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CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

85 unless good cause is shown; authorizing notices and
86 communications required or authorized under the Florida
87 Motor Vehicle No-Fault Law to be transmitted
88 electronically under certain conditions; requiring persons
89 subject to the Florida Motor Vehicle No-Fault Law, as
90 revived and amended by this act, to maintain security for
91 personal injury protection beginning on a specified date;
92 providing that personal injury protection policy in effect
93 on or after a specified date are deemed to incorporate the
94 Florida Motor Vehicle No-Fault Law, as revived and amended
95 by this act; requiring that insurers continue to use
96 certain forms and rates until new forms or rates are used
97 as authorized by law; requiring that insurers provide
98 notice of the requirement for personal injury protection
99 coverage or add an endorsement to the policy providing
100 such coverage; requiring specified notice to certain
101 insureds as of a specified date; providing intent
102 concerning application of revived and amended provisions
103 prior to a specified date; providing legislative findings;
104 providing that a person purchasing a motor vehicle
105 insurance policy without personal injury protection
106 coverage is exempt from the requirement for such coverage
107 for a specified period; providing for severability;
108 providing effective dates.

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

111
112 Section 1. Subsections (1) and (3) of section 316.646,

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

113 Florida Statutes, are amended to read:

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

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

166
 167 Under penalty of perjury, I (Name of insured) do hereby
 168 certify that I have (Personal Injury Protection, Property

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

173 |
 174 | Such affidavit shall include the following warning:

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

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

192 | (d) The verifying of proof of personal injury protection
 193 | insurance, proof of property damage liability insurance, proof
 194 | of combined bodily liability insurance and property damage
 195 | liability insurance, or proof of financial responsibility
 196 | insurance and the issuance or failure to issue the motor vehicle

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

222 324.022 Financial responsibility for property damage.--

223 (1) Every owner or operator of a motor vehicle, ~~which~~
 224 ~~motor vehicle is subject to the requirements of ss. 627.730--~~

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

225 ~~627.7405~~ and required to be registered in this state, shall, by
 226 ~~one of the methods established in s. 324.031 or by having a~~
 227 ~~policy that complies with s. 627.7275,~~ establish and maintain
 228 the ability to respond in damages for liability on account of
 229 accidents arising out of the use of the motor vehicle in the
 230 amount of \$10,000 because of damage to, or destruction of,
 231 property of others in any one crash. The requirements of this
 232 section may be met by one of the methods established in s.
 233 324.031; by self-insuring as authorized by s. 768.28(16); or by
 234 maintaining an insurance policy providing coverage for property
 235 damage liability in the amount of at least \$10,000 because of
 236 damage to, or destruction of, property of others in any one
 237 accident arising out of the use of the motor vehicle. The
 238 requirements of this section may also be met by having a policy
 239 which provides coverage in the amount of at least \$30,000 for
 240 combined property damage liability and bodily injury liability
 241 for any one crash arising out of the use of the motor vehicle.
 242 The policy, with respect to coverage for property damage
 243 liability, must meet the applicable requirements of s. 324.151,
 244 subject to the usual policy exclusions that have been approved
 245 in policy forms by the Office of Insurance Regulation. No
 246 insurer shall have any duty to defend uncovered claims
 247 irrespective of their joinder with covered claims.

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

249 (a) "Motor vehicle" means any self-propelled vehicle that
 250 has four or more wheels and that is of a type designed and
 251 required to be licensed for use on the highways of this state,
 252 and any trailer or semitrailer designed for use with such

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

253 vehicle. The term does not include:

254 1. A mobile home.

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

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

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

336 (a) The department's records showing that the owner or

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

337 registrant of such motor vehicle did not have in full force and
 338 effect when required security that complies with the
 339 requirements of ss. 324.022 and 627.733; or

340 (b) Notification by the insurer to the department, in a
 341 form approved by the department, of cancellation or termination
 342 of the required security.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

374 627.7275 Motor vehicle liability.--

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

393 | underwriting restrictions:

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

447 (e) Nothing in this subsection requires an insurer to
448 offer a policy of insurance to an applicant if such offer would

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

449 be inconsistent with the insurer's underwriting guidelines and
 450 procedures.

451 Section 7. Paragraph (a) of subsection (1) of section
 452 627.7295, Florida Statutes, is amended to read:

453 627.7295 Motor vehicle insurance contracts.--

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

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

458 Section 8. Notwithstanding the repeal of the Florida Motor
 459 Vehicle No-Fault Law, which occurred on October 1, 2007, section
 460 627.730, Florida Statutes, is revived and reenacted to read:

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

464 Section 9. Notwithstanding the repeal of the Florida Motor
 465 Vehicle No-Fault Law, which occurred on October 1, 2007, section
 466 627.731, Florida Statutes, is revived and reenacted to read:

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

- 503 (a) It is a clinic licensed under ss. 400.990-400.995;
- 504 (b) It is a 100-percent owner of medical equipment; and

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

532 (c) Not primarily for the convenience of the patient,

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

533 physician, or other health care provider.

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

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

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

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

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

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

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CS/HB 13C, Engrossed 1

2007 Legislature

561 ss. 627.730-627.7405.

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

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

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

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

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

587 (11) "Lawful" or "lawfully" means in substantial
 588 compliance with all relevant applicable criminal, civil, and

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

589 administrative requirements of state and federal law related to
590 the provision of medical services or treatment.

591 (12) "Hospital" means a facility that, at the time
592 services or treatment were rendered, was licensed under chapter
593 395.

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

617 amended to read:

618 627.733 Required security.--

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

625 (b) Every owner or registrant of a motor vehicle used as a
 626 taxicab shall not be governed by paragraph (1) (a) but shall
 627 maintain security as required under s. 324.032(1), and s.
 628 627.737 shall not apply to any motor vehicle used as a taxicab.

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

635 (3) Such security shall be provided:

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

643 (b) By any other method authorized by s. 324.031(2), (3),
 644 or (4) and approved by the Department of Highway Safety and

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CS/HB 13C, Engrossed 1

2007 Legislature

645 Motor Vehicles as affording security equivalent to that afforded
 646 by a policy of insurance or by self-insuring as authorized by s.
 647 768.28(16). The person filing such security shall have all of
 648 the obligations and rights of an insurer under ss. 627.730-
 649 627.7405.

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

701 ~~noncancelable coverage as described in ss. 324.021(8), 324.023,~~
702 ~~and 627.7275(2) and present to the appropriate person proof that~~
703 ~~the coverage is in force on a form promulgated by the Department~~
704 ~~of Highway Safety and Motor Vehicles, such proof to be~~
705 ~~maintained for 2 years. If the person does not have a second~~
706 ~~reinstatement within 3 years after her or his initial~~
707 ~~reinstatement, the reinstatement fee shall be \$150 for the first~~
708 ~~reinstatement after that 3-year period. In the event that a~~
709 ~~person's license and registration are suspended pursuant to this~~
710 ~~section or s. 316.646, only one reinstatement fee shall be paid~~
711 ~~to reinstate the license and the registration. All fees shall be~~
712 ~~collected by the Department of Highway Safety and Motor Vehicles~~
713 ~~at the time of reinstatement. The Department of Highway Safety~~
714 ~~and Motor Vehicles shall issue proper receipts for such fees and~~
715 ~~shall promptly deposit those fees in the Highway Safety~~
716 ~~Operating Trust Fund. One third of the fee collected under this~~
717 ~~subsection shall be distributed from the Highway Safety~~
718 ~~Operating Trust Fund to the local government entity or state~~
719 ~~agency which employed the law enforcement officer who seizes a~~
720 ~~license plate pursuant to s. 324.201. Such funds may be used by~~
721 ~~the local government entity or state agency for any authorized~~
722 ~~purpose.~~

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

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

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CS/HB 13C, Engrossed 1

2007 Legislature

729 (1) The provisions of chapter 324 which pertain to the
 730 method of giving and maintaining proof of financial
 731 responsibility and which govern and define a motor vehicle
 732 liability policy shall apply to filing and maintaining proof of
 733 security required by ss. 627.730-627.7405.

734 (2) Any person who:

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

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

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

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

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

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

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

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CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

784 (c) Death benefits.--Death benefits of \$5,000 per

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CS/HB 13C, Engrossed 1

2007 Legislature

785 individual. The insurer may pay such benefits to the executor
 786 or administrator of the deceased, to any of the deceased's
 787 relatives by blood or legal adoption or connection by marriage,
 788 or to any person appearing to the insurer to be equitably
 789 entitled thereto.

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

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

812 (a) For injury sustained by the named insured and

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CS/HB 13C, Engrossed 1

2007 Legislature

813 relatives residing in the same household while occupying another
 814 motor vehicle owned by the named insured and not insured under
 815 the policy or for injury sustained by any person operating the
 816 insured motor vehicle without the express or implied consent of
 817 the insured.

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

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

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

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

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CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

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CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

925 627.730-627.7405.

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

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

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

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

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

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

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

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

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1009 | reason for the coding, or make a reasonable good faith effort to
 1010 | do so, as documented in the insurer's file; and

1011 | f. For medical services or treatment billed by a physician
 1012 | and not provided in a hospital unless such services are rendered
 1013 | by the physician or are incident to his or her professional
 1014 | services and are included on the physician's bill, including
 1015 | documentation verifying that the physician is responsible for
 1016 | the medical services that were rendered and billed.

1017 | 2. Charges for medically necessary cephalic thermograms,
 1018 | peripheral thermograms, spinal ultrasounds, extremity
 1019 | ultrasounds, video fluoroscopy, and surface electromyography
 1020 | shall not exceed the maximum reimbursement allowance for such
 1021 | procedures as set forth in the applicable fee schedule or other
 1022 | payment methodology established pursuant to s. 440.13.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1037 the prior calendar year's changes in the annual Medical Care
 1038 Item of the Consumer Price Index for All Urban Consumers in the
 1039 South Region as determined by the Bureau of Labor Statistics of
 1040 the United States Department of Labor.

1041 4. Allowable amounts that may be charged to a personal
 1042 injury protection insurance insurer and insured for medically
 1043 necessary nerve conduction testing that does not meet the
 1044 requirements of subparagraph 3. shall not exceed the applicable
 1045 fee schedule or other payment methodology established pursuant
 1046 to s. 440.13.

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

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CS/HB 13C, Engrossed 1

2007 Legislature

1065 Medicare Part B for year 2001, for the area in which the
 1066 treatment was rendered, adjusted annually on August 1 to reflect
 1067 the prior calendar year's changes in the annual Medical Care
 1068 Item of the Consumer Price Index for All Urban Consumers in the
 1069 South Region as determined by the Bureau of Labor Statistics of
 1070 the United States Department of Labor for the 12-month period
 1071 ending June 30 of that year. This paragraph does not apply to
 1072 charges for magnetic resonance imaging services and nerve
 1073 conduction testing for inpatients and emergency services and
 1074 care as defined in chapter 395 rendered by facilities licensed
 1075 under chapter 395.

1076 6. The Department of Health, in consultation with the
 1077 appropriate professional licensing boards, shall adopt, by rule,
 1078 a list of diagnostic tests deemed not to be medically necessary
 1079 for use in the treatment of persons sustaining bodily injury
 1080 covered by personal injury protection benefits under this
 1081 section. The initial list shall be adopted by January 1, 2004,
 1082 and shall be revised from time to time as determined by the
 1083 Department of Health, in consultation with the respective
 1084 professional licensing boards. Inclusion of a test on the list
 1085 of invalid diagnostic tests shall be based on lack of
 1086 demonstrated medical value and a level of general acceptance by
 1087 the relevant provider community and shall not be dependent for
 1088 results entirely upon subjective patient response.
 1089 Notwithstanding its inclusion on a fee schedule in this
 1090 subsection, an insurer or insured is not required to pay any
 1091 charges or reimburse claims for any invalid diagnostic test as
 1092 determined by the Department of Health.

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1093 (c)1. With respect to any treatment or service, other than
 1094 medical services billed by a hospital or other provider for
 1095 emergency services as defined in s. 395.002 or inpatient
 1096 services rendered at a hospital-owned facility, the statement of
 1097 charges must be furnished to the insurer by the provider and may
 1098 not include, and the insurer is not required to pay, charges for
 1099 treatment or services rendered more than 35 days before the
 1100 postmark date of the statement, except for past due amounts
 1101 previously billed on a timely basis under this paragraph, and
 1102 except that, if the provider submits to the insurer a notice of
 1103 initiation of treatment within 21 days after its first
 1104 examination or treatment of the claimant, the statement may
 1105 include charges for treatment or services rendered up to, but
 1106 not more than, 75 days before the postmark date of the
 1107 statement. The injured party is not liable for, and the provider
 1108 shall not bill the injured party for, charges that are unpaid
 1109 because of the provider's failure to comply with this paragraph.
 1110 Any agreement requiring the injured person or insured to pay for
 1111 such charges is unenforceable.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1121 either:

1122 a. A denial letter from the incorrect insurer; or

1123 b. Proof of mailing, which may include an affidavit under

1124 penalty of perjury, reflecting timely mailing to the incorrect

1125 address or insurer.

1126 3. For emergency services and care as defined in s.

1127 395.002 rendered in a hospital emergency department or for

1128 transport and treatment rendered by an ambulance provider

1129 licensed pursuant to part III of chapter 401, the provider is

1130 not required to furnish the statement of charges within the time

1131 periods established by this paragraph; and the insurer shall not

1132 be considered to have been furnished with notice of the amount

1133 of covered loss for purposes of paragraph (4)(b) until it

1134 receives a statement complying with paragraph (d), or copy

1135 thereof, which specifically identifies the place of service to

1136 be a hospital emergency department or an ambulance in accordance

1137 with billing standards recognized by the Health Care Finance

1138 Administration.

1139 4. Each notice of insured's rights under s. 627.7401 must

1140 include the following statement in type no smaller than 12

1141 points:

1142

1143 BILLING REQUIREMENTS.--Florida Statutes provide that with

1144 respect to any treatment or services, other than certain

1145 hospital and emergency services, the statement of charges

1146 furnished to the insurer by the provider may not include, and

1147 the insurer and the injured party are not required to pay,

1148 charges for treatment or services rendered more than 35 days

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1149 | before the postmark date of the statement, except for past due
 1150 | amounts previously billed on a timely basis, and except that, if
 1151 | the provider submits to the insurer a notice of initiation of
 1152 | treatment within 21 days after its first examination or
 1153 | treatment of the claimant, the statement may include charges for
 1154 | treatment or services rendered up to, but not more than, 75 days
 1155 | before the postmark date of the statement.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1177 System (HCPCS) in effect for the year in which services were
 1178 rendered, the Office of the Inspector General (OIG), Physicians
 1179 Compliance Guidelines, and other authoritative treatises
 1180 designated by rule by the Agency for Health Care Administration.
 1181 No statement of medical services may include charges for medical
 1182 services of a person or entity that performed such services
 1183 without possessing the valid licenses required to perform such
 1184 services. For purposes of paragraph (4) (b), an insurer shall not
 1185 be considered to have been furnished with notice of the amount
 1186 of covered loss or medical bills due unless the statements or
 1187 bills comply with this paragraph, and unless the statements or
 1188 bills are properly completed in their entirety as to all
 1189 material provisions, with all relevant information being
 1190 provided therein.

1191 (e)1. At the initial treatment or service provided, each
 1192 physician, other licensed professional, clinic, or other medical
 1193 institution providing medical services upon which a claim for
 1194 personal injury protection benefits is based shall require an
 1195 insured person, or his or her guardian, to execute a disclosure
 1196 and acknowledgment form, which reflects at a minimum that:

1197 a. The insured, or his or her guardian, must countersign
 1198 the form attesting to the fact that the services set forth
 1199 therein were actually rendered;

1200 b. The insured, or his or her guardian, has both the right
 1201 and affirmative duty to confirm that the services were actually
 1202 rendered;

1203 c. The insured, or his or her guardian, was not solicited
 1204 by any person to seek any services from the medical provider;

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CS/HB 13C, Engrossed 1

2007 Legislature

1205 d. That the physician, other licensed professional,
 1206 clinic, or other medical institution rendering services for
 1207 which payment is being claimed explained the services to the
 1208 insured or his or her guardian; and

1209 e. If the insured notifies the insurer in writing of a
 1210 billing error, the insured may be entitled to a certain
 1211 percentage of a reduction in the amounts paid by the insured's
 1212 motor vehicle insurer.

1213 2. The physician, other licensed professional, clinic, or
 1214 other medical institution rendering services for which payment
 1215 is being claimed has the affirmative duty to explain the
 1216 services rendered to the insured, or his or her guardian, so
 1217 that the insured, or his or her guardian, countersigns the form
 1218 with informed consent.

1219 3. Countersignature by the insured, or his or her
 1220 guardian, is not required for the reading of diagnostic tests or
 1221 other services that are of such a nature that they are not
 1222 required to be performed in the presence of the insured.

1223 4. The licensed medical professional rendering treatment
 1224 for which payment is being claimed must sign, by his or her own
 1225 hand, the form complying with this paragraph.

1226 5. The original completed disclosure and acknowledgment
 1227 form shall be furnished to the insurer pursuant to paragraph
 1228 (4) (b) and may not be electronically furnished.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1233 department, or for transport and treatment rendered by an
 1234 ambulance provider licensed pursuant to part III of chapter 401.

1235 7. The Financial Services Commission shall adopt, by rule,
 1236 a standard disclosure and acknowledgment form that shall be used
 1237 to fulfill the requirements of this paragraph, effective 90 days
 1238 after such form is adopted and becomes final. The commission
 1239 shall adopt a proposed rule by October 1, 2003. Until the rule
 1240 is final, the provider may use a form of its own which otherwise
 1241 complies with the requirements of this paragraph.

1242 8. As used in this paragraph, "countersigned" means a
 1243 second or verifying signature, as on a previously signed
 1244 document, and is not satisfied by the statement "signature on
 1245 file" or any similar statement.

1246 9. The requirements of this paragraph apply only with
 1247 respect to the initial treatment or service of the insured by a
 1248 provider. For subsequent treatments or service, the provider
 1249 must maintain a patient log signed by the patient, in
 1250 chronological order by date of service, that is consistent with
 1251 the services being rendered to the patient as claimed. The
 1252 requirements of this subparagraph for maintaining a patient log
 1253 signed by the patient may be met by a hospital that maintains
 1254 medical records as required by s. 395.3025 and applicable rules
 1255 and makes such records available to the insurer upon request.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1261 determines that the insured has been improperly billed, the
 1262 insurer shall notify the insured, the person making the written
 1263 notification and the provider of its findings and shall reduce
 1264 the amount of payment to the provider by the amount determined
 1265 to be improperly billed. If a reduction is made due to such
 1266 written notification by any person, the insurer shall pay to the
 1267 person 20 percent of the amount of the reduction, up to \$500. If
 1268 the provider is arrested due to the improper billing, then the
 1269 insurer shall pay to the person 40 percent of the amount of the
 1270 reduction, up to \$500.

1271 (g) An insurer may not systematically downcode with the
 1272 intent to deny reimbursement otherwise due. Such action
 1273 constitutes a material misrepresentation under s.
 1274 626.9541(1)(i)2.

1275 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON;
 1276 DISPUTES.--

1277 (a) Every employer shall, if a request is made by an
 1278 insurer providing personal injury protection benefits under ss.
 1279 627.730-627.7405 against whom a claim has been made, furnish
 1280 forthwith, in a form approved by the office, a sworn statement
 1281 of the earnings, since the time of the bodily injury and for a
 1282 reasonable period before the injury, of the person upon whose
 1283 injury the claim is based.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1317 with paragraph (4) (b) or within 10 days after the insurer's
1318 receipt of the requested documentation or information, whichever
1319 occurs later. For purposes of this paragraph, the term "receipt"
1320 includes, but is not limited to, inspection and copying pursuant
1321 to this paragraph. Any insurer that requests documentation or
1322 information pertaining to reasonableness of charges or medical
1323 necessity under this paragraph without a reasonable basis for
1324 such requests as a general business practice is engaging in an
1325 unfair trade practice under the insurance code.

1326 (c) In the event of any dispute regarding an insurer's
1327 right to discovery of facts under this section, the insurer may
1328 petition a court of competent jurisdiction to enter an order
1329 permitting such discovery. The order may be made only on motion
1330 for good cause shown and upon notice to all persons having an
1331 interest, and it shall specify the time, place, manner,
1332 conditions, and scope of the discovery. Such court may, in order
1333 to protect against annoyance, embarrassment, or oppression, as
1334 justice requires, enter an order refusing discovery or
1335 specifying conditions of discovery and may order payments of
1336 costs and expenses of the proceeding, including reasonable fees
1337 for the appearance of attorneys at the proceedings, as justice
1338 requires.

1339 (d) The injured person shall be furnished, upon request, a
1340 copy of all information obtained by the insurer under the
1341 provisions of this section, and shall pay a reasonable charge,
1342 if required by the insurer.

1343 (e) Notice to an insurer of the existence of a claim shall
1344 not be unreasonably withheld by an insured.

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1345 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
 1346 REPORTS.--
 1347 (a) Whenever the mental or physical condition of an
 1348 injured person covered by personal injury protection is material
 1349 to any claim that has been or may be made for past or future
 1350 personal injury protection insurance benefits, such person
 1351 shall, upon the request of an insurer, submit to mental or
 1352 physical examination by a physician or physicians. The costs of
 1353 any examinations requested by an insurer shall be borne entirely
 1354 by the insurer. Such examination shall be conducted within the
 1355 municipality where the insured is receiving treatment, or in a
 1356 location reasonably accessible to the insured, which, for
 1357 purposes of this paragraph, means any location within the
 1358 municipality in which the insured resides, or any location
 1359 within 10 miles by road of the insured's residence, provided
 1360 such location is within the county in which the insured resides.
 1361 If the examination is to be conducted in a location reasonably
 1362 accessible to the insured, and if there is no qualified
 1363 physician to conduct the examination in a location reasonably
 1364 accessible to the insured, then such examination shall be
 1365 conducted in an area of the closest proximity to the insured's
 1366 residence. Personal protection insurers are authorized to
 1367 include reasonable provisions in personal injury protection
 1368 insurance policies for mental and physical examination of those
 1369 claiming personal injury protection insurance benefits. An
 1370 insurer may not withdraw payment of a treating physician without
 1371 the consent of the injured person covered by the personal injury
 1372 protection, unless the insurer first obtains a valid report by a

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1401 paragraph or direct the physician preparing the report to change
1402 such opinion. The denial of a payment as the result of such a
1403 changed opinion constitutes a material misrepresentation under
1404 s. 626.9541(1)(i)2.; however, this provision does not preclude
1405 the insurer from calling to the attention of the physician
1406 errors of fact in the report based upon information in the claim
1407 file.

1408 (b) If requested by the person examined, a party causing
1409 an examination to be made shall deliver to him or her a copy of
1410 every written report concerning the examination rendered by an
1411 examining physician, at least one of which reports must set out
1412 the examining physician's findings and conclusions in detail.
1413 After such request and delivery, the party causing the
1414 examination to be made is entitled, upon request, to receive
1415 from the person examined every written report available to him
1416 or her or his or her representative concerning any examination,
1417 previously or thereafter made, of the same mental or physical
1418 condition. By requesting and obtaining a report of the
1419 examination so ordered, or by taking the deposition of the
1420 examiner, the person examined waives any privilege he or she may
1421 have, in relation to the claim for benefits, regarding the
1422 testimony of every other person who has examined, or may
1423 thereafter examine, him or her in respect to the same mental or
1424 physical condition. If a person unreasonably refuses to submit
1425 to an examination, the personal injury protection carrier is no
1426 longer liable for subsequent personal injury protection
1427 benefits.

1428 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1429 FEES.--With respect to any dispute under the provisions of ss.
 1430 627.730-627.7405 between the insured and the insurer, or between
 1431 an assignee of an insured's rights and the insurer, the
 1432 provisions of s. 627.428 shall apply, except as provided in
 1433 subsection (10) ~~(11)~~.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1457 ~~These records are to be used for enforcement and regulatory~~
 1458 ~~purposes only, including the generation by the department of~~
 1459 ~~data regarding compliance by owners of motor vehicles with~~
 1460 ~~financial responsibility coverage requirements. In addition, the~~
 1461 ~~Department of Highway Safety and Motor Vehicles shall release,~~
 1462 ~~upon a written request by a person involved in a motor vehicle~~
 1463 ~~accident, by the person's attorney, or by a representative of~~
 1464 ~~the person's motor vehicle insurer, the name of the insurance~~
 1465 ~~company and the policy number for the policy covering the~~
 1466 ~~vehicle named by the requesting party. The written request must~~
 1467 ~~include a copy of the appropriate accident form as provided in~~
 1468 ~~s. 316.065, s. 316.066, or s. 316.068.~~

1469 ~~(b) Every insurer with respect to each insurance policy~~
 1470 ~~providing personal injury protection benefits shall notify the~~
 1471 ~~named insured or in the case of a commercial fleet policy, the~~
 1472 ~~first named insured in writing that any cancellation or~~
 1473 ~~nonrenewal of the policy will be reported by the insurer to the~~
 1474 ~~Department of Highway Safety and Motor Vehicles. The notice~~
 1475 ~~shall also inform the named insured that failure to maintain~~
 1476 ~~personal injury protection and property damage liability~~
 1477 ~~insurance on a motor vehicle when required by law may result in~~
 1478 ~~the loss of registration and driving privileges in this state,~~
 1479 ~~and the notice shall inform the named insured of the amount of~~
 1480 ~~the reinstatement fees required by s. 627.733(7). This notice~~
 1481 ~~is for informational purposes only, and no civil liability shall~~
 1482 ~~attach to an insurer due to failure to provide this notice.~~

1483 ~~(9)~~ (10) An insurer may negotiate and enter into contracts
 1484 with licensed health care providers for the benefits described

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1485 in this section, referred to in this section as "preferred
 1486 providers," which shall include health care providers licensed
 1487 under chapters 458, 459, 460, 461, and 463. The insurer may
 1488 provide an option to an insured to use a preferred provider at
 1489 the time of purchase of the policy for personal injury
 1490 protection benefits, if the requirements of this subsection are
 1491 met. If the insured elects to use a provider who is not a
 1492 preferred provider, whether the insured purchased a preferred
 1493 provider policy or a nonpreferred provider policy, the medical
 1494 benefits provided by the insurer shall be as required by this
 1495 section. If the insured elects to use a provider who is a
 1496 preferred provider, the insurer may pay medical benefits in
 1497 excess of the benefits required by this section and may waive or
 1498 lower the amount of any deductible that applies to such medical
 1499 benefits. If the insurer offers a preferred provider policy to a
 1500 policyholder or applicant, it must also offer a nonpreferred
 1501 provider policy. The insurer shall provide each policyholder
 1502 with a current roster of preferred providers in the county in
 1503 which the insured resides at the time of purchase of such
 1504 policy, and shall make such list available for public inspection
 1505 during regular business hours at the principal office of the
 1506 insurer within the state.

1507 (10)~~(11)~~ DEMAND LETTER.--

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

ENROLLED
 CS/HB 13C, Engrossed 1

2007 Legislature

1513 paragraph (4) (b) .

1514 (b) The notice required shall state that it is a "demand
 1515 letter under s. 627.736 (10) ~~(11)~~" and shall state with
 1516 specificity:

1517 1. The name of the insured upon which such benefits are
 1518 being sought, including a copy of the assignment giving rights
 1519 to the claimant if the claimant is not the insured.

1520 2. The claim number or policy number upon which such claim
 1521 was originally submitted to the insurer.

1522 3. To the extent applicable, the name of any medical
 1523 provider who rendered to an insured the treatment, services,
 1524 accommodations, or supplies that form the basis of such claim;
 1525 and an itemized statement specifying each exact amount, the date
 1526 of treatment, service, or accommodation, and the type of benefit
 1527 claimed to be due. A completed form satisfying the requirements
 1528 of paragraph (5) (d) or the lost-wage statement previously
 1529 submitted may be used as the itemized statement. To the extent
 1530 that the demand involves an insurer's withdrawal of payment
 1531 under paragraph (7) (a) for future treatment not yet rendered,
 1532 the claimant shall attach a copy of the insurer's notice
 1533 withdrawing such payment and an itemized statement of the type,
 1534 frequency, and duration of future treatment claimed to be
 1535 reasonable and medically necessary.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1541 notice must be sent to the person and address specified by the
 1542 insurer for the purposes of receiving notices under this
 1543 subsection. Each licensed insurer, whether domestic, foreign, or
 1544 alien, shall file with the office designation of the name and
 1545 address of the person to whom notices pursuant to this
 1546 subsection shall be sent which the office shall make available
 1547 on its Internet website. The name and address on file with the
 1548 office pursuant to s. 624.422 shall be deemed the authorized
 1549 representative to accept notice pursuant to this subsection in
 1550 the event no other designation has been made.

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

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CS/HB 13C, Engrossed 1

2007 Legislature

1569 valid instrument that is equivalent to payment, or the insurer's
 1570 written statement of agreement, is placed in the United States
 1571 mail in a properly addressed, postpaid envelope, or if not so
 1572 posted, on the date of delivery. The insurer shall not be
 1573 obligated to pay any attorney's fees if the insurer pays the
 1574 claim or mails its agreement to pay for future treatment within
 1575 the time prescribed by this subsection.

1576 (e) The applicable statute of limitation for an action
 1577 under this section shall be tolled for a period of 15 business
 1578 days by the mailing of the notice required by this subsection.

1579 (f) Any insurer making a general business practice of not
 1580 paying valid claims until receipt of the notice required by this
 1581 subsection is engaging in an unfair trade practice under the
 1582 insurance code.

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1597 | under s. 456.054, associated with a claim for personal injury
 1598 | protection benefits in accordance with this section.

1599 | (12)~~(13)~~ MINIMUM BENEFIT COVERAGE.--If the Financial
 1600 | Services Commission determines that the cost savings under
 1601 | personal injury protection insurance benefits paid by insurers
 1602 | have been realized due to the provisions of this act, prior
 1603 | legislative reforms, or other factors, the commission may
 1604 | increase the minimum \$10,000 benefit coverage requirement. In
 1605 | establishing the amount of such increase, the commission must
 1606 | determine that the additional premium for such coverage is
 1607 | approximately equal to the premium cost savings that have been
 1608 | realized for the personal injury protection coverage with limits
 1609 | of \$10,000.

1610 | (13)~~(14)~~ FRAUD ADVISORY NOTICE.--Upon receiving notice of
 1611 | a claim under this section, an insurer shall provide a notice to
 1612 | the insured or to a person for whom a claim for reimbursement
 1613 | for diagnosis or treatment of injuries has been filed, advising
 1614 | that:

1615 | (a) Pursuant to s. 626.9892, the Department of Financial
 1616 | Services may pay rewards of up to \$25,000 to persons providing
 1617 | information leading to the arrest and conviction of persons
 1618 | committing crimes investigated by the Division of Insurance
 1619 | Fraud arising from violations of s. 440.105, s. 624.15, s.
 1620 | 626.9541, s. 626.989, or s. 817.234.

1621 | (b) Solicitation of a person injured in a motor vehicle
 1622 | crash for purposes of filing personal injury protection or tort
 1623 | claims could be a violation of s. 817.234, s. 817.505, or the
 1624 | rules regulating The Florida Bar and should be immediately

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CS/HB 13C, Engrossed 1

2007 Legislature

1625 reported to the Division of Insurance Fraud if such conduct has
 1626 taken place.

1627 Section 14. Notwithstanding the repeal of the Florida
 1628 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,
 1629 section 627.737, Florida Statutes, is revived and reenacted to
 1630 read:

1631 627.737 Tort exemption; limitation on right to damages;
 1632 punitive damages.--

1633 (1) Every owner, registrant, operator, or occupant of a
 1634 motor vehicle with respect to which security has been provided
 1635 as required by ss. 627.730-627.7405, and every person or
 1636 organization legally responsible for her or his acts or
 1637 omissions, is hereby exempted from tort liability for damages
 1638 because of bodily injury, sickness, or disease arising out of
 1639 the ownership, operation, maintenance, or use of such motor
 1640 vehicle in this state to the extent that the benefits described
 1641 in s. 627.736(1) are payable for such injury, or would be
 1642 payable but for any exclusion authorized by ss. 627.730-
 1643 627.7405, under any insurance policy or other method of security
 1644 complying with the requirements of s. 627.733, or by an owner
 1645 personally liable under s. 627.733 for the payment of such
 1646 benefits, unless a person is entitled to maintain an action for
 1647 pain, suffering, mental anguish, and inconvenience for such
 1648 injury under the provisions of subsection (2).

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1653 responsible for her or his acts or omissions, a plaintiff may
 1654 recover damages in tort for pain, suffering, mental anguish, and
 1655 inconvenience because of bodily injury, sickness, or disease
 1656 arising out of the ownership, maintenance, operation, or use of
 1657 such motor vehicle only in the event that the injury or disease
 1658 consists in whole or in part of:

1659 (a) Significant and permanent loss of an important bodily
 1660 function.

1661 (b) Permanent injury within a reasonable degree of medical
 1662 probability, other than scarring or disfigurement.

1663 (c) Significant and permanent scarring or disfigurement.

1664 (d) Death.

1665 (3) When a defendant, in a proceeding brought pursuant to
 1666 ss. 627.730-627.7405, questions whether the plaintiff has met
 1667 the requirements of subsection (2), then the defendant may file
 1668 an appropriate motion with the court, and the court shall, on a
 1669 one-time basis only, 30 days before the date set for the trial
 1670 or the pretrial hearing, whichever is first, by examining the
 1671 pleadings and the evidence before it, ascertain whether the
 1672 plaintiff will be able to submit some evidence that the
 1673 plaintiff will meet the requirements of subsection (2). If the
 1674 court finds that the plaintiff will not be able to submit such
 1675 evidence, then the court shall dismiss the plaintiff's claim
 1676 without prejudice.

1677 (4) In any action brought against an automobile liability
 1678 insurer for damages in excess of its policy limits, no claim for
 1679 punitive damages shall be allowed.

1680 Section 15. Notwithstanding the repeal of the Florida

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CS/HB 13C, Engrossed 1

2007 Legislature

1681 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,
1682 section 627.739, Florida Statutes, is revived and reenacted to
1683 read:

1684 627.739 Personal injury protection; optional limitations;
1685 deductibles.--

1686 (1) The named insured may elect a deductible or modified
1687 coverage or combination thereof to apply to the named insured
1688 alone or to the named insured and dependent relatives residing
1689 in the same household, but may not elect a deductible or
1690 modified coverage to apply to any other person covered under the
1691 policy.

1692 (2) Insurers shall offer to each applicant and to each
1693 policyholder, upon the renewal of an existing policy,
1694 deductibles, in amounts of \$250, \$500, and \$1,000. The
1695 deductible amount must be applied to 100 percent of the expenses
1696 and losses described in s. 627.736. After the deductible is met,
1697 each insured is eligible to receive up to \$10,000 in total
1698 benefits described in s. 627.736(1). However, this subsection
1699 shall not be applied to reduce the amount of any benefits
1700 received in accordance with s. 627.736(1)(c).

1701 (3) Insurers shall offer coverage wherein, at the election
1702 of the named insured, the benefits for loss of gross income and
1703 loss of earning capacity described in s. 627.736(1)(b) shall be
1704 excluded.

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

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CS/HB 13C, Engrossed 1

2007 Legislature

1709 associated with that election.

1710 (5) All such offers shall be made in clear and unambiguous
 1711 language at the time the initial application is taken and prior
 1712 to each annual renewal and shall indicate that a premium
 1713 reduction will result from each election. At the option of the
 1714 insurer, the requirements of the preceding sentence are met by
 1715 using forms of notice approved by the office, or by providing
 1716 the following notice in 10-point type in the insurer's
 1717 application for initial issuance of a policy of motor vehicle
 1718 insurance and the insurer's annual notice of renewal premium:

1719 For personal injury protection insurance, the named insured may
 1720 elect a deductible and to exclude coverage for loss of gross
 1721 income and loss of earning capacity ("lost wages"). These
 1722 elections apply to the named insured alone, or to the named
 1723 insured and all dependent resident relatives. A premium
 1724 reduction will result from these elections. The named insured is
 1725 hereby advised not to elect the lost wage exclusion if the named
 1726 insured or dependent resident relatives are employed, since lost
 1727 wages will not be payable in the event of an accident.

1728 Section 16. Notwithstanding the repeal of the Florida
 1729 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,
 1730 section 627.7401, Florida Statutes, is revived and reenacted to
 1731 read:

1732 627.7401 Notification of insured's rights.--

1733 (1) The commission, by rule, shall adopt a form for the
 1734 notification of insureds of their right to receive personal
 1735 injury protection benefits under the Florida Motor Vehicle No-
 1736 Fault Law. Such notice shall include:

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CS/HB 13C, Engrossed 1

2007 Legislature

1737 (a) A description of the benefits provided by personal
 1738 injury protection, including, but not limited to, the specific
 1739 types of services for which medical benefits are paid,
 1740 disability benefits, death benefits, significant exclusions from
 1741 and limitations on personal injury protection benefits, when
 1742 payments are due, how benefits are coordinated with other
 1743 insurance benefits that the insured may have, penalties and
 1744 interest that may be imposed on insurers for failure to make
 1745 timely payments of benefits, and rights of parties regarding
 1746 disputes as to benefits.

1747 (b) An advisory informing insureds that:

1748 1. Pursuant to s. 626.9892, the Department of Financial
 1749 Services may pay rewards of up to \$25,000 to persons providing
 1750 information leading to the arrest and conviction of persons
 1751 committing crimes investigated by the Division of Insurance
 1752 Fraud arising from violations of s. 440.105, s. 624.15, s.
 1753 626.9541, s. 626.989, or s. 817.234.

1754 2. Pursuant to s. 627.736(5)(e)1., if the insured notifies
 1755 the insurer of a billing error, the insured may be entitled to a
 1756 certain percentage of a reduction in the amount paid by the
 1757 insured's motor vehicle insurer.

1758 (c) A notice that solicitation of a person injured in a
 1759 motor vehicle crash for purposes of filing personal injury
 1760 protection or tort claims could be a violation of s. 817.234, s
 1761 817.505, or the rules regulating The Florida Bar and should be
 1762 immediately reported to the Division of Insurance Fraud if such
 1763 conduct has taken place.

1764 (2) Each insurer issuing a policy in this state providing

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CS/HB 13C, Engrossed 1

2007 Legislature

1765 personal injury protection benefits must mail or deliver the
 1766 notice as specified in subsection (1) to an insured within 21
 1767 days after receiving from the insured notice of an automobile
 1768 accident or claim involving personal injury to an insured who is
 1769 covered under the policy. The office may allow an insurer
 1770 additional time to provide the notice specified in subsection
 1771 (1) not to exceed 30 days, upon a showing by the insurer that an
 1772 emergency justifies an extension of time.

1773 (3) The notice required by this section does not alter or
 1774 modify the terms of the insurance contract or other requirements
 1775 of this act.

1776 Section 17. Notwithstanding the repeal of the Florida
 1777 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,
 1778 section 627.7403, Florida Statutes, is revived and reenacted to
 1779 read:

1780 627.7403 Mandatory joinder of derivative claim.--In any
 1781 action brought pursuant to the provisions of s. 627.737 claiming
 1782 personal injuries, all claims arising out of the plaintiff's
 1783 injuries, including all derivative claims, shall be brought
 1784 together, unless good cause is shown why such claims should be
 1785 brought separately.

1786 Section 18. Notwithstanding the repeal of the Florida
 1787 Motor Vehicle No-Fault Law, which occurred on October 1, 2007,
 1788 section 627.7405, Florida Statutes, is revived and reenacted to
 1789 read:

1790 627.7405 Insurers' right of
 1791 reimbursement.--Notwithstanding any other provisions of ss.
 1792 627.730-627.7405, any insurer providing personal injury

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CS/HB 13C, Engrossed 1

2007 Legislature

1793 protection benefits on a private passenger motor vehicle shall
 1794 have, to the extent of any personal injury protection benefits
 1795 paid to any person as a benefit arising out of such private
 1796 passenger motor vehicle insurance, a right of reimbursement
 1797 against the owner or the insurer of the owner of a commercial
 1798 motor vehicle, if the benefits paid result from such person
 1799 having been an occupant of the commercial motor vehicle or
 1800 having been struck by the commercial motor vehicle while not an
 1801 occupant of any self-propelled vehicle.

1802 Section 19. This act revives and reenacts, with
 1803 amendments, the Florida Motor Vehicle No-Fault Law, which
 1804 expired by operation of law on October 1, 2007. This act is
 1805 intended to be remedial and curative in nature and to minimize
 1806 confusion concerning the changes made by this act to ss.
 1807 627.730-627.7405, Florida Statutes. Therefore, the Florida Motor
 1808 Vehicle No-Fault Law shall continue to be codified as ss.
 1809 627.730-627.7405, Florida Statutes, notwithstanding the repeal
 1810 of those sections contained in s. 19, chapter 2003-411, Laws of
 1811 Florida.

1812 Section 20. Subsections (1) and (4), paragraphs (a), (b),
 1813 and (c) of subsection (5), subsection (8), and paragraphs (d)
 1814 and (e) of subsection (10) of section 627.736, Florida Statutes,
 1815 as reenacted and amended by this act, are amended, subsections
 1816 (11), (12), and (13) of that section, as reenacted and amended
 1817 by this act, are renumbered as subsections (12), (13), and (14),
 1818 respectively, and a new subsection (11) and subsections (15) and
 1819 (16) are added to that section, to read:

1820 627.736 Required personal injury protection benefits;

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 CS/HB 13C, Engrossed 1

2007 Legislature

1821 exclusions; priority; claims.--
 1822 (1) REQUIRED BENEFITS.--Every insurance policy complying
 1823 with the security requirements of s. 627.733 shall provide
 1824 personal injury protection to the named insured, relatives
 1825 residing in the same household, persons operating the insured
 1826 motor vehicle, passengers in such motor vehicle, and other
 1827 persons struck by such motor vehicle and suffering bodily injury
 1828 while not an occupant of a self-propelled vehicle, subject to
 1829 the provisions of subsection (2) and paragraph (4) (e) ~~(d)~~, to a
 1830 limit of \$10,000 for loss sustained by any such person as a
 1831 result of bodily injury, sickness, disease, or death arising out
 1832 of the ownership, maintenance, or use of a motor vehicle as
 1833 follows:

1834 (a) Medical benefits.--Eighty percent of all reasonable
 1835 expenses for medically necessary medical, surgical, X-ray,
 1836 dental, and rehabilitative services, including prosthetic
 1837 devices, and medically necessary ambulance, hospital, and
 1838 nursing services. However, the medical benefits shall provide
 1839 reimbursement only for such services and care that are lawfully
 1840 provided, supervised, ordered, or prescribed by a physician
 1841 licensed under chapter 458 or chapter 459, a dentist licensed
 1842 under chapter 466, or a chiropractic physician licensed under
 1843 chapter 460 or that are provided by any of the following persons
 1844 or entities:

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

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CS/HB 13C, Engrossed 1

2007 Legislature

1849 3. 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 4. An entity wholly owned, directly or indirectly, by a
 1856 hospital or hospitals.

1857 5. 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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CS/HB 13C, Engrossed 1

2007 Legislature

- 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 3., subparagraph 4., or subparagraph
 1887 5. 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.

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CS/HB 13C, Engrossed 1

2007 Legislature

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

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CS/HB 13C, Engrossed 1

2007 Legislature

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

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CS/HB 13C, Engrossed 1

2007 Legislature

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

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

1989 benefits for payment to physicians licensed under chapter 458 or
 1990 chapter 459 or dentists licensed under chapter 466 who provide
 1991 emergency services and care, as defined in s. 395.002(9), or who
 1992 provide hospital inpatient care. The amount required to be held
 1993 in reserve may be used only to pay claims from such physicians
 1994 or dentists until 30 days after the date the insurer receives
 1995 notice of the accident. After the 30-day period, any amount of
 1996 the reserve for which the insurer has not received notice of a
 1997 claim from a physician or dentist who provided emergency
 1998 services and care or who provided hospital inpatient care may
 1999 then be used by the insurer to pay other claims. The time
 2000 periods specified in paragraph (b) for required payment of
 2001 personal injury protection benefits shall be tolled for the
 2002 period of time that an insurer is required by this paragraph to
 2003 hold payment of a claim that is not from a physician or dentist
 2004 who provided emergency services and care or who provided
 2005 hospital inpatient care to the extent that the personal injury
 2006 protection benefits not held in reserve are insufficient to pay
 2007 the claim. This paragraph does not require an insurer to
 2008 establish a claim reserve for insurance accounting purposes.

2009 (d)~~(e)~~ All overdue payments shall bear simple interest at
 2010 the rate established under s. 55.03 or the rate established in
 2011 the insurance contract, whichever is greater, for the year in
 2012 which the payment became overdue, calculated from the date the
 2013 insurer was furnished with written notice of the amount of
 2014 covered loss. Interest shall be due at the time payment of the
 2015 overdue claim is made.

2016 (e)~~(d)~~ The insurer of the owner of a motor vehicle shall

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2017 pay personal injury protection benefits for:

2018 1. Accidental bodily injury sustained in this state by the

2019 owner while occupying a motor vehicle, or while not an occupant

2020 of a self-propelled vehicle if the injury is caused by physical

2021 contact with a motor vehicle.

2022 2. Accidental bodily injury sustained outside this state,

2023 but within the United States of America or its territories or

2024 possessions or Canada, by the owner while occupying the owner's

2025 motor vehicle.

2026 3. Accidental bodily injury sustained by a relative of the

2027 owner residing in the same household, under the circumstances

2028 described in subparagraph 1. or subparagraph 2., provided the

2029 relative at the time of the accident is domiciled in the owner's

2030 household and is not himself or herself the owner of a motor

2031 vehicle with respect to which security is required under ss.

2032 627.730-627.7405.

2033 4. Accidental bodily injury sustained in this state by any

2034 other person while occupying the owner's motor vehicle or, if a

2035 resident of this state, while not an occupant of a self-

2036 propelled vehicle, if the injury is caused by physical contact

2037 with such motor vehicle, provided the injured person is not

2038 himself or herself:

2039 a. The owner of a motor vehicle with respect to which

2040 security is required under ss. 627.730-627.7405; or

2041 b. Entitled to personal injury benefits from the insurer

2042 of the owner or owners of such a motor vehicle.

2043 (f)~~(e)~~ If two or more insurers are liable to pay personal

2044 injury protection benefits for the same injury to any one

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2045 person, the maximum payable shall be as specified in subsection
 2046 (1), and any insurer paying the benefits shall be entitled to
 2047 recover from each of the other insurers an equitable pro rata
 2048 share of the benefits paid and expenses incurred in processing
 2049 the claim.

2050 (g)~~(f)~~ It is a violation of the insurance code for an
 2051 insurer to fail to timely provide benefits as required by this
 2052 section with such frequency as to constitute a general business
 2053 practice.

2054 (h)~~(g)~~ Benefits shall not be due or payable to or on the
 2055 behalf of an insured person if that person has committed, by a
 2056 material act or omission, any insurance fraud relating to
 2057 personal injury protection coverage under his or her policy, if
 2058 the fraud is admitted to in a sworn statement by the insured or
 2059 if it is established in a court of competent jurisdiction. Any
 2060 insurance fraud shall void all coverage arising from the claim
 2061 related to such fraud under the personal injury protection
 2062 coverage of the insured person who committed the fraud,
 2063 irrespective of whether a portion of the insured person's claim
 2064 may be legitimate, and any benefits paid prior to the discovery
 2065 of the insured person's insurance fraud shall be recoverable by
 2066 the insurer from the person who committed insurance fraud in
 2067 their entirety. The prevailing party is entitled to its costs
 2068 and attorney's fees in any action in which it prevails in an
 2069 insurer's action to enforce its right of recovery under this
 2070 paragraph.

2071 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

2072 (a)1. Any physician, hospital, clinic, or other person or

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CS/HB 13C, Engrossed 1

2007 Legislature

2073 institution lawfully rendering treatment to an injured person
 2074 for a bodily injury covered by personal injury protection
 2075 insurance may charge the insurer and injured party only a
 2076 reasonable amount pursuant to this section for the services and
 2077 supplies rendered, and the insurer providing such coverage may
 2078 pay for such charges directly to such person or institution
 2079 lawfully rendering such treatment, if the insured receiving such
 2080 treatment or his or her guardian has countersigned the properly
 2081 completed invoice, bill, or claim form approved by the office
 2082 upon which such charges are to be paid for as having actually
 2083 been rendered, to the best knowledge of the insured or his or
 2084 her guardian. In no event, however, may such a charge be in
 2085 excess of the amount the person or institution customarily
 2086 charges for like services or supplies. With respect to a
 2087 determination of whether a charge for a particular service,
 2088 treatment, or otherwise is reasonable, consideration may be
 2089 given to evidence of usual and customary charges and payments
 2090 accepted by the provider involved in the dispute, and
 2091 reimbursement levels in the community and various federal and
 2092 state medical fee schedules applicable to automobile and other
 2093 insurance coverages, and other information relevant to the
 2094 reasonableness of the reimbursement for the service, treatment,
 2095 or supply.

2096 2. The insurer may limit reimbursement to 80 percent of
 2097 the following schedule of maximum charges:

2098 a. For emergency transport and treatment by providers
 2099 licensed under chapter 401, 200 percent of Medicare.

2100 b. For emergency services and care provided by a hospital

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2101 licensed under chapter 395, 75 percent of the hospital's usual
 2102 and customary charges.

2103 c. For emergency services and care as defined by
 2104 s.395.002(10) provided in a facility licensed under chapter 395
 2105 rendered by a physician or dentist, and related hospital
 2106 inpatient services rendered by a physician or dentist, the usual
 2107 and customary charges in the community.

2108 d. For hospital inpatient services, other than emergency
 2109 services and care, 200 percent of the Medicare Part A
 2110 prospective payment applicable to the specific hospital
 2111 providing the inpatient services.

2112 e. For hospital outpatient services, other than emergency
 2113 services and care, 200 percent of the Medicare Part A Ambulatory
 2114 Payment Classification for the specific hospital providing the
 2115 outpatient services.

2116 f. For all other medical services, supplies, and care, 200
 2117 percent of the applicable Medicare Part B fee schedule. However,
 2118 if such services, supplies, or care are not reimbursable under
 2119 Medicare Part B, the insurer may limit reimbursement to 80
 2120 percent of the maximum reimbursable allowance under workers'
 2121 compensation, as determined under s. 440.13 and rules adopted
 2122 thereunder which are in effect at the time such services,
 2123 supplies, or care are provided. Services, supplies, or care that
 2124 are not reimbursable under Medicare or workers' compensation are
 2125 not required to be reimbursed by the insurer.

2126 3. For purposes of subparagraph 2., the applicable fee
 2127 schedule or payment limitation under Medicare is the fee
 2128 schedule or payment limitation in effect at the time the

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2129 services, supplies, or care were rendered and for the area in
 2130 which such services were rendered, except that it may not be
 2131 less than the applicable 2007 Medicare Part B fee schedule for
 2132 medical services, supplies, and care subject to Medicare Part B.

2133 4. Subparagraph 2. does not allow the insurer to apply any
 2134 limitation on the number of treatments or other utilization
 2135 limits that apply under Medicare or workers' compensation. An
 2136 insurer that applies the allowable payment limitations of
 2137 subparagraph 2. must reimburse a provider who lawfully provided
 2138 care or treatment under the scope of his or her license,
 2139 regardless of whether such provider would be entitled to
 2140 reimbursement under Medicare due to restrictions or limitations
 2141 on the types or discipline of health care providers who may be
 2142 reimbursed for particular procedures or procedure codes.

2143 5. If an insurer limits payment as authorized by
 2144 subparagraph 2., the person providing such services, supplies,
 2145 or care may not bill or attempt to collect from the insured any
 2146 amount in excess of such limits, except for amounts that are not
 2147 covered by the insured's personal injury protection coverage due
 2148 to the coinsurance amount or maximum policy limits.

2149 (b)1. An insurer or insured is not required to pay a claim
 2150 or charges:

2151 a. Made by a broker or by a person making a claim on
 2152 behalf of a broker;

2153 b. For any service or treatment that was not lawful at the
 2154 time rendered;

2155 c. To any person who knowingly submits a false or
 2156 misleading statement relating to the claim or charges;

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2157 d. With respect to a bill or statement that does not
 2158 substantially meet the applicable requirements of paragraph (d);

2159 e. For any treatment or service that is upcoded, or that
 2160 is unbundled when such treatment or services should be bundled,
 2161 in accordance with paragraph (d). To facilitate prompt payment
 2162 of lawful services, an insurer may change codes that it
 2163 determines to have been improperly or incorrectly upcoded or
 2164 unbundled, and may make payment based on the changed codes,
 2165 without affecting the right of the provider to dispute the
 2166 change by the insurer, provided that before doing so, the
 2167 insurer must contact the health care provider and discuss the
 2168 reasons for the insurer's change and the health care provider's
 2169 reason for the coding, or make a reasonable good faith effort to
 2170 do so, as documented in the insurer's file; and

2171 f. For medical services or treatment billed by a physician
 2172 and not provided in a hospital unless such services are rendered
 2173 by the physician or are incident to his or her professional
 2174 services and are included on the physician's bill, including
 2175 documentation verifying that the physician is responsible for
 2176 the medical services that were rendered and billed.

2177 ~~2. Charges for medically necessary cephalic thermograms,~~
 2178 ~~peripheral thermograms, spinal ultrasounds, extremity~~
 2179 ~~ultrasounds, video fluoroscopy, and surface electromyography~~
 2180 ~~shall not exceed the maximum reimbursement allowance for such~~
 2181 ~~procedures as set forth in the applicable fee schedule or other~~
 2182 ~~payment methodology established pursuant to s. 440.13.~~

2183 ~~3. Allowable amounts that may be charged to a personal~~
 2184 ~~injury protection insurance insurer and insured for medically~~

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2185 ~~necessary nerve conduction testing when done in conjunction with~~
 2186 ~~a needle electromyography procedure and both are performed and~~
 2187 ~~billed solely by a physician licensed under chapter 458, chapter~~
 2188 ~~459, chapter 460, or chapter 461 who is also certified by the~~
 2189 ~~American Board of Electrodiagnostic Medicine or by a board~~
 2190 ~~recognized by the American Board of Medical Specialties or the~~
 2191 ~~American Osteopathic Association or who holds diplomate status~~
 2192 ~~with the American Chiropractic Neurology Board or its~~
 2193 ~~predecessors shall not exceed 200 percent of the allowable~~
 2194 ~~amount under the participating physician fee schedule of~~
 2195 ~~Medicare Part B for year 2001, for the area in which the~~
 2196 ~~treatment was rendered, adjusted annually on August 1 to reflect~~
 2197 ~~the prior calendar year's changes in the annual Medical Care~~
 2198 ~~Item of the Consumer Price Index for All Urban Consumers in the~~
 2199 ~~South Region as determined by the Bureau of Labor Statistics of~~
 2200 ~~the United States Department of Labor.~~

2201 ~~4. Allowable amounts that may be charged to a personal~~
 2202 ~~injury protection insurance insurer and insured for medically~~
 2203 ~~necessary nerve conduction testing that does not meet the~~
 2204 ~~requirements of subparagraph 3. shall not exceed the applicable~~
 2205 ~~fee schedule or other payment methodology established pursuant~~
 2206 ~~to s. 440.13.~~

2207 ~~5. Allowable amounts that may be charged to a personal~~
 2208 ~~injury protection insurance insurer and insured for magnetic~~
 2209 ~~resonance imaging services shall not exceed 175 percent of the~~
 2210 ~~allowable amount under the participating physician fee schedule~~
 2211 ~~of Medicare Part B for year 2001, for the area in which the~~
 2212 ~~treatment was rendered, adjusted annually on August 1 to reflect~~

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2213 ~~the prior calendar year's changes in the annual Medical Care~~
 2214 ~~Item of the Consumer Price Index for All Urban Consumers in the~~
 2215 ~~South Region as determined by the Bureau of Labor Statistics of~~
 2216 ~~the United States Department of Labor for the 12 month period~~
 2217 ~~ending June 30 of that year, except that allowable amounts that~~
 2218 ~~may be charged to a personal injury protection insurance insurer~~
 2219 ~~and insured for magnetic resonance imaging services provided in~~
 2220 ~~facilities accredited by the Accreditation Association for~~
 2221 ~~Ambulatory Health Care, the American College of Radiology, or~~
 2222 ~~the Joint Commission on Accreditation of Healthcare~~
 2223 ~~Organizations shall not exceed 200 percent of the allowable~~
 2224 ~~amount under the participating physician fee schedule of~~
 2225 ~~Medicare Part B for year 2001, for the area in which the~~
 2226 ~~treatment was rendered, adjusted annually on August 1 to reflect~~
 2227 ~~the prior calendar year's changes in the annual Medical Care~~
 2228 ~~Item of the Consumer Price Index for All Urban Consumers in the~~
 2229 ~~South Region as determined by the Bureau of Labor Statistics of~~
 2230 ~~the United States Department of Labor for the 12 month period~~
 2231 ~~ending June 30 of that year. This paragraph does not apply to~~
 2232 ~~charges for magnetic resonance imaging services and nerve~~
 2233 ~~conduction testing for inpatients and emergency services and~~
 2234 ~~care as defined in chapter 395 rendered by facilities licensed~~
 2235 ~~under chapter 395.~~

2236 2.6. The Department of Health, in consultation with the
 2237 appropriate professional licensing boards, shall adopt, by rule,
 2238 a list of diagnostic tests deemed not to be medically necessary
 2239 for use in the treatment of persons sustaining bodily injury
 2240 covered by personal injury protection benefits under this

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2241 section. The initial list shall be adopted by January 1, 2004,
2242 and shall be revised from time to time as determined by the
2243 Department of Health, in consultation with the respective
2244 professional licensing boards. Inclusion of a test on the list
2245 of invalid diagnostic tests shall be based on lack of
2246 demonstrated medical value and a level of general acceptance by
2247 the relevant provider community and shall not be dependent for
2248 results entirely upon subjective patient response.

2249 Notwithstanding its inclusion on a fee schedule in this
2250 subsection, an insurer or insured is not required to pay any
2251 charges or reimburse claims for any invalid diagnostic test as
2252 determined by the Department of Health.

2253 (c)1. With respect to any treatment or service, other than
2254 medical services billed by a hospital or other provider for
2255 emergency services as defined in s. 395.002 or inpatient
2256 services rendered at a hospital-owned facility, the statement of
2257 charges must be furnished to the insurer by the provider and may
2258 not include, and the insurer is not required to pay, charges for
2259 treatment or services rendered more than 35 days before the
2260 postmark date or electronic transmission date of the statement,
2261 except for past due amounts previously billed on a timely basis
2262 under this paragraph, and except that, if the provider submits
2263 to the insurer a notice of initiation of treatment within 21
2264 days after its first examination or treatment of the claimant,
2265 the statement may include charges for treatment or services
2266 rendered up to, but not more than, 75 days before the postmark
2267 date of the statement. The injured party is not liable for, and
2268 the provider shall not bill the injured party for, charges that

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2269 are unpaid because of the provider's failure to comply with this
 2270 paragraph. Any agreement requiring the injured person or insured
 2271 to pay for such charges is unenforceable.

2272 2. If, however, the insured fails to furnish the provider
 2273 with the correct name and address of the insured's personal
 2274 injury protection insurer, the provider has 35 days from the
 2275 date the provider obtains the correct information to furnish the
 2276 insurer with a statement of the charges. The insurer is not
 2277 required to pay for such charges unless the provider includes
 2278 with the statement documentary evidence that was provided by the
 2279 insured during the 35-day period demonstrating that the provider
 2280 reasonably relied on erroneous information from the insured and
 2281 either:

- 2282 a. A denial letter from the incorrect insurer; or
- 2283 b. Proof of mailing, which may include an affidavit under
 2284 penalty of perjury, reflecting timely mailing to the incorrect
 2285 address or insurer.

2286 3. For emergency services and care as defined in s.
 2287 395.002 rendered in a hospital emergency department or for
 2288 transport and treatment rendered by an ambulance provider
 2289 licensed pursuant to part III of chapter 401, the provider is
 2290 not required to furnish the statement of charges within the time
 2291 periods established by this paragraph; and the insurer shall not
 2292 be considered to have been furnished with notice of the amount
 2293 of covered loss for purposes of paragraph (4) (b) until it
 2294 receives a statement complying with paragraph (d), or copy
 2295 thereof, which specifically identifies the place of service to
 2296 be a hospital emergency department or an ambulance in accordance

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2297 with billing standards recognized by the Health Care Finance
 2298 Administration.

2299 4. Each notice of insured's rights under s. 627.7401 must
 2300 include the following statement in type no smaller than 12
 2301 points:

2302
 2303 BILLING REQUIREMENTS.--Florida Statutes provide that with
 2304 respect to any treatment or services, other than certain
 2305 hospital and emergency services, the statement of charges
 2306 furnished to the insurer by the provider may not include, and
 2307 the insurer and the injured party are not required to pay,
 2308 charges for treatment or services rendered more than 35 days
 2309 before the postmark date of the statement, except for past due
 2310 amounts previously billed on a timely basis, and except that, if
 2311 the provider submits to the insurer a notice of initiation of
 2312 treatment within 21 days after its first examination or
 2313 treatment of the claimant, the statement may include charges for
 2314 treatment or services rendered up to, but not more than, 75 days
 2315 before the postmark date of the statement.

2316 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S
 2317 FEES.--With respect to any dispute under the provisions of ss.
 2318 627.730-627.7405 between the insured and the insurer, or between
 2319 an assignee of an insured's rights and the insurer, the
 2320 provisions of s. 627.428 shall apply, except as provided in
 2321 subsections ~~subsection~~ (10) and (15).

2322 (10) DEMAND LETTER.--

2323 (d) If, within 30 ~~15~~ days after receipt of notice by the
 2324 insurer, the overdue claim specified in the notice is paid by

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2325 the insurer together with applicable interest and a penalty of
 2326 10 percent of the overdue amount paid by the insurer, subject to
 2327 a maximum penalty of \$250, no action may be brought against the
 2328 insurer. If the demand involves an insurer's withdrawal of
 2329 payment under paragraph (7)(a) for future treatment not yet
 2330 rendered, no action may be brought against the insurer if,
 2331 within 30 ~~15~~ days after its receipt of the notice, the insurer
 2332 mails to the person filing the notice a written statement of the
 2333 insurer's agreement to pay for such treatment in accordance with
 2334 the notice and to pay a penalty of 10 percent, subject to a
 2335 maximum penalty of \$250, when it pays for such future treatment
 2336 in accordance with the requirements of this section. To the
 2337 extent the insurer determines not to pay any amount demanded,
 2338 the penalty shall not be payable in any subsequent action. For
 2339 purposes of this subsection, payment or the insurer's agreement
 2340 shall be treated as being made on the date a draft or other
 2341 valid instrument that is equivalent to payment, or the insurer's
 2342 written statement of agreement, is placed in the United States
 2343 mail in a properly addressed, postpaid envelope, or if not so
 2344 posted, on the date of delivery. The insurer is ~~shall~~ not be
 2345 obligated to pay any attorney's fees if the insurer pays the
 2346 claim or mails its agreement to pay for future treatment within
 2347 the time prescribed by this subsection.

2348 (e) The applicable statute of limitation for an action
 2349 under this section shall be tolled for a period of 30 ~~15~~
 2350 business days by the mailing of the notice required by this
 2351 subsection.

2352 (11) FAILURE TO PAY VALID CLAIMS; UNFAIR OR DECEPTIVE

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2353 PRACTICE.--

2354 (a) If an insurer fails to pay valid claims for personal
 2355 injury protection with such frequency so as to indicate a
 2356 general business practice, the insurer is engaging in a
 2357 prohibited unfair or deceptive practice that is subject to the
 2358 penalties provided in s. 626.9521 and the office has the powers
 2359 and duties specified in ss. 626.9561-626.9601 with respect
 2360 thereto.

2361 (b) Notwithstanding s. 501.212, the Department of Legal
 2362 Affairs may investigate and initiate actions for a violation of
 2363 this subsection, including, but not limited to, the powers and
 2364 duties specified in part II of chapter 501.

2365 (15) ALL CLAIMS BROUGHT IN A SINGLE ACTION.--In any civil
 2366 action to recover personal injury protection benefits brought by
 2367 a claimant pursuant to this section against an insurer, all
 2368 claims related to the same health care provider for the same
 2369 injured person shall be brought in one action, unless good cause
 2370 is shown why such claims should be brought separately. If the
 2371 court determines that a civil action is filed for a claim that
 2372 should have been brought in a prior civil action, the court may
 2373 not award attorney's fees to the claimant.

2374 (16) SECURE ELECTRONIC DATA TRANSFER.--If all parties
 2375 mutually and expressly agree, a notice, documentation,
 2376 transmission, or communication of any kind required or
 2377 authorized under ss. 627.730-627.7405 may be transmitted
 2378 electronically if it is transmitted by secure electronic data
 2379 transfer that is consistent with state and federal privacy and
 2380 security laws.

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2381 Section 21. Application of the Florida Motor Vehicle No-
 2382 Fault Law.--

2383 (1) Any person subject to the requirements of ss. 627.730-
 2384 627.7405, Florida Statutes, the Florida Motor Vehicle No-Fault
 2385 Law, as revived and amended by this act, must maintain security
 2386 for personal injury protection as required by the Florida Motor
 2387 Vehicle No-Fault Law, as revived and amended by this act,
 2388 beginning on January 1, 2008.

2389 (2) Any personal injury protection policy in effect on or
 2390 after January 1, 2008, shall be deemed to incorporate the
 2391 provisions of the Florida Motor Vehicle No-Fault Law, as revived
 2392 and amended by this act.

2393 (3) An insurer shall continue to use the personal injury
 2394 protection forms and rates that were in effect on September 30,
 2395 2007, until new forms or rates are used as authorized by law.

2396 (4) Each motor vehicle insurer shall provide personal
 2397 injury protection coverage to each of its motor vehicle insureds
 2398 who is subject to subsection (1) beginning on January 1, 2008.
 2399 With respect to a person who does not have a personal injury
 2400 protection policy in effect on such date, the initial
 2401 endorsement shall not be considered a new policy and shall be
 2402 issued for a period that terminates on the same date as the
 2403 person's other motor vehicle insurance coverage. Except as
 2404 modified by the insured, the deductibles and exclusions that
 2405 applied to the insured's previous personal injury protection
 2406 coverage with that insurer shall apply to the new personal
 2407 injury protection coverage. The insurer is not required to
 2408 provide the coverage if the insured does not pay the required

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2409 premium by January 1, 2008, or such later date that the insurer
 2410 may allow.

2411 (5) No later than November 15, 2007, each motor vehicle
 2412 insurer shall provide notice of the provisions of this section
 2413 to each motor vehicle insured who is subject to subsection (1).
 2414 The notice is not subject to approval by the Office of Insurance
 2415 Regulation. The notice must clearly inform the policyholder:

2416 (a) That beginning on January 1, 2008, Florida law
 2417 requires the policyholder to maintain personal injury protection
 2418 ("PIP") insurance coverage and that this insurance pays covered
 2419 medical expenses for injuries sustained in a motor vehicle crash
 2420 by the policyholder, passengers, and relatives residing in the
 2421 policyholder's household.

2422 (b) That if the policyholder does not maintain personal
 2423 injury protection coverage, the State of Florida may suspend the
 2424 policyholder's driver's license and vehicle registration.

2425 (c) That if the policyholder already has personal injury
 2426 protection coverage, that coverage will be amended effective
 2427 January 1, 2008, to incorporate legally required changes without
 2428 any additional premium and that the policyholder is not required
 2429 to take any further action.

2430 (d) That, if the policyholder does not currently have
 2431 personal injury protection coverage, the current motor vehicle
 2432 policy will be amended to incorporate the required personal
 2433 injury protection coverage effective January 1, 2008.

2434 (e) The additional premium that is due, if any, and the
 2435 date that it is due, which may be no earlier than January 1,
 2436 2008.

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2437 (f) That if the policyholder has any questions, the name
 2438 and phone number of whom they should contact.

2439 (6) This section does not apply the Florida Motor Vehicle
 2440 No-Fault law, as revived an amended by this act, prior to
 2441 January 1, 2008. However, for lawsuits for injuries arising out
 2442 of an auto accident that occurs between the effective date of
 2443 this act and December 31, 2007, inclusive, the limitation on
 2444 lawsuits and tort immunity provided in s. 627.737, Florida
 2445 Statutes, shall apply if, and only if, the plaintiff and the
 2446 defendant are insured for personal injury protection coverage
 2447 that meets the requirements of Florida Motor Vehicle No-Fault
 2448 Law that was in effect on September 30, 2007.

2449 (7) The Legislature finds that in order to protect the
 2450 public health, safety, and welfare, it is necessary to revise or
 2451 endorse policies in effect on January 1, 2008, to add personal
 2452 injury protection coverage as required by this section, and to
 2453 provide a uniform date for motor vehicle owners to obtain or
 2454 continue such coverage and for insurance policies to provide
 2455 such coverage. In order to avoid revising in-force policies,
 2456 enforcement would depend on policyholders electing to add such
 2457 coverage, or providing a nonuniform date for coverage to be
 2458 mandatory as policies renew which results in unequal treatment
 2459 under the law, or delaying the effective date for at least 1
 2460 year to provide a uniform date after all policies have renewed,
 2461 any of which options would result in a much greater number of
 2462 uninsured vehicles, an inability of accident victims to obtain
 2463 medical care, a greater level of uncompensated medical care,
 2464 higher costs to other public and private health care systems,

ENROLLED

CS/HB 13C, Engrossed 1

2007 Legislature

2465 and greater numbers of persons being subject to penalties for
 2466 noncompliance.

2467 (8) The Legislature recognizes that the Florida Motor
 2468 Vehicle No-Fault Law was repealed on October 1, 2007, and that
 2469 vehicle owners are not required to maintain personal injury
 2470 protection coverage on or after that date until January 1, 2008.
 2471 Notwithstanding any other law, an insurer is not required to
 2472 report the issuance, cancellation, or nonrenewal of personal
 2473 injury protection coverage occurring between October 1, 2007,
 2474 and December 31, 2007, inclusive, to the Department of Highway
 2475 Safety and Motor Vehicles. Any law requiring personal injury
 2476 protection coverage or providing sanctions for failure to
 2477 maintain or demonstrate proof of such coverage does not apply
 2478 during this time period. However, this subsection does not
 2479 relieve a motor vehicle owner from responsibility for
 2480 maintaining property damage liability coverage as required by
 2481 law and does not relieve an insurer from reporting the issuance,
 2482 cancellation, or nonrenewal of property damage liability
 2483 coverage as required by law.

2484 Section 22. If any provision of this act or its
 2485 application to any person or circumstance is held invalid, the
 2486 invalidity does not affect other provisions or applications of
 2487 the act which can be given effect without the invalid provision
 2488 or application, and to this end the provisions of this act are
 2489 declared severable.

2490 Section 23. This act shall take effect upon becoming a
 2491 law, except that sections 8 through 20 of this act shall take
 2492 effect January 1, 2008.