

1 A bill to be entitled

2 An act relating to insurance fraud; repealing s.
3 400.993, F.S., relating to criminal penalties
4 applicable to unlicensed health care clinics and the
5 reporting of unlicensed health care clinics; amending
6 s. 400.9935, F.S.; revising provisions related to
7 unlawful, noncompensable, and unenforceable health
8 care clinic charges or reimbursement claims; revising
9 and providing criminal penalties for making unlawful
10 charges, operating or failing to report an unlicensed
11 clinic, filing false or misleading information related
12 to a clinic license application, and other violations;
13 defining the term "convicted"; amending s. 626.9894,
14 F.S.; conforming provisions to changes made by the
15 act; repealing s. 626.9895, F.S., relating to the
16 establishment of a motor vehicle insurance fraud
17 direct-support organization; amending s. 921.0022,
18 F.S.; conforming provisions of the offense severity
19 ranking chart of the Criminal Punishment Code to
20 changes made by the act; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 400.993, Florida Statutes, is repealed.

25 Section 2. Subsections (3) and (4) of section 400.9935,
26 Florida Statutes, are amended to read:

27 400.9935 Clinic responsibilities.—

28 (3) A charge ~~All charges~~ or reimbursement claim ~~claims~~
 29 made by or on behalf of a clinic that is required to be licensed
 30 under this part, but that is not so licensed, or that is
 31 otherwise operating in violation of this part or rules of the
 32 agency, regardless of whether a service is rendered or whether
 33 the charge or reimbursement claim is paid, is an, ~~are~~ unlawful
 34 charge ~~charges,~~ and is ~~therefore are~~ noncompensable and
 35 unenforceable. A person who knowingly makes or causes to be made
 36 an unlawful charge commits theft within the meaning of, and
 37 punishable as provided in, s. 812.014.

38 (4) (a) Regardless of whether notification is provided by
 39 the agency under ~~In addition to the requirements of s. 408.812,~~
 40 a any person commits a felony of the third degree, punishable as
 41 provided in s. 775.082, s. 775.083, or s. 775.084, if the person
 42 knowingly:

43 1. Establishes, owns, operates, manages, or maintains
 44 establishing, ~~operating, or managing~~ an unlicensed clinic
 45 ~~otherwise~~ required to be licensed under this part or part II of
 46 chapter 408; ~~or~~

47 2. Offers or advertises services that require licensure as
 48 a clinic under this part or part II of chapter 408 without a
 49 license.

50 (b) If the agency provides notification under s. 408.812
 51 of, or if a person is arrested for, a violation of subparagraph
 52 (a)1. or subparagraph (a)2., each day during which a violation

53 of subparagraph (a)1. or subparagraph (a)2. occurs constitutes a
54 separate offense.

55 (c) A person convicted of a second or subsequent violation
56 of subparagraph (a)1. or subparagraph (a)2. commits a felony of
57 the second degree, punishable as provided in s. 775.082, s.
58 775.083, or s. 775.084. If the agency provides notification of,
59 or if a person is arrested for, a violation of this paragraph,
60 each day that this paragraph is violated thereafter constitutes
61 a separate offense. For purposes of this paragraph, the term
62 "convicted" means a determination of guilt which is the result
63 of a trial or the entry of a plea of guilty or nolo contendere,
64 regardless of whether adjudication is withheld.

65 (d) In addition to the requirements of part II of chapter
66 408, a health care provider who is aware of the operation of an
67 unlicensed clinic shall report the clinic to the agency. The
68 agency shall report to the provider's licensing board a failure
69 to report a clinic that the provider knows or has reasonable
70 cause to suspect is unlicensed.

71 (e) A person commits a felony of the third degree,
72 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
73 if the ~~any~~ person ~~who~~ knowingly:

74 1. Files a false or misleading license application or
75 license renewal application, ~~or~~ files false or misleading
76 information related to such application or agency ~~department~~
77 rule; or

78 2. Fails to report information to the agency as required

79 ~~by s. 408.810(3), commits a felony of the third degree,~~
 80 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

81 Section 3. Subsection (5) of section 626.9894, Florida
 82 Statutes, is amended to read:

83 626.9894 Gifts and grants.—

84 (5) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 85 any balance of moneys deposited into the Insurance Regulatory
 86 Trust Fund pursuant to this section ~~or s. 626.9895~~ remaining at
 87 the end of any fiscal year is available for carrying out the
 88 duties and responsibilities of the division. The department may
 89 request annual appropriations from the grants and donations
 90 received pursuant to this section ~~or s. 626.9895~~ and cash
 91 balances in the Insurance Regulatory Trust Fund for the purpose
 92 of carrying out its duties and responsibilities related to the
 93 division's anti-fraud efforts, including the funding of
 94 dedicated prosecutors and related personnel.

95 Section 4. Section 626.9895, Florida Statutes, is
 96 repealed.

97 Section 5. Paragraphs (c) and (f) of subsection (3) of
 98 section 921.0022, Florida Statutes, are amended to read:

99 921.0022 Criminal Punishment Code; offense severity
 100 ranking chart.—

101 (3) OFFENSE SEVERITY RANKING CHART

102 (c) LEVEL 3

103

104

CS/CS/HB 1127

2015

105	Florida Statute	Felony Degree	Description
106	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
107	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
108	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
109	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
110	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
111	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.

112	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
113	327.35(2)(b)	3rd	Felony BUI.
114	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
115	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
116	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
117	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine

turtles, marine turtle eggs, or
 marine turtle nests in violation
 of the Marine Turtle Protection
 Act.

118

379.2431
 (1) (e) 6.

3rd

Soliciting to commit or
 conspiring to commit a violation
 of the Marine Turtle Protection
 Act.

119

400.9935 (4) (a)
or (b)

3rd

Operating a clinic, or offering
services requiring licensure,
 without a license ~~or filing~~
~~false license application or~~
~~other required information.~~

120

400.9935 (4) (e)

3rd

Filing a false license
application or other required
information or failing to report
information.

121

440.1051 (3)

3rd

False report of workers'
 compensation fraud or
 retaliation for making such a
 report.

122

CS/CS/HB 1127

2015

123	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
124	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
125	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
126	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
127	697.08	3rd	Equity skimming.
128	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
129	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.

CS/CS/HB 1127

2015

130	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
131	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
132	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
133	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
134	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
135	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
136	817.233	3rd	Burning to defraud insurer.

CS/CS/HB 1127

2015

137	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
138	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
139	817.236	3rd	Filing a false motor vehicle insurance application.
140	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
141	817.413 (2)	3rd	Sale of used goods as new.
142	817.505 (4)	3rd	Patient brokering.
143	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

144	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
145	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
146	843.19	3rd	Injure, disable, or kill police dog or horse.
147	860.15 (3)	3rd	Overcharging for repairs and parts.
148	870.01 (2)	3rd	Riot; inciting or encouraging.
149	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
150	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5.,

(2) (c) 6., (2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (3), or (4) drugs
 within 1,000 feet of university.

151

893.13 (1) (f) 2. 2nd Sell, manufacture, or deliver s.
 893.03 (1) (c), (2) (c) 1.,
 (2) (c) 2., (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (3), or (4) drugs
 within 1,000 feet of public
 housing facility.

152

893.13 (6) (a) 3rd Possession of any controlled
 substance other than felony
 possession of cannabis.

153

893.13 (7) (a) 8. 3rd Withhold information from
 practitioner regarding previous
 receipt of or prescription for a
 controlled substance.

154

893.13 (7) (a) 9. 3rd Obtain or attempt to obtain
 controlled substance by fraud,
 forgery, misrepresentation, etc.

155

893.13 (7) (a) 10. 3rd Affix false or forged label to

package of controlled substance.

156

893.13 (7) (a) 11. 3rd Furnish false or fraudulent material information on any document or record required by chapter 893.

157

893.13 (8) (a) 1. 3rd Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.

158

893.13 (8) (a) 2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

159

893.13 (8) (a) 3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.

160

CS/CS/HB 1127

2015

161	893.13 (8) (a) 4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
162	918.13 (1) (a)	3rd	Alter, destroy, or conceal investigation evidence.
163	944.47 (1) (a) 1. & 2.	3rd	Introduce contraband to correctional facility.
164	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
165	985.721 (f) LEVEL 6	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
166			
167	Florida Statute	Felony Degree	Description

CS/CS/HB 1127

2015

168	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
169	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
170	<u>400.9935 (4) (c)</u>	<u>2nd</u>	<u>Operating a clinic, or offering services requiring licensure, without a license.</u>
171	499.0051 (3)	2nd	Knowing forgery of pedigree papers.
172	499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
173	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
174	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
175	784.021 (1) (a)	3rd	Aggravated assault; deadly

weapon without intent to kill.

176

784.021 (1) (b) 3rd Aggravated assault; intent to
commit felony.

177

784.041 3rd Felony battery; domestic battery
by strangulation.

178

784.048 (3) 3rd Aggravated stalking; credible
threat.

179

784.048 (5) 3rd Aggravated stalking of person
under 16.

180

784.07 (2) (c) 2nd Aggravated assault on law
enforcement officer.

181

784.074 (1) (b) 2nd Aggravated assault on sexually
violent predators facility
staff.

182

784.08 (2) (b) 2nd Aggravated assault on a person
65 years of age or older.

183

784.081 (2) 2nd Aggravated assault on specified
official or employee.

CS/CS/HB 1127

2015

184	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
185	784.083 (2)	2nd	Aggravated assault on code inspector.
186	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
187	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
188	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
189	790.164 (1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
190	790.19	2nd	Shooting or throwing deadly

missiles into dwellings,
vessels, or vehicles.

191

794.011(8)(a) 3rd Solicitation of minor to
participate in sexual activity
by custodial adult.

192

794.05(1) 2nd Unlawful sexual activity with
specified minor.

193

800.04(5)(d) 3rd Lewd or lascivious molestation;
victim 12 years of age or older
but less than 16 years of age;
offender less than 18 years.

194

800.04(6)(b) 2nd Lewd or lascivious conduct;
offender 18 years of age or
older.

195

806.031(2) 2nd Arson resulting in great bodily
harm to firefighter or any other
person.

196

810.02(3)(c) 2nd Burglary of occupied structure;
unarmed; no assault or battery.

197

CS/CS/HB 1127

2015

198	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
199	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
200	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
201	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
202	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
203	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
204	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

CS/CS/HB 1127

2015

205	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
206	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
207	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
208	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
209	827.03 (2) (c)	3rd	Abuse of a child.
210	827.03 (2) (d)	3rd	Neglect of a child.
211	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
212	836.05	2nd	Threats; extortion.
	836.10	2nd	Written threats to kill or do bodily injury.

213	843.12	3rd	Aids or assists person to escape.
214	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
215	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
216	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
217	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
218	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great

bodily harm.

219

944.40 2nd Escapes.

220

944.46 3rd Harboring, concealing, aiding
escaped prisoners.

221

944.47(1)(a)5. 2nd Introduction of contraband
(firearm, weapon, or explosive)
into correctional facility.

222

951.22(1) 3rd Intoxicating drug, firearm, or
weapon introduced into county
facility.

223

224 Section 6. This act shall take effect October 1, 2015.