

By the Committees on Banking and Insurance; and Health Policy;
and Senator Garcia

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1 A bill to be entitled
2 An act relating to out-of-network health insurance
3 coverage; amending s. 395.003, F.S.; requiring
4 hospitals, ambulatory surgical centers, specialty
5 hospitals, and urgent care centers to comply with
6 certain provisions as a condition of licensure;
7 amending s. 395.301, F.S.; requiring a hospital to
8 post on its website certain information regarding its
9 contracts with health insurers, health maintenance
10 organizations, and health care practitioners and
11 practice groups and specified notice to patients and
12 prospective patients; amending s. 408.7057, F.S.;
13 providing requirements for settlement offers between
14 certain providers and health plans in a specified
15 dispute resolution program; requiring a final order to
16 be subject to judicial review; amending ss. 456.072,
17 458.331, and 459.015, F.S.; providing additional acts
18 that constitute grounds for denial of a license or
19 disciplinary action, to which penalties apply;
20 amending s. 626.9541, F.S.; specifying an additional
21 unfair method of competition and unfair or deceptive
22 act or practice; creating s. 627.64194, F.S.; defining
23 terms; providing that an insurer is solely liable for
24 payment of certain fees to a nonparticipating
25 provider; providing limitations and requirements for
26 reimbursements by an insurer to a nonparticipating
27 provider; providing that certain disputes relating to
28 reimbursement of a nonparticipating provider shall be
29 resolved in a court of competent jurisdiction or
30 through a specified voluntary dispute resolution
31 process; amending s. 627.6471, F.S.; requiring an

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32 insurer that issues a policy including coverage for
33 the services of a preferred provider to post on its
34 website certain information about participating
35 providers and physicians; requiring that specified
36 notice be included in policies issued after a
37 specified date which provide coverage for the services
38 of a preferred provider; amending s. 627.662, F.S.;
39 providing applicability of provisions relating to
40 coverage for services and payment collection
41 limitations to group health insurance, blanket health
42 insurance, and franchise health insurance; providing
43 effective dates.

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

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

49 395.003 Licensure; denial, suspension, and revocation.—

50 (5)

51 (d) A hospital, an ambulatory surgical center, a specialty
52 hospital, or an urgent care center shall comply with ss.
53 627.64194 and 641.513 as a condition of licensure.

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

56 395.301 Itemized patient bill; form and content prescribed
57 by the agency; patient admission status notification.—

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

59 (a) The names and hyperlinks for direct access to the
60 websites of all health insurers and health maintenance

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61 organizations for which the hospital contracts as a network
62 provider or participating provider.

63 (b) A statement that:

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

66 2. Health care practitioners who provide services in the
67 hospital may or may not participate in the same health insurance
68 plans as the hospital; and

69 3. Prospective patients should contact the health care
70 practitioner arranging for the services to determine the health
71 care plans in which the health care practitioner participates.

72 (c) As applicable, the names, mailing addresses, and
73 telephone numbers of the health care practitioners and practice
74 groups that the hospital has contracted with to provide services
75 in the hospital and instructions on how to contact these health
76 care practitioners and practice groups to determine the health
77 insurers and health maintenance organizations for which the
78 hospital contracts as a network provider or participating
79 provider.

80 Section 3. Paragraph (h) is added to subsection (2) of
81 section 408.7057, Florida Statutes, and subsection (4) of that
82 section is amended, to read:

83 408.7057 Statewide provider and health plan claim dispute
84 resolution program.—

85 (2)

86 (h) Either the contracted or noncontracted provider or the
87 health plan may make an offer to settle the claim dispute when
88 it submits a request for a claim dispute and supporting
89 documentation. The offer to settle the claim dispute must state

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90 its total amount, and the party to whom it is directed has 15
91 days to accept the offer once it is received. If the party
92 receiving the offer does not accept the offer and the final
93 order amount is more than 90 percent or less than 110 percent of
94 the offer amount, the party receiving the offer must pay the
95 final order amount to the offering party and is deemed a
96 nonprevailing party for purposes of this section. The amount of
97 an offer made by a contracted or noncontracted provider to
98 settle an alleged underpayment by the health plan must be
99 greater than 110 percent of the reimbursement amount the
100 provider received. The amount of an offer made by a health plan
101 to settle an alleged overpayment to the provider must be less
102 than 90 percent of the alleged overpayment amount by the health
103 plan. Both parties may agree to settle the disputed claim at any
104 time, for any amount, regardless of whether an offer to settle
105 was made or rejected.

106 (4) Within 30 days after receipt of the recommendation of
107 the resolution organization, the agency shall adopt the
108 recommendation as a final order. The final order is subject to
109 judicial review pursuant to s. 120.68.

110 Section 4. Paragraph (oo) is added to subsection (1) of
111 section 456.072, Florida Statutes, to read:

112 456.072 Grounds for discipline; penalties; enforcement.—

113 (1) The following acts shall constitute grounds for which
114 the disciplinary actions specified in subsection (2) may be
115 taken:

116 (oo) Willfully failing to comply with s. 627.64194 or s.
117 641.513 with such frequency as to indicate a general business
118 practice.

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

121 458.331 Grounds for disciplinary action; action by the
122 board and department.—

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

125 (tt) Willfully failing to comply with s. 627.64194 or s.
126 641.513 with such frequency as to indicate a general business
127 practice.

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

130 459.015 Grounds for disciplinary action; action by the
131 board and department.—

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

134 (vv) Willfully failing to comply with s. 627.64194 or s.
135 641.513 with such frequency as to indicate a general business
136 practice.

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

139 626.9541 Unfair methods of competition and unfair or
140 deceptive acts or practices defined.—

141 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
142 ACTS.—The following are defined as unfair methods of competition
143 and unfair or deceptive acts or practices:

144 (gg) Out-of-network reimbursement.—Willfully failing to
145 comply with s. 627.64194 with such frequency as to indicate a
146 general business practice.

147 Section 8. Section 627.64194, Florida Statutes, is created

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148 to read:

149 627.64194 Coverage requirements for services provided by
150 nonparticipating providers; payment collection limitations.-

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

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

154 (b) "Facility" means a licensed facility as defined in s.
155 395.002(16) and an urgent care center as defined in s.
156 395.002(30).

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

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

163 (e) "Nonparticipating provider" means a provider who is not
164 a preferred provider as defined in s. 627.6471 or a provider who
165 is not an exclusive provider as defined in s. 627.6472. For
166 purposes of covered emergency services under this section, a
167 facility licensed under chapter 395 or an urgent care center
168 defined in s. 395.002(30) is a nonparticipating provider if the
169 facility has not contracted with an insurer to provide emergency
170 services to its insureds at a specified rate.

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

174 (2) An insurer is solely liable for payment of fees to a
175 nonparticipating provider of covered emergency services provided
176 to an insured in accordance with the coverage terms of the

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177 health insurance policy, and such insured is not liable for
178 payment of fees for covered services to a nonparticipating
179 provider of emergency services, other than applicable
180 copayments, coinsurance, and deductibles. An insurer must
181 provide coverage for emergency services that:

182 (a) May not require prior authorization.

183 (b) Must be provided regardless of whether the services are
184 furnished by a participating provider or a nonparticipating
185 provider.

186 (c) May impose a coinsurance amount, copayment, or
187 limitation of benefits requirement for a nonparticipating
188 provider only if the same requirement applies to a participating
189 provider.

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191 The provisions of s. 627.638 apply to this subsection.

192 (3) An insurer is solely liable for payment of fees to a
193 nonparticipating provider of covered nonemergency services
194 provided to an insured in accordance with the coverage terms of
195 the health insurance policy, and such insured is not liable for
196 payment of fees to a nonparticipating provider, other than
197 applicable copayments, coinsurance, and deductibles, for covered
198 nonemergency services that are:

199 (a) Provided in a facility that has a contract for the
200 nonemergency services with the insurer which the facility would
201 be otherwise obligated to provide under contract with the
202 insurer; and

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

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The provisions of s. 627.638 apply to this subsection.

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

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

(6) Any dispute with regard to the reimbursement to the nonparticipating provider of emergency or nonemergency services as provided in subsection (4) shall be resolved in a court of competent jurisdiction or through the voluntary dispute resolution process in s. 408.7057.

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

627.6471 Contracts for reduced rates of payment; limitations; coinsurance and deductibles.—

(2) Any insurer issuing a policy of health insurance in this state, which insurance includes coverage for the services of a preferred provider, must provide each policyholder and

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235 certificateholder with a current list of preferred providers and
236 must make the list available on its website. The list must
237 include, when applicable and reported, a listing by specialty of
238 the names, addresses, and telephone numbers of all participating
239 providers, including facilities, and, in the case of physicians,
240 must also include board certifications, languages spoken, and
241 any affiliations with participating hospitals. Information
242 posted on the insurer's website must be updated on at least a
243 calendar-month basis with additions or terminations of providers
244 from the insurer's network or reported changes in physicians'
245 hospital affiliations ~~for public inspection during regular~~
246 ~~business hours at the principal office of the insurer within the~~
247 ~~state.~~

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

251 627.6471 Contracts for reduced rates of payment;
252 limitations; coinsurance and deductibles.—

253 (7) Any policy issued under this section after January 1,
254 2017, must include the following disclosure: "WARNING: LIMITED
255 BENEFITS WILL BE PAID WHEN NONPARTICIPATING PROVIDERS ARE USED.
256 You should be aware that when you elect to utilize the services
257 of a nonparticipating provider for a covered nonemergency
258 service, benefit payments to the provider are not based upon the
259 amount the provider charges. The basis of the payment will be
260 determined according to your policy's out-of-network
261 reimbursement benefit. Nonparticipating providers may bill
262 insureds for any difference in the amount. YOU MAY BE REQUIRED
263 TO PAY MORE THAN THE COINSURANCE OR COPAYMENT AMOUNT.

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264 Participating providers have agreed to accept discounted
265 payments for services with no additional billing to you other
266 than coinsurance, copayment, and deductible amounts. You may
267 obtain further information about the providers who have
268 contracted with your insurance plan by consulting your insurer's
269 website or contacting your insurer or agent directly."

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

272 627.662 Other provisions applicable.—The following
273 provisions apply to group health insurance, blanket health
274 insurance, and franchise health insurance:

275 (15) Section 627.64194, relating to coverage requirements
276 for services provided by nonparticipating providers and payment
277 collection limitations.

278 Section 12. Except as otherwise expressly provided in this
279 act and except for this section, which shall take effect upon
280 this act becoming a law, this act shall take effect October 1,
281 2016.