



418472

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2016	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (d) is added to subsection (5) of
section 395.003, Florida Statutes, to read:

395.003 Licensure; denial, suspension, and revocation.-
(5)

(d) A hospital, an ambulatory surgical center, a specialty
hospital, or an urgent care center shall comply with ss.



418472

11 627.64194 and 641.513 as a condition of licensure.

12 Section 2. Subsection (13) is added to section 395.301,
13 Florida Statutes, to read:

14 395.301 Itemized patient bill; form and content prescribed
15 by the agency; patient admission status notification.-

16 (13) A hospital shall post on its website:

17 (a) The names and hyperlinks for direct access to the
18 websites of all health insurers and health maintenance
19 organizations for which the hospital contracts as a network
20 provider or participating provider.

21 (b) A statement that:

22 1. Services provided in the hospital by health care
23 practitioners may not be included in the hospital's charges;

24 2. Health care practitioners who provide services in the
25 hospital may or may not participate in the same health insurance
26 plans as the hospital; and

27 3. Prospective patients should contact the health care
28 practitioner arranging for the services to determine the health
29 care plans in which the health care practitioner participates.

30 (c) As applicable, the names, mailing addresses, and
31 telephone numbers of the health care practitioners and practice
32 groups that the hospital has contracted with to provide services
33 in the hospital and instructions on how to contact these health
34 care practitioners and practice groups to determine the health
35 insurers and health maintenance organizations for which the
36 hospital contracts as a network provider or participating
37 provider.

38 Section 3. Paragraph (h) is added to subsection (2) of
39 section 408.7057, Florida Statutes, and subsection (4) of that



418472

40 section is amended, to read:

41 408.7057 Statewide provider and health plan claim dispute
42 resolution program.—

43 (2)

44 (h) Either the contracted or noncontracted provider or the
45 health plan may make an offer to settle the claim dispute when
46 it submits a request for a claim dispute and supporting
47 documentation. The offer to settle the claim dispute must state
48 its total amount, and the party to whom it is directed has 15
49 days to accept the offer once it is received. If the party
50 receiving the offer does not accept the offer and the final
51 order amount is more than 90 percent or less than 110 percent of
52 the offer amount, the party receiving the offer must pay the
53 final order amount to the offering party and is deemed a
54 nonprevailing party for purposes of this section. The amount of
55 an offer made by a contracted or noncontracted provider to
56 settle an alleged underpayment by the health plan must be
57 greater than 110 percent of the reimbursement amount the
58 provider received. The amount of an offer made by a health plan
59 to settle an alleged overpayment to the provider must be less
60 than 90 percent of the alleged overpayment amount by the health
61 plan. Both parties may agree to settle the disputed claim at any
62 time, for any amount, regardless of whether an offer to settle
63 was made or rejected.

64 (4) Within 30 days after receipt of the recommendation of
65 the resolution organization, the agency shall adopt the
66 recommendation as a final order. The final order is subject to
67 judicial review pursuant to s. 120.68.

68 Section 4. Paragraph (oo) is added to subsection (1) of



418472

69 section 456.072, Florida Statutes, to read:

70 456.072 Grounds for discipline; penalties; enforcement.—

71 (1) The following acts shall constitute grounds for which
72 the disciplinary actions specified in subsection (2) may be
73 taken:

74 (oo) Willfully failing to comply with s. 627.64194 or s.
75 641.513 with such frequency as to indicate a general business
76 practice.

77 Section 5. Paragraph (tt) is added to subsection (1) of
78 section 458.331, Florida Statutes, to read:

79 458.331 Grounds for disciplinary action; action by the
80 board and department.—

81 (1) The following acts constitute grounds for denial of a
82 license or disciplinary action, as specified in s. 456.072(2):

83 (tt) Willfully failing to comply with s. 627.64194 or s.
84 641.513 with such frequency as to indicate a general business
85 practice.

86 Section 6. Paragraph (vv) is added to subsection (1) of
87 section 459.015, Florida Statutes, to read:

88 459.015 Grounds for disciplinary action; action by the
89 board and department.—

90 (1) The following acts constitute grounds for denial of a
91 license or disciplinary action, as specified in s. 456.072(2):

92 (vv) Willfully failing to comply with s. 627.64194 or s.
93 641.513 with such frequency as to indicate a general business
94 practice.

95 Section 7. Paragraph (gg) is added to subsection (1) of
96 section 626.9541, Florida Statutes, to read:

97 626.9541 Unfair methods of competition and unfair or



418472

98 deceptive acts or practices defined.-

99 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
100 ACTS.-The following are defined as unfair methods of competition
101 and unfair or deceptive acts or practices:

102 (gg) Out-of-network reimbursement.-Willfully failing to
103 comply with s. 627.64194 with such frequency as to indicate a
104 general business practice.

105 Section 8. Section 627.64194, Florida Statutes, is created
106 to read:

107 627.64194 Coverage requirements for services provided by
108 nonparticipating providers; payment collection limitations.-

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

110 (a) "Emergency services" means the services and care to
111 treat an emergency medical condition as defined in s. 641.47(8).

112 (b) "Facility" means a licensed facility as defined in s.
113 395.002(16) and an urgent care center as defined in s.
114 395.002(30).

115 (c) "Insured" means a person who is covered under an
116 individual or group health insurance policy delivered or issued
117 for delivery in this state by an insurer authorized to transact
118 business in this state.

119 (d) "Nonemergency services" means the services and care to
120 treat a condition other than an emergency medical condition.

121 (e) "Nonparticipating provider" means a provider who is not
122 a preferred provider as defined in s. 627.6471 or a provider who
123 is not an exclusive provider as defined in s. 627.6472. For
124 purposes of covered emergency services under this section, a
125 facility licensed under chapter 395 or an urgent care center
126 defined in s. 395.002(30) is a nonparticipating provider if the



418472

127 facility has not contracted with an insurer to provide emergency
128 services to its insureds at a specified rate.

129 (f) "Participating provider" means, for purposes of this
130 section, a preferred provider as defined in s. 627.6471 or an
131 exclusive provider as defined in s. 627.6472.

132 (2) An insurer is solely liable for payment of fees to a
133 nonparticipating provider of covered emergency services provided
134 to an insured in accordance with the coverage terms of the
135 health insurance policy, and such insured is not liable for
136 payment of fees for covered services to a nonparticipating
137 provider of emergency services, other than applicable
138 copayments, coinsurance, and deductibles. An insurer must
139 provide coverage for emergency services that:

140 (a) May not require prior authorization.

141 (b) Must be provided regardless of whether the services are
142 furnished by a participating provider or a nonparticipating
143 provider.

144 (c) May impose a coinsurance amount, copayment, or
145 limitation of benefits requirement for a nonparticipating
146 provider only if the same requirement applies to a participating
147 provider.

148
149 The provisions of s. 627.638 apply to this subsection.

150 (3) An insurer is solely liable for payment of fees to a
151 nonparticipating provider of covered nonemergency services
152 provided to an insured in accordance with the coverage terms of
153 the health insurance policy, and such insured is not liable for
154 payment of fees to a nonparticipating provider, other than
155 applicable copayments, coinsurance, and deductibles, for covered



418472

156 nonemergency services that are:

157 (a) Provided in a facility that has a contract for the
158 nonemergency services with the insurer which the facility would
159 be otherwise obligated to provide under contract with the
160 insurer; and

161 (b) Provided when the insured does not have the ability and
162 opportunity to choose a participating provider at the facility
163 who is available to treat the insured.

164
165 The provisions of s. 627.638 apply to this subsection.

166 (4) An insurer must reimburse a nonparticipating provider
167 of services under subsections (2) and (3) as specified in s.
168 641.513(5), reduced only by insured cost share responsibilities
169 as specified in the health insurance policy, within the
170 applicable timeframe provided in s. 627.6131.

171 (5) A nonparticipating provider of emergency services as
172 provided in subsection (2) or a nonparticipating provider of
173 nonemergency services as provided in subsection (3) may not be
174 reimbursed an amount greater than the amount provided in
175 subsection (4) and may not collect or attempt to collect from
176 the insured, directly or indirectly, any excess amount, other
177 than copayments, coinsurance, and deductibles. This section does
178 not prohibit a nonparticipating provider from collecting or
179 attempting to collect from the insured an amount due for the
180 provision of noncovered services.

181 (6) Any dispute with regard to the reimbursement to the
182 nonparticipating provider of emergency or nonemergency services
183 as provided in subsection (4) shall be resolved in a court of
184 competent jurisdiction or through the voluntary dispute



418472

185 resolution process in s. 408.7057.

186 Section 9. Subsection (2) of section 627.6471, Florida
187 Statutes, is amended to read:

188 627.6471 Contracts for reduced rates of payment;
189 limitations; coinsurance and deductibles.-

190 (2) Any insurer issuing a policy of health insurance in
191 this state, which insurance includes coverage for the services
192 of a preferred provider, must provide each policyholder and
193 certificateholder with a current list of preferred providers and
194 must make the list available on its website. The list must
195 include, when applicable and reported, a listing by specialty of
196 the names, addresses, and telephone numbers of all participating
197 providers, including facilities, and, in the case of physicians,
198 must also include board certifications, languages spoken, and
199 any affiliations with participating hospitals. Information
200 posted on the insurer's website must be updated on at least a
201 calendar-month basis with additions or terminations of providers
202 from the insurer's network or reported changes in physicians'
203 hospital affiliations ~~for public inspection during regular~~
204 ~~business hours at the principal office of the insurer within the~~
205 ~~state.~~

206 Section 10. Effective upon this act becoming a law,
207 subsection (7) is added to section 627.6471, Florida Statutes,
208 to read:

209 627.6471 Contracts for reduced rates of payment;
210 limitations; coinsurance and deductibles.-

211 (7) Any policy issued under this section after January 1,
212 2017, must include the following disclosure: "WARNING: LIMITED
213 BENEFITS WILL BE PAID WHEN NONPARTICIPATING PROVIDERS ARE USED.



418472

214 You should be aware that when you elect to utilize the services
215 of a nonparticipating provider for a covered nonemergency
216 service, benefit payments to the provider are not based upon the
217 amount the provider charges. The basis of the payment will be
218 determined according to your policy's out-of-network
219 reimbursement benefit. Nonparticipating providers may bill
220 insureds for any difference in the amount. YOU MAY BE REQUIRED
221 TO PAY MORE THAN THE COINSURANCE OR COPAYMENT AMOUNT.

222 Participating providers have agreed to accept discounted
223 payments for services with no additional billing to you other
224 than coinsurance, copayment, and deductible amounts. You may
225 obtain further information about the providers who have
226 contracted with your insurance plan by consulting your insurer's
227 website or contacting your insurer or agent directly."

228 Section 11. Subsection (15) is added to section 627.662,
229 Florida Statutes, to read:

230 627.662 Other provisions applicable.—The following
231 provisions apply to group health insurance, blanket health
232 insurance, and franchise health insurance:

233 (15) Section 627.64194, relating to coverage requirements
234 for services provided by nonparticipating providers and payment
235 collection limitations.

236 Section 12. Except as otherwise expressly provided in this
237 act and except for this section, which shall take effect upon
238 this act becoming a law, this act shall take effect October 1,
239 2016.

240
241 ===== T I T L E A M E N D M E N T =====

242 And the title is amended as follows:



418472

243 Delete everything before the enacting clause
244 and insert:

245 A bill to be entitled
246 An act relating to out-of-network health insurance
247 coverage; amending s. 395.003, F.S.; requiring
248 hospitals, ambulatory surgical centers, specialty
249 hospitals, and urgent care centers to comply with
250 certain provisions as a condition of licensure;
251 amending s. 395.301, F.S.; requiring a hospital to
252 post on its website certain information regarding its
253 contracts with health insurers, health maintenance
254 organizations, and health care practitioners and
255 practice groups and specified notice to patients and
256 prospective patients; amending s. 408.7057, F.S.;
257 providing requirements for settlement offers between
258 certain providers and health plans in a specified
259 dispute resolution program; requiring a final order to
260 be subject to judicial review; amending ss. 456.072,
261 458.331, and 459.015, F.S.; providing additional acts
262 that constitute grounds for denial of a license or
263 disciplinary action, to which penalties apply;
264 amending s. 626.9541, F.S.; specifying an additional
265 unfair method of competition and unfair or deceptive
266 act or practice; creating s. 627.64194, F.S.; defining
267 terms; providing that an insurer is solely liable for
268 payment of certain fees to a nonparticipating
269 provider; providing limitations and requirements for
270 reimbursements by an insurer to a nonparticipating
271 provider; providing that certain disputes relating to



418472

272 reimbursement of a nonparticipating provider shall be
273 resolved in a court of competent jurisdiction or
274 through a specified voluntary dispute resolution
275 process; amending s. 627.6471, F.S.; requiring an
276 insurer that issues a policy including coverage for
277 the services of a preferred provider to post on its
278 website certain information about participating
279 providers and physicians; requiring that specified
280 notice be included in policies issued after a
281 specified date which provide coverage for the services
282 of a preferred provider; amending s. 627.662, F.S. ;
283 providing applicability of provisions relating to
284 coverage for services and payment collection
285 limitations to group health insurance, blanket health
286 insurance, and franchise health insurance; providing
287 effective dates.