1550 (d) If, within 15 days after receipt of notice by the  
1551 insurer, the overdue claim specified in the notice is paid by  
1552 the insurer together with applicable interest and a penalty of  
1553 10 percent of the overdue amount paid by the insurer, subject to  
1554 a maximum penalty of \$250, no action may be brought against the  
1555 insurer. If the demand involves an insurer's withdrawal of  
1556 payment under paragraph (7) (a) for future treatment not yet  
1557 rendered, no action may be brought against the insurer if,  
1558 within 15 days after its receipt of the notice, the insurer  
1559 mails to the person filing the notice a written statement of the  
1560 insurer's agreement to pay for such treatment in accordance with  
1561 the notice and to pay a penalty of 10 percent, subject to a  
1562 maximum penalty of \$250, when it pays for such future treatment  
1563 in accordance with the requirements of this section. To the  
1564 extent the insurer determines not to pay any amount demanded,  
1565 the penalty shall not be payable in any subsequent action. For  
1566 purposes of this subsection, payment or the insurer's agreement  
1567 shall be treated as being made on the date a draft or other  
1568 valid instrument that is equivalent to payment, or the insurer's



1569 written statement of agreement, is placed in the United States  
 1570 mail in a properly addressed, postpaid envelope, or if not so  
 1571 posted, on the date of delivery. The insurer shall not be  
 1572 obligated to pay any attorney's fees if the insurer pays the  
 1573 claim or mails its agreement to pay for future treatment within  
 1574 the time prescribed by this subsection.

1575 (e) The applicable statute of limitation for an action  
 1576 under this section shall be tolled for a period of 15 business  
 1577 days by the mailing of the notice required by this subsection.

1578 (f) Any insurer making a general business practice of not  
 1579 paying valid claims until receipt of the notice required by this  
 1580 subsection is engaging in an unfair trade practice under the  
 1581 insurance code.

1582 (11)~~(12)~~ CIVIL ACTION FOR INSURANCE FRAUD.--An insurer  
 1583 shall have a cause of action against any person convicted of, or  
 1584 who, regardless of adjudication of guilt, pleads guilty or nolo  
 1585 contendere to insurance fraud under s. 817.234, patient  
 1586 brokering under s. 817.505, or kickbacks under s. 456.054,  
 1587 associated with a claim for personal injury protection benefits  
 1588 in accordance with this section. An insurer prevailing in an  
 1589 action brought under this subsection may recover compensatory,  
 1590 consequential, and punitive damages subject to the requirements  
 1591 and limitations of part II of chapter 768, and attorney's fees  
 1592 and costs incurred in litigating a cause of action against any  
 1593 person convicted of, or who, regardless of adjudication of  
 1594 guilt, pleads guilty or nolo contendere to insurance fraud under  
 1595 s. 817.234, patient brokering under s. 817.505, or kickbacks  
 1596 under s. 456.054, associated with a claim for personal injury

1597 protection benefits in accordance with this section.

1598       (12)~~(13)~~ MINIMUM BENEFIT COVERAGE.--If the Financial  
 1599 Services Commission determines that the cost savings under  
 1600 personal injury protection insurance benefits paid by insurers  
 1601 have been realized due to the provisions of this act, prior  
 1602 legislative reforms, or other factors, the commission may  
 1603 increase the minimum \$10,000 benefit coverage requirement. In  
 1604 establishing the amount of such increase, the commission must  
 1605 determine that the additional premium for such coverage is  
 1606 approximately equal to the premium cost savings that have been  
 1607 realized for the personal injury protection coverage with limits  
 1608 of \$10,000.

1609       (13)~~(14)~~ FRAUD ADVISORY NOTICE.--Upon receiving notice of  
 1610 a claim under this section, an insurer shall provide a notice to  
 1611 the insured or to a person for whom a claim for reimbursement  
 1612 for diagnosis or treatment of injuries has been filed, advising  
 1613 that:

1614           (a) Pursuant to s. 626.9892, the Department of Financial  
 1615 Services may pay rewards of up to \$25,000 to persons providing  
 1616 information leading to the arrest and conviction of persons  
 1617 committing crimes investigated by the Division of Insurance  
 1618 Fraud arising from violations of s. 440.105, s. 624.15, s.  
 1619 626.9541, s. 626.989, or s. 817.234.

1620           (b) Solicitation of a person injured in a motor vehicle  
 1621 crash for purposes of filing personal injury protection or tort  
 1622 claims could be a violation of s. 817.234, s. 817.505, or the  
 1623 rules regulating The Florida Bar and should be immediately  
 1624 reported to the Division of Insurance Fraud if such conduct has

1625 taken place.

1626 Section 14. Notwithstanding the repeal of the Florida  
 1627 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
 1628 section 627.737, Florida Statutes, is revived and reenacted to  
 1629 read:

1630 627.737 Tort exemption; limitation on right to damages;  
 1631 punitive damages.--

1632 (1) Every owner, registrant, operator, or occupant of a  
 1633 motor vehicle with respect to which security has been provided  
 1634 as required by ss. 627.730-627.7405, and every person or  
 1635 organization legally responsible for her or his acts or  
 1636 omissions, is hereby exempted from tort liability for damages  
 1637 because of bodily injury, sickness, or disease arising out of  
 1638 the ownership, operation, maintenance, or use of such motor  
 1639 vehicle in this state to the extent that the benefits described  
 1640 in s. 627.736(1) are payable for such injury, or would be  
 1641 payable but for any exclusion authorized by ss. 627.730-  
 1642 627.7405, under any insurance policy or other method of security  
 1643 complying with the requirements of s. 627.733, or by an owner  
 1644 personally liable under s. 627.733 for the payment of such  
 1645 benefits, unless a person is entitled to maintain an action for  
 1646 pain, suffering, mental anguish, and inconvenience for such  
 1647 injury under the provisions of subsection (2).

1648 (2) In any action of tort brought against the owner,  
 1649 registrant, operator, or occupant of a motor vehicle with  
 1650 respect to which security has been provided as required by ss.  
 1651 627.730-627.7405, or against any person or organization legally  
 1652 responsible for her or his acts or omissions, a plaintiff may

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1653 recover damages in tort for pain, suffering, mental anguish, and  
1654 inconvenience because of bodily injury, sickness, or disease  
1655 arising out of the ownership, maintenance, operation, or use of  
1656 such motor vehicle only in the event that the injury or disease  
1657 consists in whole or in part of:

1658 (a) Significant and permanent loss of an important bodily  
1659 function.

1660 (b) Permanent injury within a reasonable degree of medical  
1661 probability, other than scarring or disfigurement.

1662 (c) Significant and permanent scarring or disfigurement.

1663 (d) Death.

1664 (3) When a defendant, in a proceeding brought pursuant to  
1665 ss. 627.730-627.7405, questions whether the plaintiff has met  
1666 the requirements of subsection (2), then the defendant may file  
1667 an appropriate motion with the court, and the court shall, on a  
1668 one-time basis only, 30 days before the date set for the trial  
1669 or the pretrial hearing, whichever is first, by examining the  
1670 pleadings and the evidence before it, ascertain whether the  
1671 plaintiff will be able to submit some evidence that the  
1672 plaintiff will meet the requirements of subsection (2). If the  
1673 court finds that the plaintiff will not be able to submit such  
1674 evidence, then the court shall dismiss the plaintiff's claim  
1675 without prejudice.

1676 (4) In any action brought against an automobile liability  
1677 insurer for damages in excess of its policy limits, no claim for  
1678 punitive damages shall be allowed.

1679 Section 15. Notwithstanding the repeal of the Florida  
1680 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,

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1681 section 627.739, Florida Statutes, is revived and reenacted to  
1682 read:

1683       627.739 Personal injury protection; optional limitations;  
1684 deductibles.--

1685       (1) The named insured may elect a deductible or modified  
1686 coverage or combination thereof to apply to the named insured  
1687 alone or to the named insured and dependent relatives residing  
1688 in the same household, but may not elect a deductible or  
1689 modified coverage to apply to any other person covered under the  
1690 policy.

1691       (2) Insurers shall offer to each applicant and to each  
1692 policyholder, upon the renewal of an existing policy,  
1693 deductibles, in amounts of \$250, \$500, and \$1,000. The  
1694 deductible amount must be applied to 100 percent of the expenses  
1695 and losses described in s. 627.736. After the deductible is met,  
1696 each insured is eligible to receive up to \$10,000 in total  
1697 benefits described in s. 627.736(1). However, this subsection  
1698 shall not be applied to reduce the amount of any benefits  
1699 received in accordance with s. 627.736(1)(c).

1700       (3) Insurers shall offer coverage wherein, at the election  
1701 of the named insured, the benefits for loss of gross income and  
1702 loss of earning capacity described in s. 627.736(1)(b) shall be  
1703 excluded.

1704       (4) The named insured shall not be prevented from electing  
1705 a deductible under subsection (2) and modified coverage under  
1706 subsection (3). Each election made by the named insured under  
1707 this section shall result in an appropriate reduction of premium  
1708 associated with that election.

1709 (5) All such offers shall be made in clear and unambiguous  
 1710 language at the time the initial application is taken and prior  
 1711 to each annual renewal and shall indicate that a premium  
 1712 reduction will result from each election. At the option of the  
 1713 insurer, the requirements of the preceding sentence are met by  
 1714 using forms of notice approved by the office, or by providing  
 1715 the following notice in 10-point type in the insurer's  
 1716 application for initial issuance of a policy of motor vehicle  
 1717 insurance and the insurer's annual notice of renewal premium:

1718 For personal injury protection insurance, the named insured may  
 1719 elect a deductible and to exclude coverage for loss of gross  
 1720 income and loss of earning capacity ("lost wages"). These  
 1721 elections apply to the named insured alone, or to the named  
 1722 insured and all dependent resident relatives. A premium  
 1723 reduction will result from these elections. The named insured is  
 1724 hereby advised not to elect the lost wage exclusion if the named  
 1725 insured or dependent resident relatives are employed, since lost  
 1726 wages will not be payable in the event of an accident.

1727 Section 16. Notwithstanding the repeal of the Florida  
 1728 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
 1729 section 627.7401, Florida Statutes, is revived and reenacted to  
 1730 read:

1731 627.7401 Notification of insured's rights.--

1732 (1) The commission, by rule, shall adopt a form for the  
 1733 notification of insureds of their right to receive personal  
 1734 injury protection benefits under the Florida Motor Vehicle No-  
 1735 Fault Law. Such notice shall include:

1736 (a) A description of the benefits provided by personal

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1737 injury protection, including, but not limited to, the specific  
1738 types of services for which medical benefits are paid,  
1739 disability benefits, death benefits, significant exclusions from  
1740 and limitations on personal injury protection benefits, when  
1741 payments are due, how benefits are coordinated with other  
1742 insurance benefits that the insured may have, penalties and  
1743 interest that may be imposed on insurers for failure to make  
1744 timely payments of benefits, and rights of parties regarding  
1745 disputes as to benefits.

1746 (b) An advisory informing insureds that:

1747 1. Pursuant to s. 626.9892, the Department of Financial  
1748 Services may pay rewards of up to \$25,000 to persons providing  
1749 information leading to the arrest and conviction of persons  
1750 committing crimes investigated by the Division of Insurance  
1751 Fraud arising from violations of s. 440.105, s. 624.15, s.  
1752 626.9541, s. 626.989, or s. 817.234.

1753 2. Pursuant to s. 627.736(5)(e)1., if the insured notifies  
1754 the insurer of a billing error, the insured may be entitled to a  
1755 certain percentage of a reduction in the amount paid by the  
1756 insured's motor vehicle insurer.

1757 (c) A notice that solicitation of a person injured in a  
1758 motor vehicle crash for purposes of filing personal injury  
1759 protection or tort claims could be a violation of s. 817.234, s  
1760 817.505, or the rules regulating The Florida Bar and should be  
1761 immediately reported to the Division of Insurance Fraud if such  
1762 conduct has taken place.

1763 (2) Each insurer issuing a policy in this state providing  
1764 personal injury protection benefits must mail or deliver the

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1765 notice as specified in subsection (1) to an insured within 21  
 1766 days after receiving from the insured notice of an automobile  
 1767 accident or claim involving personal injury to an insured who is  
 1768 covered under the policy. The office may allow an insurer  
 1769 additional time to provide the notice specified in subsection  
 1770 (1) not to exceed 30 days, upon a showing by the insurer that an  
 1771 emergency justifies an extension of time.

1772 (3) The notice required by this section does not alter or  
 1773 modify the terms of the insurance contract or other requirements  
 1774 of this act.

1775 Section 17. Notwithstanding the repeal of the Florida  
 1776 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
 1777 section 627.7403, Florida Statutes, is revived and reenacted to  
 1778 read:

1779 627.7403 Mandatory joinder of derivative claim.--In any  
 1780 action brought pursuant to the provisions of s. 627.737 claiming  
 1781 personal injuries, all claims arising out of the plaintiff's  
 1782 injuries, including all derivative claims, shall be brought  
 1783 together, unless good cause is shown why such claims should be  
 1784 brought separately.

1785 Section 18. Notwithstanding the repeal of the Florida  
 1786 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,  
 1787 section 627.7405, Florida Statutes, is revived and reenacted to  
 1788 read:

1789 627.7405 Insurers' right of  
 1790 reimbursement.--Notwithstanding any other provisions of ss.  
 1791 627.730-627.7405, any insurer providing personal injury  
 1792 protection benefits on a private passenger motor vehicle shall



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1793 have, to the extent of any personal injury protection benefits  
1794 paid to any person as a benefit arising out of such private  
1795 passenger motor vehicle insurance, a right of reimbursement  
1796 against the owner or the insurer of the owner of a commercial  
1797 motor vehicle, if the benefits paid result from such person  
1798 having been an occupant of the commercial motor vehicle or  
1799 having been struck by the commercial motor vehicle while not an  
1800 occupant of any self-propelled vehicle.

1801       Section 19. This act revives and reenacts, with  
1802 amendments, the Florida Motor Vehicle No-Fault Law, which  
1803 expired by operation of law on October 1, 2007. This act is  
1804 intended to be remedial and curative in nature and to minimize  
1805 confusion concerning the changes made by this act to ss.  
1806 627.730-627.7405, Florida Statutes. Therefore, the Florida Motor  
1807 Vehicle No-Fault Law shall continue to be codified as ss.  
1808 627.730-627.7405, Florida Statutes, notwithstanding the repeal  
1809 of those sections contained in s. 19, chapter 2003-411, Laws of  
1810 Florida.

1811       Section 20. Effective January 15, 2008, and applicable to  
1812 policies issued or renewed on or after that date, subsections  
1813 (1) and (4), paragraphs (a), (b), and (c) of subsection (5),  
1814 subsection (8), and paragraphs (d) and (e) of subsection (10) of  
1815 section 627.736, Florida Statutes, as reenacted and amended by  
1816 this act, are amended, subsections (11), (12), and (13) of that  
1817 section, as reenacted and amended by this act, are renumbered as  
1818 subsections (12), (13), and (14), respectively, and a new  
1819 subsection (11) and subsections (15) and (16) are added to that  
1820 section, to read:

1821           627.736 Required personal injury protection benefits;  
 1822 exclusions; priority; claims.--

1823           (1) REQUIRED BENEFITS.--Every insurance policy complying  
 1824 with the security requirements of s. 627.733 shall provide  
 1825 personal injury protection to the named insured, relatives  
 1826 residing in the same household, persons operating the insured  
 1827 motor vehicle, passengers in such motor vehicle, and other  
 1828 persons struck by such motor vehicle and suffering bodily injury  
 1829 while not an occupant of a self-propelled vehicle, subject to  
 1830 the provisions of subsection (2) and paragraph (4) (e) ~~(d)~~, to a  
 1831 limit of \$10,000 for loss sustained by any such person as a  
 1832 result of bodily injury, sickness, disease, or death arising out  
 1833 of the ownership, maintenance, or use of a motor vehicle as  
 1834 follows:

1835           (a) Medical benefits.--Eighty percent of all reasonable  
 1836 expenses for medically necessary medical, surgical, X-ray,  
 1837 dental, and rehabilitative services, including prosthetic  
 1838 devices, and medically necessary ambulance, hospital, and  
 1839 nursing services. However, the medical benefits shall provide  
 1840 reimbursement only for such services and care that are provided,  
 1841 ordered, or prescribed by a physician licensed under chapter 458  
 1842 or chapter 459 or a dentist licensed under chapter 466 or that  
 1843 are provided by any of the following persons or entities:

- 1844           1. A chiropractic physician licensed under chapter 460.
- 1845           2. A hospital or ambulatory surgical center licensed under  
 1846 chapter 395.
- 1847           3. A person or entity licensed under ss. 401.2101-401.45  
 1848 that provides emergency transportation and treatment.

1849           4. An entity wholly owned by one or more physicians  
 1850 licensed under chapter 458 or chapter 459, chiropractic  
 1851 physicians licensed under chapter 460, or dentists licensed  
 1852 under chapter 466 or by such practitioner or practitioners and  
 1853 the spouse, parent, child, or sibling of that practitioner or  
 1854 those practitioners.

1855           5. An entity wholly owned, directly or indirectly, by a  
 1856 hospital or hospitals.

1857           6. A health care clinic licensed under ss. 400.990-400.995  
 1858 that is:

1859           a. Accredited by the Joint Commission on Accreditation of  
 1860 Healthcare Organizations, the American Osteopathic Association,  
 1861 the Commission on Accreditation of Rehabilitation Facilities, or  
 1862 the Accreditation Association for Ambulatory Health Care, Inc.;  
 1863 or

1864           b. A health care clinic that:

1865           (I) Has a medical director licensed under chapter 458,  
 1866 chapter 459, or chapter 460;

1867           (II) Has been continuously licensed for more than 3 years  
 1868 or is a publicly traded corporation that issues securities  
 1869 traded on an exchange registered with the United States  
 1870 Securities and Exchange Commission as a national securities  
 1871 exchange; and

1872           (III) Provides at least four of the following medical  
 1873 specialties:

1874           (A) General medicine.

1875           (B) Radiography.

1876           (C) Orthopedic medicine.

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- 1877        (D) Physical medicine.
- 1878        (E) Physical therapy.
- 1879        (F) Physical rehabilitation.
- 1880        (G) Prescribing or dispensing outpatient prescription
- 1881 medication.
- 1882        (H) Laboratory services.

1884        The Financial Services Commission shall adopt by rule the form  
 1885 that must be used by an insurer and a health care provider  
 1886 specified in subparagraph 4., subparagraph 5., or subparagraph  
 1887 6. to document that the health care provider meets the criteria  
 1888 of this paragraph, which rule must include a requirement for a  
 1889 sworn statement or affidavit ~~Such benefits shall also include~~  
 1890 ~~necessary remedial treatment and services recognized and~~  
 1891 ~~permitted under the laws of the state for an injured person who~~  
 1892 ~~relies upon spiritual means through prayer alone for healing, in~~  
 1893 ~~accordance with his or her religious beliefs; however, this~~  
 1894 ~~sentence does not affect the determination of what other~~  
 1895 ~~services or procedures are medically necessary.~~

1896        (b) Disability benefits.--Sixty percent of any loss of  
 1897 gross income and loss of earning capacity per individual from  
 1898 inability to work proximately caused by the injury sustained by  
 1899 the injured person, plus all expenses reasonably incurred in  
 1900 obtaining from others ordinary and necessary services in lieu of  
 1901 those that, but for the injury, the injured person would have  
 1902 performed without income for the benefit of his or her  
 1903 household. All disability benefits payable under this provision  
 1904 shall be paid not less than every 2 weeks.

1905 (c) Death benefits.--Death benefits equal to the lesser of  
 1906 \$5,000 or the remainder of unused personal injury protection  
 1907 benefits per individual. The insurer may pay such benefits to  
 1908 the executor or administrator of the deceased, to any of the  
 1909 deceased's relatives by blood or legal adoption or connection by  
 1910 marriage, or to any person appearing to the insurer to be  
 1911 equitably entitled thereto.

1912  
 1913 Only insurers writing motor vehicle liability insurance in this  
 1914 state may provide the required benefits of this section, and no  
 1915 such insurer shall require the purchase of any other motor  
 1916 vehicle coverage other than the purchase of property damage  
 1917 liability coverage as required by s. 627.7275 as a condition for  
 1918 providing such required benefits. Insurers may not require that  
 1919 property damage liability insurance in an amount greater than  
 1920 \$10,000 be purchased in conjunction with personal injury  
 1921 protection. Such insurers shall make benefits and required  
 1922 property damage liability insurance coverage available through  
 1923 normal marketing channels. Any insurer writing motor vehicle  
 1924 liability insurance in this state who fails to comply with such  
 1925 availability requirement as a general business practice shall be  
 1926 deemed to have violated part IX of chapter 626, and such  
 1927 violation shall constitute an unfair method of competition or an  
 1928 unfair or deceptive act or practice involving the business of  
 1929 insurance; and any such insurer committing such violation shall  
 1930 be subject to the penalties afforded in such part, as well as  
 1931 those which may be afforded elsewhere in the insurance code.

1932 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer

1933 under ss. 627.730-627.7405 shall be primary, except that  
 1934 benefits received under any workers' compensation law shall be  
 1935 credited against the benefits provided by subsection (1) and  
 1936 shall be due and payable as loss accrues, upon receipt of  
 1937 reasonable proof of such loss and the amount of expenses and  
 1938 loss incurred which are covered by the policy issued under ss.  
 1939 627.730-627.7405. When the Agency for Health Care Administration  
 1940 provides, pays, or becomes liable for medical assistance under  
 1941 the Medicaid program related to injury, sickness, disease, or  
 1942 death arising out of the ownership, maintenance, or use of a  
 1943 motor vehicle, benefits under ss. 627.730-627.7405 shall be  
 1944 subject to the provisions of the Medicaid program.

1945 (a) An insurer may require written notice to be given as  
 1946 soon as practicable after an accident involving a motor vehicle  
 1947 with respect to which the policy affords the security required  
 1948 by ss. 627.730-627.7405.

1949 (b) Personal injury protection insurance benefits paid  
 1950 pursuant to this section shall be overdue if not paid within 30  
 1951 days after the insurer is furnished written notice of the fact  
 1952 of a covered loss and of the amount of same. If such written  
 1953 notice is not furnished to the insurer as to the entire claim,  
 1954 any partial amount supported by written notice is overdue if not  
 1955 paid within 30 days after such written notice is furnished to  
 1956 the insurer. Any part or all of the remainder of the claim that  
 1957 is subsequently supported by written notice is overdue if not  
 1958 paid within 30 days after such written notice is furnished to  
 1959 the insurer. When an insurer pays only a portion of a claim or  
 1960 rejects a claim, the insurer shall provide at the time of the

1961 partial payment or rejection an itemized specification of each  
 1962 item that the insurer had reduced, omitted, or declined to pay  
 1963 and any information that the insurer desires the claimant to  
 1964 consider related to the medical necessity of the denied  
 1965 treatment or to explain the reasonableness of the reduced  
 1966 charge, provided that this shall not limit the introduction of  
 1967 evidence at trial; and the insurer shall include the name and  
 1968 address of the person to whom the claimant should respond and a  
 1969 claim number to be referenced in future correspondence. However,  
 1970 notwithstanding the fact that written notice has been furnished  
 1971 to the insurer, any payment shall not be deemed overdue when the  
 1972 insurer has reasonable proof to establish that the insurer is  
 1973 not responsible for the payment. For the purpose of calculating  
 1974 the extent to which any benefits are overdue, payment shall be  
 1975 treated as being made on the date a draft or other valid  
 1976 instrument which is equivalent to payment was placed in the  
 1977 United States mail in a properly addressed, postpaid envelope  
 1978 or, if not so posted, on the date of delivery. This paragraph  
 1979 does not preclude or limit the ability of the insurer to assert  
 1980 that the claim was unrelated, was not medically necessary, or  
 1981 was unreasonable or that the amount of the charge was in excess  
 1982 of that permitted under, or in violation of, subsection (5).  
 1983 Such assertion by the insurer may be made at any time, including  
 1984 after payment of the claim or after the 30-day time period for  
 1985 payment set forth in this paragraph.

1986 (c) Upon receiving notice of an accident that is  
 1987 potentially covered by personal injury protection benefits, the  
 1988 insurer must reserve \$5,000 of personal injury protection

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1989 benefits for payment to physicians licensed under chapter 458 or  
 1990 chapter 459 who provide emergency services and care, as defined  
 1991 in s. 395.002(9), or who provide hospital inpatient care. The  
 1992 amount required to be held in reserve may be used only to pay  
 1993 claims from such physicians until 30 days after the date the  
 1994 insurer receives notice of the accident. After the 30-day  
 1995 period, any amount of the reserve for which the insurer has not  
 1996 received notice of a claim from a physician who provided  
 1997 emergency services and care or who provided hospital inpatient  
 1998 care may then be used by the insurer to pay other claims. The  
 1999 time periods specified in paragraph (b) for required payment of  
 2000 personal injury protection benefits shall be tolled for the  
 2001 period of time that an insurer is required by this paragraph to  
 2002 hold payment of a claim that is not from a physician who  
 2003 provided emergency services and care or who provided hospital  
 2004 inpatient care.

2005 (d)~~(e)~~ All overdue payments shall bear simple interest at  
 2006 the rate established under s. 55.03 or the rate established in  
 2007 the insurance contract, whichever is greater, for the year in  
 2008 which the payment became overdue, calculated from the date the  
 2009 insurer was furnished with written notice of the amount of  
 2010 covered loss. Interest shall be due at the time payment of the  
 2011 overdue claim is made.

2012 (e)~~(d)~~ The insurer of the owner of a motor vehicle shall  
 2013 pay personal injury protection benefits for:

- 2014 1. Accidental bodily injury sustained in this state by the  
 2015 owner while occupying a motor vehicle, or while not an occupant  
 2016 of a self-propelled vehicle if the injury is caused by physical



2017 | contact with a motor vehicle.

2018 |         2. Accidental bodily injury sustained outside this state,  
 2019 | but within the United States of America or its territories or  
 2020 | possessions or Canada, by the owner while occupying the owner's  
 2021 | motor vehicle.

2022 |         3. Accidental bodily injury sustained by a relative of the  
 2023 | owner residing in the same household, under the circumstances  
 2024 | described in subparagraph 1. or subparagraph 2., provided the  
 2025 | relative at the time of the accident is domiciled in the owner's  
 2026 | household and is not himself or herself the owner of a motor  
 2027 | vehicle with respect to which security is required under ss.  
 2028 | 627.730-627.7405.

2029 |         4. Accidental bodily injury sustained in this state by any  
 2030 | other person while occupying the owner's motor vehicle or, if a  
 2031 | resident of this state, while not an occupant of a self-  
 2032 | propelled vehicle, if the injury is caused by physical contact  
 2033 | with such motor vehicle, provided the injured person is not  
 2034 | himself or herself:

2035 |             a. The owner of a motor vehicle with respect to which  
 2036 | security is required under ss. 627.730-627.7405; or

2037 |             b. Entitled to personal injury benefits from the insurer  
 2038 | of the owner or owners of such a motor vehicle.

2039 |         (f)~~(e)~~ If two or more insurers are liable to pay personal  
 2040 | injury protection benefits for the same injury to any one  
 2041 | person, the maximum payable shall be as specified in subsection  
 2042 | (1), and any insurer paying the benefits shall be entitled to  
 2043 | recover from each of the other insurers an equitable pro rata  
 2044 | share of the benefits paid and expenses incurred in processing

2045 the claim.

2046 (g)~~(f)~~ It is a violation of the insurance code for an  
 2047 insurer to fail to timely provide benefits as required by this  
 2048 section with such frequency as to constitute a general business  
 2049 practice.

2050 (h)~~(g)~~ Benefits shall not be due or payable to or on the  
 2051 behalf of an insured person if that person has committed, by a  
 2052 material act or omission, any insurance fraud relating to  
 2053 personal injury protection coverage under his or her policy, if  
 2054 the fraud is admitted to in a sworn statement by the insured or  
 2055 if it is established in a court of competent jurisdiction. Any  
 2056 insurance fraud shall void all coverage arising from the claim  
 2057 related to such fraud under the personal injury protection  
 2058 coverage of the insured person who committed the fraud,  
 2059 irrespective of whether a portion of the insured person's claim  
 2060 may be legitimate, and any benefits paid prior to the discovery  
 2061 of the insured person's insurance fraud shall be recoverable by  
 2062 the insurer from the person who committed insurance fraud in  
 2063 their entirety. The prevailing party is entitled to its costs  
 2064 and attorney's fees in any action in which it prevails in an  
 2065 insurer's action to enforce its right of recovery under this  
 2066 paragraph.

2067 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

2068 (a)1. Any physician, hospital, clinic, or other person or  
 2069 institution lawfully rendering treatment to an injured person  
 2070 for a bodily injury covered by personal injury protection  
 2071 insurance may charge the insurer and injured party only a  
 2072 reasonable amount pursuant to this section for the services and

2073 supplies rendered, and the insurer providing such coverage may  
2074 pay for such charges directly to such person or institution  
2075 lawfully rendering such treatment, if the insured receiving such  
2076 treatment or his or her guardian has countersigned the properly  
2077 completed invoice, bill, or claim form approved by the office  
2078 upon which such charges are to be paid for as having actually  
2079 been rendered, to the best knowledge of the insured or his or  
2080 her guardian. In no event, however, may such a charge be in  
2081 excess of the amount the person or institution customarily  
2082 charges for like services or supplies. With respect to a  
2083 determination of whether a charge for a particular service,  
2084 treatment, or otherwise is reasonable, consideration may be  
2085 given to evidence of usual and customary charges and payments  
2086 accepted by the provider involved in the dispute, and  
2087 reimbursement levels in the community and various federal and  
2088 state medical fee schedules applicable to automobile and other  
2089 insurance coverages, and other information relevant to the  
2090 reasonableness of the reimbursement for the service, treatment,  
2091 or supply.

2092 2. The insurer may limit reimbursement to 80 percent of  
2093 the following schedule of maximum charges:

2094 a. For emergency transport and treatment by providers  
2095 licensed under chapter 401, 200 percent of Medicare.

2096 b. For emergency services and care provided by a hospital  
2097 licensed under chapter 395, 75 percent of the hospital's usual  
2098 and customary charges.

2099 c. For emergency services and care rendered by a physician  
2100 and related hospital inpatient services rendered by a physician,

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2101 the usual and customary charges in the community.

2102 d. For hospital inpatient services, other than emergency  
2103 services and care, 200 percent of the Medicare Part A  
2104 prospective payment applicable to the specific hospital  
2105 providing the inpatient services.

2106 e. For hospital outpatient services, other than emergency  
2107 services and care, 200 percent of the Medicare Part A Ambulatory  
2108 Payment Classification for the specific hospital providing the  
2109 outpatient services.

2110 f. For all other medical services, supplies, and care, 200  
2111 percent of the applicable Medicare Part B fee schedule. However,  
2112 if such services, supplies, or care are not reimbursable under  
2113 Medicare Part B, the insurer may limit reimbursement to 80  
2114 percent of the maximum reimbursable allowance under workers'  
2115 compensation, as determined under s. 440.13 and rules adopted  
2116 thereunder which are in effect at the time such services,  
2117 supplies, or care are provided. Services, supplies, or care that  
2118 are not reimbursable under Medicare or workers' compensation are  
2119 not required to be reimbursed by the insurer.

2120 3. For purposes of subparagraph 2., the applicable fee  
2121 schedule or payment limitation under Medicare is the fee  
2122 schedule or payment limitation in effect at the time the  
2123 services, supplies, or care were rendered and for the area in  
2124 which such services were rendered.

2125 4. Subparagraph 2. does not allow the insurer to apply any  
2126 limitation on the number of treatments or other utilization  
2127 limits that apply under Medicare or workers' compensation. An  
2128 insurer that applies the allowable payment limitations of

2129 subparagraph 2. must reimburse a provider who lawfully provided  
 2130 care or treatment under the scope of his or her license,  
 2131 regardless of whether such provider would be entitled to  
 2132 reimbursement under Medicare due to restrictions or limitations  
 2133 on the types or discipline of health care providers who may be  
 2134 reimbursed for particular procedures or procedure codes.

2135 5. If an insurer limits payment as authorized by  
 2136 subparagraph 2., the person providing such services, supplies,  
 2137 or care may not bill or attempt to collect from the insured any  
 2138 amount in excess of such limits, except for amounts that are not  
 2139 covered by the insured's personal injury protection coverage due  
 2140 to the coinsurance amount or maximum policy limits.

2141 (b)1. An insurer or insured is not required to pay a claim  
 2142 or charges:

2143 a. Made by a broker or by a person making a claim on  
 2144 behalf of a broker;

2145 b. For any service or treatment that was not lawful at the  
 2146 time rendered;

2147 c. To any person who knowingly submits a false or  
 2148 misleading statement relating to the claim or charges;

2149 d. With respect to a bill or statement that does not  
 2150 substantially meet the applicable requirements of paragraph (d);

2151 e. For any treatment or service that is upcoded, or that  
 2152 is unbundled when such treatment or services should be bundled,  
 2153 in accordance with paragraph (d). To facilitate prompt payment  
 2154 of lawful services, an insurer may change codes that it  
 2155 determines to have been improperly or incorrectly upcoded or  
 2156 unbundled, and may make payment based on the changed codes,

2157 without affecting the right of the provider to dispute the  
 2158 change by the insurer, provided that before doing so, the  
 2159 insurer must contact the health care provider and discuss the  
 2160 reasons for the insurer's change and the health care provider's  
 2161 reason for the coding, or make a reasonable good faith effort to  
 2162 do so, as documented in the insurer's file; and

2163 f. For medical services or treatment billed by a physician  
 2164 and not provided in a hospital unless such services are rendered  
 2165 by the physician or are incident to his or her professional  
 2166 services and are included on the physician's bill, including  
 2167 documentation verifying that the physician is responsible for  
 2168 the medical services that were rendered and billed.

2169 ~~2. Charges for medically necessary cephalic thermograms,~~  
 2170 ~~peripheral thermograms, spinal ultrasounds, extremity~~  
 2171 ~~ultrasounds, video fluoroscopy, and surface electromyography~~  
 2172 ~~shall not exceed the maximum reimbursement allowance for such~~  
 2173 ~~procedures as set forth in the applicable fee schedule or other~~  
 2174 ~~payment methodology established pursuant to s. 440.13.~~

2175 ~~3. Allowable amounts that may be charged to a personal~~  
 2176 ~~injury protection insurance insurer and insured for medically~~  
 2177 ~~necessary nerve conduction testing when done in conjunction with~~  
 2178 ~~a needle electromyography procedure and both are performed and~~  
 2179 ~~billed solely by a physician licensed under chapter 458, chapter~~  
 2180 ~~459, chapter 460, or chapter 461 who is also certified by the~~  
 2181 ~~American Board of Electrodiagnostic Medicine or by a board~~  
 2182 ~~recognized by the American Board of Medical Specialties or the~~  
 2183 ~~American Osteopathic Association or who holds diplomate status~~  
 2184 ~~with the American Chiropractic Neurology Board or its~~

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2185 ~~predecessors shall not exceed 200 percent of the allowable~~  
2186 ~~amount under the participating physician fee schedule of~~  
2187 ~~Medicare Part B for year 2001, for the area in which the~~  
2188 ~~treatment was rendered, adjusted annually on August 1 to reflect~~  
2189 ~~the prior calendar year's changes in the annual Medical Care~~  
2190 ~~Item of the Consumer Price Index for All Urban Consumers in the~~  
2191 ~~South Region as determined by the Bureau of Labor Statistics of~~  
2192 ~~the United States Department of Labor.~~

2193 ~~4. Allowable amounts that may be charged to a personal~~  
2194 ~~injury protection insurance insurer and insured for medically~~  
2195 ~~necessary nerve conduction testing that does not meet the~~  
2196 ~~requirements of subparagraph 3. shall not exceed the applicable~~  
2197 ~~fee schedule or other payment methodology established pursuant~~  
2198 ~~to s. 440.13.~~

2199 ~~5. Allowable amounts that may be charged to a personal~~  
2200 ~~injury protection insurance insurer and insured for magnetic~~  
2201 ~~resonance imaging services shall not exceed 175 percent of the~~  
2202 ~~allowable amount under the participating physician fee schedule~~  
2203 ~~of Medicare Part B for year 2001, for the area in which the~~  
2204 ~~treatment was rendered, adjusted annually on August 1 to reflect~~  
2205 ~~the prior calendar year's changes in the annual Medical Care~~  
2206 ~~Item of the Consumer Price Index for All Urban Consumers in the~~  
2207 ~~South Region as determined by the Bureau of Labor Statistics of~~  
2208 ~~the United States Department of Labor for the 12 month period~~  
2209 ~~ending June 30 of that year, except that allowable amounts that~~  
2210 ~~may be charged to a personal injury protection insurance insurer~~  
2211 ~~and insured for magnetic resonance imaging services provided in~~  
2212 ~~facilities accredited by the Accreditation Association for~~

2213 ~~Ambulatory Health Care, the American College of Radiology, or~~  
 2214 ~~the Joint Commission on Accreditation of Healthcare~~  
 2215 ~~Organizations shall not exceed 200 percent of the allowable~~  
 2216 ~~amount under the participating physician fee schedule of~~  
 2217 ~~Medicare Part B for year 2001, for the area in which the~~  
 2218 ~~treatment was rendered, adjusted annually on August 1 to reflect~~  
 2219 ~~the prior calendar year's changes in the annual Medical Care~~  
 2220 ~~Item of the Consumer Price Index for All Urban Consumers in the~~  
 2221 ~~South Region as determined by the Bureau of Labor Statistics of~~  
 2222 ~~the United States Department of Labor for the 12-month period~~  
 2223 ~~ending June 30 of that year. This paragraph does not apply to~~  
 2224 ~~charges for magnetic resonance imaging services and nerve~~  
 2225 ~~conduction testing for inpatients and emergency services and~~  
 2226 ~~care as defined in chapter 395 rendered by facilities licensed~~  
 2227 ~~under chapter 395.~~

2228 2.6 The Department of Health, in consultation with the  
 2229 appropriate professional licensing boards, shall adopt, by rule,  
 2230 a list of diagnostic tests deemed not to be medically necessary  
 2231 for use in the treatment of persons sustaining bodily injury  
 2232 covered by personal injury protection benefits under this  
 2233 section. The initial list shall be adopted by January 1, 2004,  
 2234 and shall be revised from time to time as determined by the  
 2235 Department of Health, in consultation with the respective  
 2236 professional licensing boards. Inclusion of a test on the list  
 2237 of invalid diagnostic tests shall be based on lack of  
 2238 demonstrated medical value and a level of general acceptance by  
 2239 the relevant provider community and shall not be dependent for  
 2240 results entirely upon subjective patient response.



2241 Notwithstanding its inclusion on a fee schedule in this  
 2242 subsection, an insurer or insured is not required to pay any  
 2243 charges or reimburse claims for any invalid diagnostic test as  
 2244 determined by the Department of Health.

2245 (c)1. With respect to any treatment or service, other than  
 2246 medical services billed by a hospital or other provider for  
 2247 emergency services as defined in s. 395.002 or inpatient  
 2248 services rendered at a hospital-owned facility, the statement of  
 2249 charges must be furnished to the insurer by the provider and may  
 2250 not include, and the insurer is not required to pay, charges for  
 2251 treatment or services rendered more than 35 days before the  
 2252 postmark date or electronic transmission date of the statement,  
 2253 except for past due amounts previously billed on a timely basis  
 2254 under this paragraph, and except that, if the provider submits  
 2255 to the insurer a notice of initiation of treatment within 21  
 2256 days after its first examination or treatment of the claimant,  
 2257 the statement may include charges for treatment or services  
 2258 rendered up to, but not more than, 75 days before the postmark  
 2259 date of the statement. The injured party is not liable for, and  
 2260 the provider shall not bill the injured party for, charges that  
 2261 are unpaid because of the provider's failure to comply with this  
 2262 paragraph. Any agreement requiring the injured person or insured  
 2263 to pay for such charges is unenforceable.

2264 2. If, however, the insured fails to furnish the provider  
 2265 with the correct name and address of the insured's personal  
 2266 injury protection insurer, the provider has 35 days from the  
 2267 date the provider obtains the correct information to furnish the  
 2268 insurer with a statement of the charges. The insurer is not

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2269 required to pay for such charges unless the provider includes  
 2270 with the statement documentary evidence that was provided by the  
 2271 insured during the 35-day period demonstrating that the provider  
 2272 reasonably relied on erroneous information from the insured and  
 2273 either:

- 2274 a. A denial letter from the incorrect insurer; or
- 2275 b. Proof of mailing, which may include an affidavit under  
 2276 penalty of perjury, reflecting timely mailing to the incorrect  
 2277 address or insurer.

2278 3. For emergency services and care as defined in s.  
 2279 395.002 rendered in a hospital emergency department or for  
 2280 transport and treatment rendered by an ambulance provider  
 2281 licensed pursuant to part III of chapter 401, the provider is  
 2282 not required to furnish the statement of charges within the time  
 2283 periods established by this paragraph; and the insurer shall not  
 2284 be considered to have been furnished with notice of the amount  
 2285 of covered loss for purposes of paragraph (4)(b) until it  
 2286 receives a statement complying with paragraph (d), or copy  
 2287 thereof, which specifically identifies the place of service to  
 2288 be a hospital emergency department or an ambulance in accordance  
 2289 with billing standards recognized by the Health Care Finance  
 2290 Administration.

2291 4. Each notice of insured's rights under s. 627.7401 must  
 2292 include the following statement in type no smaller than 12  
 2293 points:

2294  
 2295 BILLING REQUIREMENTS.--Florida Statutes provide that with  
 2296 respect to any treatment or services, other than certain

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2297 hospital and emergency services, the statement of charges  
 2298 furnished to the insurer by the provider may not include, and  
 2299 the insurer and the injured party are not required to pay,  
 2300 charges for treatment or services rendered more than 35 days  
 2301 before the postmark date of the statement, except for past due  
 2302 amounts previously billed on a timely basis, and except that, if  
 2303 the provider submits to the insurer a notice of initiation of  
 2304 treatment within 21 days after its first examination or  
 2305 treatment of the claimant, the statement may include charges for  
 2306 treatment or services rendered up to, but not more than, 75 days  
 2307 before the postmark date of the statement.

2308 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S  
 2309 FEES.--With respect to any dispute under the provisions of ss.  
 2310 627.730-627.7405 between the insured and the insurer, or between  
 2311 an assignee of an insured's rights and the insurer, the  
 2312 provisions of s. 627.428 shall apply, except as provided in  
 2313 subsections ~~subsection~~ (10) and (15).

2314 (10) DEMAND LETTER.--

2315 (d) If, within 30 ~~15~~ days after receipt of notice by the  
 2316 insurer, the overdue claim specified in the notice is paid by  
 2317 the insurer together with applicable interest and a penalty of  
 2318 10 percent of the overdue amount paid by the insurer, subject to  
 2319 a maximum penalty of \$250, no action may be brought against the  
 2320 insurer. If the demand involves an insurer's withdrawal of  
 2321 payment under paragraph (7) (a) for future treatment not yet  
 2322 rendered, no action may be brought against the insurer if,  
 2323 within 30 ~~15~~ days after its receipt of the notice, the insurer  
 2324 mails to the person filing the notice a written statement of the

2325 insurer's agreement to pay for such treatment in accordance with  
 2326 the notice and to pay a penalty of 10 percent, subject to a  
 2327 maximum penalty of \$250, when it pays for such future treatment  
 2328 in accordance with the requirements of this section. To the  
 2329 extent the insurer determines not to pay any amount demanded,  
 2330 the penalty shall not be payable in any subsequent action. For  
 2331 purposes of this subsection, payment or the insurer's agreement  
 2332 shall be treated as being made on the date a draft or other  
 2333 valid instrument that is equivalent to payment, or the insurer's  
 2334 written statement of agreement, is placed in the United States  
 2335 mail in a properly addressed, postpaid envelope, or if not so  
 2336 posted, on the date of delivery. The insurer is ~~shall~~ not be  
 2337 obligated to pay any attorney's fees if the insurer pays the  
 2338 claim or mails its agreement to pay for future treatment within  
 2339 the time prescribed by this subsection.

2340 (e) The applicable statute of limitation for an action  
 2341 under this section shall be tolled for a period of 30 ~~45~~  
 2342 business days by the mailing of the notice required by this  
 2343 subsection.

2344 (11) FAILURE TO PAY VALID CLAIMS; UNFAIR OR DECEPTIVE  
 2345 PRACTICE.--

2346 (a) If an insurer fails to pay valid claims for personal  
 2347 injury protection with such frequency so as to indicate a  
 2348 general business practice, the insurer is engaging in a  
 2349 prohibited unfair or deceptive practice that is subject to the  
 2350 penalties provided in s. 626.9521 and the office has the powers  
 2351 and duties specified in ss. 626.9561-626.9601 with respect  
 2352 thereto.

2353           (b) Notwithstanding s. 501.212, the Department of Legal  
 2354 Affairs may investigate and initiate actions for a violation of  
 2355 this subsection, including, but not limited to, the powers and  
 2356 duties specified in part II of chapter 501.

2357           (15) ALL CLAIMS BROUGHT IN A SINGLE ACTION.--In any civil  
 2358 action to recover personal injury protection benefits brought by  
 2359 a claimant pursuant to this section against an insurer, all  
 2360 claims related to the same health care provider for the same  
 2361 injured person shall be brought in one action, unless good cause  
 2362 is shown why such claims should be brought separately. If the  
 2363 court determines that a civil action is filed for a claim that  
 2364 should have been brought in a prior civil action, the court may  
 2365 not award attorney's fees to the claimant.

2366           (16) SECURE ELECTRONIC DATA TRANSFER.--An electronic  
 2367 notice, documentation, transmission, or communication of any  
 2368 kind required or authorized under ss. 627.730-627.7405 must be  
 2369 transmitted by secure electronic data transfer that is  
 2370 consistent with state and federal privacy and security laws.

2371           Section 21. Effective January 15, 2008, and applicable to  
 2372 policies issued or renewed on or after that date, section  
 2373 627.739, Florida Statutes, as reenacted by this act, is amended  
 2374 to read:

2375           627.739 Personal injury protection; optional limitations,  
 2376 ~~deductibles.--~~

2377           (1) The named insured may elect ~~a deductible or~~ modified  
 2378 coverage as specified in subsection (2) ~~or combination thereof~~  
 2379 to apply to the named insured alone or to the named insured and  
 2380 dependent relatives residing in the same household, but may not

2381 elect ~~a deductible or~~ modified coverage to apply to any other  
 2382 person covered under the policy.

2383 ~~(2) Insurers shall offer to each applicant and to each~~  
 2384 ~~policyholder, upon the renewal of an existing policy,~~  
 2385 ~~deductibles, in amounts of \$250, \$500, and \$1,000. The~~  
 2386 ~~deductible amount must be applied to 100 percent of the expenses~~  
 2387 ~~and losses described in s. 627.736. After the deductible is met,~~  
 2388 ~~each insured is eligible to receive up to \$10,000 in total~~  
 2389 ~~benefits described in s. 627.736(1). However, this subsection~~  
 2390 ~~shall not be applied to reduce the amount of any benefits~~  
 2391 ~~received in accordance with s. 627.736(1)(c).~~

2392 ~~(2)(3)~~ Insurers shall offer coverage wherein, at the  
 2393 election of the named insured, the benefits for loss of gross  
 2394 income and loss of earning capacity described in s.  
 2395 627.736(1)(b) shall be excluded.

2396 ~~(3)(4)~~ The named insured shall not be prevented from  
 2397 electing ~~a deductible under subsection (2) and~~ modified coverage  
 2398 under subsection (2) ~~(3)~~. Each election made by the named  
 2399 insured under this section shall result in an appropriate  
 2400 reduction of premium associated with that election.

2401 ~~(4)(5)~~ All Such offer ~~offers~~ shall be made in clear and  
 2402 unambiguous language at the time the initial application is  
 2403 taken and prior to each annual renewal and shall indicate that a  
 2404 premium reduction will result from such ~~each~~ election. At the  
 2405 option of the insurer, the requirements of the preceding  
 2406 sentence are met by using forms of notice approved by the  
 2407 office, or by providing the following notice in 10-point type in  
 2408 the insurer's application for initial issuance of a policy of

2409 motor vehicle insurance and the insurer's annual notice of  
 2410 renewal premium:

2411  
 2412 For personal injury protection insurance, the named insured may  
 2413 elect ~~a deductible and~~ to exclude coverage for loss of gross  
 2414 income and loss of earning capacity ("lost wages"). This  
 2415 election applies ~~These elections apply~~ to the named insured  
 2416 alone, or to the named insured and all dependent resident  
 2417 relatives. A premium reduction will result from this election  
 2418 ~~these elections~~. The named insured is hereby advised not to  
 2419 elect the lost wage exclusion if the named insured or dependent  
 2420 resident relatives are employed, since lost wages will not be  
 2421 payable in the event of an accident.

2422 Section 22. (1) The Legislature intends that the  
 2423 provisions of this act reviving and reenacting the Florida Motor  
 2424 Vehicle No-Fault Law apply to policies issued on or after the  
 2425 effective date of this act.

2426 (2) Each insurer that issued coverage for a motor vehicle  
 2427 that is subject to the Florida Motor Vehicle No-Fault Law shall,  
 2428 within 30 days after the effective date of this act, mail or  
 2429 deliver a revised notice of the premium and policy changes to  
 2430 each policyholder whose policy has an effective date on or after  
 2431 the effective date of this act and who was previously issued a  
 2432 motor vehicle insurance policy or sent a renewal notice based on  
 2433 the assumption that the Florida Motor Vehicle No-Fault Law would  
 2434 be repealed on October 1, 2007. For a renewal policy, the  
 2435 coverage must provide the same limits of personal injury  
 2436 protection coverage, the same deductible from personal injury

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2437 protection coverage, and the same limits of medical payments  
2438 coverage as provided in the prior policy, unless the  
2439 policyholder elects different limits that are available. The  
2440 effective date of the revised policy or renewal shall be the  
2441 same as the effective date specified in the prior notice. The  
2442 revised notice of premium and coverage changes is exempt from  
2443 the requirements of ss. 627.7277, 627.728, and 627.7282, Florida  
2444 Statutes. The policyholder has a period of 30 days, or a longer  
2445 period if specified by the insurer, following receipt of the  
2446 revised notice within which to pay any additional amount of  
2447 premium due and thereby maintain the policy in force as  
2448 specified in this section. Alternatively, the policyholder may  
2449 cancel the policy within this time period and obtain a refund of  
2450 the unearned premium. If the policyholder fails to timely  
2451 respond to the notice, the insurer must cancel the policy and  
2452 return any unearned premium to the insured. The date on which  
2453 the policy will be canceled shall be stated in the notice and  
2454 may not be less than 35 days after the date of the notice. The  
2455 amount of unearned premium due to the policyholder shall be  
2456 calculated on a pro rata basis. The failure of an insurer to  
2457 timely mail or deliver a revised notice as required by this  
2458 subsection does not affect the other requirements of this  
2459 section.

2460 (3) With respect to a policy providing personal injury  
2461 protection coverage having an effective date between the  
2462 effective date of this act and January 14, 2008, inclusive, the  
2463 insurer shall use the forms and rates it had in effect on  
2464 September 30, 2007, for all coverages in that policy unless the



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2465 insurer makes a new rate or form filing that is approved by the  
2466 Office of Insurance Regulation or otherwise legally allowed.

2467 (4) The Legislature recognizes that some persons have been  
2468 issued a motor vehicle insurance policy effective on or after  
2469 October 1, 2007, and before the effective date of this act,  
2470 which does not include personal injury protection, based upon  
2471 the expected repeal of the Florida Motor Vehicle No-Fault Law on  
2472 October 1, 2007, pursuant to s. 19, chapter 2003-411, Laws of  
2473 Florida. Any such person:

2474 (a) May continue to own and operate a motor vehicle in  
2475 this state without being subject to any sanction for failing to  
2476 maintain personal injury protection coverage if that person  
2477 continues to meet statutory requirements relating to property  
2478 damage liability coverage and obtains personal injury protection  
2479 coverage that takes effect no later than December 1, 2007.

2480 (b) Is not subject to the provisions of s. 627.737,  
2481 Florida Statutes, relating to the exemption from tort liability  
2482 with respect to injuries sustained by the person in a motor  
2483 vehicle crash occurring while the policy without personal injury  
2484 protection coverage is in effect but not later than November 30,  
2485 2007. This paragraph also applies during such period to any  
2486 person who would have been covered under a personal injury  
2487 protection policy if such a policy had been maintained on such  
2488 motor vehicle.

2489 (5) Each insurer shall, by October 31, 2007, provide  
2490 written notification to each insured referred to in subsection  
2491 (4) informing the insured that he or she must obtain personal  
2492 injury protection coverage that takes effect no later than

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2493 December 1, 2007. Such notice must include the premium for such  
2494 coverage and the premium credit, if any, which will be provided  
2495 for other coverage, such as bodily injury liability coverage or  
2496 uninsured motorist coverage, as required by subsection (4).  
2497 Alternatively, the insurer may add an endorsement to the policy  
2498 to provide personal injury protection coverage as required by  
2499 law, effective no later than December 1, 2007, without requiring  
2500 any additional payment from the insured, and shall provide  
2501 written notification to the insured of such endorsement by  
2502 October 31, 2007.

2503       Section 23. Except as otherwise expressly provided in this  
2504 act, this act shall take effect upon becoming a law.