

By Senator Richter

23-00609B-15

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1                   A bill to be entitled  
2           An act relating to damages recoverable for cost of  
3           medical or health care services; creating s. 768.755,  
4           F.S.; providing for the calculation of an award of  
5           damages for certain medical or health care services  
6           paid or owed by a claimant or a governmental or  
7           commercial insurance payor, subject to certain  
8           restrictions; specifying evidence that a party may  
9           introduce for certain medical or health care services  
10          provided to a claimant for which an outstanding  
11          balance is claimed to be due to a provider; providing  
12          that individual contracts between providers and  
13          licensed commercial insurers or licensed health  
14          maintenance organizations are not subject to discovery  
15          or disclosure and are not admissible into evidence in  
16          certain actions; providing that the amount of a lien  
17          or subrogation claim asserted by Medicaid, Medicare,  
18          or a payor regulated under the Florida Insurance Code  
19          for certain past medical expenses, in addition to the  
20          amount of copayments or deductibles payable by the  
21          claimant, is the maximum amount recoverable and  
22          admissible into evidence under certain circumstances;  
23          providing applicability; providing a directive to the  
24          Division of Law Revision and Information; providing an  
25          effective date.

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

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29          Section 1. Section 768.755, Florida Statutes, is created to

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30 read:

31 768.755 Damages recoverable for cost of medical or health  
32 care services; evidence of amount of damages; applicability.-

33 (1) In any personal injury or wrongful death action to  
34 which this part applies, damages for the cost of medical or  
35 health care services provided to a claimant shall be calculated  
36 as follows:

37 (a) For medical or health care services provided by a  
38 particular health care provider to the claimant which the  
39 claimant paid for and for which an outstanding balance is not  
40 due the provider, the actual amount remitted to the provider is  
41 the maximum amount recoverable. Any difference between the  
42 amount originally billed by the provider and the actual amount  
43 remitted to the provider is not recoverable or admissible into  
44 evidence. In an action in which there is more than one health  
45 care provider who has provided medical or health care services  
46 to the claimant, the evidence admissible under this subsection  
47 as to a provider with no outstanding balance due may not be used  
48 as evidence regarding the reasonableness of the amounts billed  
49 by any of the other health care providers who have an  
50 outstanding balance due.

51 (b) For medical or health care services provided by a  
52 particular health care provider to the claimant which a  
53 governmental or commercial insurance payor paid for and for  
54 which an outstanding balance is not due the provider, other than  
55 a copay or deductible owed by the claimant, the actual amount  
56 remitted to the provider by the governmental or commercial  
57 insurance payor and any copay or deductible owed by the claimant  
58 are the maximum amount recoverable. Any difference between the

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59 amount originally billed by the provider and the actual amount  
60 remitted to the provider or due from the claimant for a copay or  
61 deductible is not recoverable or admissible into evidence. In an  
62 action in which there is more than one health care provider who  
63 has provided medical or health care services to the claimant,  
64 the evidence admissible under this subsection as to a provider  
65 with no outstanding balance due may not be used as evidence  
66 regarding the reasonableness of the amounts billed by any of the  
67 other health care providers who have an outstanding balance due.

68 (c) For medical or health care services provided to the  
69 claimant for which an outstanding balance is claimed to be due  
70 the provider, the parties may introduce into evidence:

71 1. Amounts the provider routinely accepts as payment from  
72 governmental or commercial insurance payors for identical or  
73 substantially similar medical or health care services.

74 2. Amounts the provider billed for the medical or health  
75 care services provided to the claimant, including those amounts  
76 billed under an agreement between the provider and the claimant  
77 or the claimant's representative.

78 3. Amounts the provider received as compensation, if any,  
79 for the sale of an agreement between the provider and the  
80 claimant or the claimant's representative under which the  
81 medical or health care services were provided to the claimant.

82 (2) Individual contracts between providers and licensed  
83 commercial insurers or licensed health maintenance organizations  
84 are not subject to discovery or disclosure in an action under  
85 this part, and such information is not admissible into evidence  
86 in an action to which this section applies.

87 (3) Notwithstanding any provision of this section, if

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88 Medicaid, Medicare, or a payor regulated under the Florida  
89 Insurance Code has covered or is covering the cost of a  
90 claimant's medical or health care services and has given notice  
91 of assertion of a lien or subrogation claim for past medical  
92 expenses in the action, the amount of the lien or subrogation  
93 claim, in addition to the amount of any copayments or  
94 deductibles paid or payable by the claimant, is the maximum  
95 amount recoverable and admissible into evidence with respect to  
96 the covered medical or health care services.

97 (4) This section applies only to those actions for personal  
98 injury or wrongful death to which this part applies arising on  
99 or after the effective date of this act. This section has no  
100 other application or effect regarding compensation paid to  
101 providers of medical or health care services.

102 Section 2. The Division of Law Revision and Information is  
103 directed to replace the phrase "the effective date of this act"  
104 wherever it occurs in this act with the date the act becomes a  
105 law.

106 Section 3. This act shall take effect upon becoming a law.