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2 An act relating to workers' compensation; amending s.
3 440.13, F.S.; revising requirements for determining
4 the amount of a reimbursement for repackaged or
5 relabeled prescription medication; providing an
6 exception; prohibiting a dispensing manufacturer from
7 possession of a medicinal drug until certain persons
8 are paid; providing an effective date.
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10 Be It Enacted by the Legislature of the State of Florida:
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12 Section 1. Subsection (12) of section 440.13, Florida
13 Statutes, is amended to read:

14 440.13 Medical services and supplies; penalty for
15 violations; limitations.—

16 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
17 REIMBURSEMENT ALLOWANCES.—

18 (a) A three-member panel is created, consisting of the
19 Chief Financial Officer, or the Chief Financial Officer's
20 designee, and two members to be appointed by the Governor,
21 subject to confirmation by the Senate, one member who, on
22 account of present or previous vocation, employment, or
23 affiliation, shall be classified as a representative of
24 employers, the other member who, on account of previous
25 vocation, employment, or affiliation, shall be classified as a
26 representative of employees. The panel shall determine statewide
27 schedules of maximum reimbursement allowances for medically
28 necessary treatment, care, and attendance provided by
29 physicians, hospitals, ambulatory surgical centers, work-

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30 hardening programs, pain programs, and durable medical
31 equipment. The maximum reimbursement allowances for inpatient
32 hospital care shall be based on a schedule of per diem rates, to
33 be approved by the three-member panel no later than March 1,
34 1994, to be used in conjunction with a precertification manual
35 as determined by the department, including maximum hours in
36 which an outpatient may remain in observation status, which
37 shall not exceed 23 hours. All compensable charges for hospital
38 outpatient care shall be reimbursed at 75 percent of usual and
39 customary charges, except as otherwise provided by this
40 subsection. Annually, the three-member panel shall adopt
41 schedules of maximum reimbursement allowances for physicians,
42 hospital inpatient care, hospital outpatient care, ambulatory
43 surgical centers, work-hardening programs, and pain programs. An
44 individual physician, hospital, ambulatory surgical center, pain
45 program, or work-hardening program shall be reimbursed either
46 the agreed-upon contract price or the maximum reimbursement
47 allowance in the appropriate schedule.

48 (b) It is the intent of the Legislature to increase the
49 schedule of maximum reimbursement allowances for selected
50 physicians effective January 1, 2004, and to pay for the
51 increases through reductions in payments to hospitals. Revisions
52 developed pursuant to this subsection are limited to the
53 following:

54 1. Payments for outpatient physical, occupational, and
55 speech therapy provided by hospitals shall be reduced to the
56 schedule of maximum reimbursement allowances for these services
57 which applies to nonhospital providers.

58 2. Payments for scheduled outpatient nonemergency

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59 radiological and clinical laboratory services that are not
60 provided in conjunction with a surgical procedure shall be
61 reduced to the schedule of maximum reimbursement allowances for
62 these services which applies to nonhospital providers.

63 3. Outpatient reimbursement for scheduled surgeries shall
64 be reduced from 75 percent of charges to 60 percent of charges.

65 4. Maximum reimbursement for a physician licensed under
66 chapter 458 or chapter 459 shall be increased to 110 percent of
67 the reimbursement allowed by Medicare, using appropriate codes
68 and modifiers or the medical reimbursement level adopted by the
69 three-member panel as of January 1, 2003, whichever is greater.

70 5. Maximum reimbursement for surgical procedures shall be
71 increased to 140 percent of the reimbursement allowed by
72 Medicare or the medical reimbursement level adopted by the
73 three-member panel as of January 1, 2003, whichever is greater.

74 (c) As to reimbursement for a prescription medication, the
75 reimbursement amount for a prescription shall be the average
76 wholesale price plus \$4.18 for the dispensing fee, ~~except where~~
77 ~~the carrier has contracted for a lower amount.~~ For repackaged or
78 repackaged or relabeled prescription medications dispensed by a dispensing
79 practitioner as provided in s. 465.0276, the fee schedule for
80 reimbursement shall be 112.5 percent of the average wholesale
81 price, plus \$8.00 for the dispensing fee. For purposes of this
82 subsection, the average wholesale price shall be calculated by
83 multiplying the number of units dispensed times the per-unit
84 average wholesale price set by the original manufacturer of the
85 underlying drug dispensed by the practitioner, based upon the
86 published manufacturer's average wholesale price published in
87 the Medi-Span Master Drug Database as of the date of dispensing.

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88 All pharmaceutical claims submitted for repackaged or relabeled
89 prescription medications must include the National Drug Code of
90 the original manufacturer. Fees for pharmaceuticals and
91 pharmaceutical services shall be reimbursable at the applicable
92 fee schedule amount except where the employer or carrier, or a
93 service company, third party administrator, or any entity acting
94 on behalf of the employer or carrier directly contracts with the
95 provider seeking reimbursement for a lower amount. ~~Where the~~
96 ~~employer or carrier has contracted for such services and the~~
97 ~~employee elects to obtain them through a provider not a party to~~
98 ~~the contract, the carrier shall reimburse at the schedule,~~
99 ~~negotiated, or contract price, whichever is lower. No Such~~
100 ~~contract shall rely on a provider that is not reasonably~~
101 ~~accessible to the employee.~~

102 (d) Reimbursement for all fees and other charges for such
103 treatment, care, and attendance, including treatment, care, and
104 attendance provided by any hospital or other health care
105 provider, ambulatory surgical center, work-hardening program, or
106 pain program, must not exceed the amounts provided by the
107 uniform schedule of maximum reimbursement allowances as
108 determined by the panel or as otherwise provided in this
109 section. This subsection also applies to independent medical
110 examinations performed by health care providers under this
111 chapter. In determining the uniform schedule, the panel shall
112 first approve the data which it finds representative of
113 prevailing charges in the state for similar treatment, care, and
114 attendance of injured persons. Each health care provider, health
115 care facility, ambulatory surgical center, work-hardening
116 program, or pain program receiving workers' compensation

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117 payments shall maintain records verifying their usual charges.
118 In establishing the uniform schedule of maximum reimbursement
119 allowances, the panel must consider:

120 1. The levels of reimbursement for similar treatment, care,
121 and attendance made by other health care programs or third-party
122 providers;

123 2. The impact upon cost to employers for providing a level
124 of reimbursement for treatment, care, and attendance which will
125 ensure the availability of treatment, care, and attendance
126 required by injured workers;

127 3. The financial impact of the reimbursement allowances
128 upon health care providers and health care facilities, including
129 trauma centers as defined in s. 395.4001, and its effect upon
130 their ability to make available to injured workers such
131 medically necessary remedial treatment, care, and attendance.
132 The uniform schedule of maximum reimbursement allowances must be
133 reasonable, must promote health care cost containment and
134 efficiency with respect to the workers' compensation health care
135 delivery system, and must be sufficient to ensure availability
136 of such medically necessary remedial treatment, care, and
137 attendance to injured workers; and

138 4. The most recent average maximum allowable rate of
139 increase for hospitals determined by the Health Care Board under
140 chapter 408.

141 (e) In addition to establishing the uniform schedule of
142 maximum reimbursement allowances, the panel shall:

143 1. Take testimony, receive records, and collect data to
144 evaluate the adequacy of the workers' compensation fee schedule,
145 nationally recognized fee schedules and alternative methods of

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146 reimbursement to certified health care providers and health care
147 facilities for inpatient and outpatient treatment and care.

148 2. Survey certified health care providers and health care
149 facilities to determine the availability and accessibility of
150 workers' compensation health care delivery systems for injured
151 workers.

152 3. Survey carriers to determine the estimated impact on
153 carrier costs and workers' compensation premium rates by
154 implementing changes to the carrier reimbursement schedule or
155 implementing alternative reimbursement methods.

156 4. Submit recommendations on or before January 1, 2003, and
157 biennially thereafter, to the President of the Senate and the
158 Speaker of the House of Representatives on methods to improve
159 the workers' compensation health care delivery system.

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161 The department, as requested, shall provide data to the panel,
162 including, but not limited to, utilization trends in the
163 workers' compensation health care delivery system. The
164 department shall provide the panel with an annual report
165 regarding the resolution of medical reimbursement disputes and
166 any actions pursuant to subsection (8). The department shall
167 provide administrative support and service to the panel to the
168 extent requested by the panel. For prescription medication
169 purchased under the requirements of this subsection, a
170 dispensing practitioner shall not possess such medication unless
171 payment has been made by the practitioner, the practitioner's
172 professional practice, or the practitioner's practice management
173 company or employer to the supplying manufacturer, wholesaler,
174 distributor, or drug repackager within 60 days of the dispensing

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175 practitioner taking possession of that medication.

176 Section 2. This act shall take effect July 1, 2013.