

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 a claim dispute resolution process for
14 certain providers and health plans; requiring a final
15 order to be subject to judicial review; amending ss.
16 456.072, 458.331, and 459.015, F.S.; providing
17 additional acts that constitute grounds for denial of
18 a license or disciplinary action, to which penalties
19 apply; amending s. 626.9541, F.S.; specifying an
20 additional unfair method of competition and unfair or
21 deceptive act or practice; creating s. 627.64194,
22 F.S.; defining terms; specifying requirements for
23 coverage provided by an insurer for emergency
24 services; providing that an insurer is solely liable
25 for payment of certain fees to a nonparticipating
26 provider; providing limitations and requirements for

27 reimbursements by an insurer to a nonparticipating
 28 provider; providing that certain disputes relating to
 29 reimbursement of a nonparticipating provider shall be
 30 resolved in a court of competent jurisdiction or
 31 through a specified voluntary dispute resolution
 32 process; amending s. 627.6471, F.S.; requiring an
 33 insurer that issues a policy including coverage for
 34 the services of a preferred provider to post on its
 35 website certain information about participating
 36 providers and physicians; requiring that specified
 37 notice be included in policies issued after a
 38 specified date which provide coverage for the services
 39 of a preferred provider; amending s. 627.662, F.S.;
 40 providing applicability of provisions relating to
 41 coverage for emergency services and payment collection
 42 limitations to group health insurance, blanket health
 43 insurance, and franchise health insurance; providing
 44 effective dates.

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

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

50 395.003 Licensure; denial, suspension, and revocation.—
 51 (5)
 52 (d) A hospital, ambulatory surgical center, specialty

53 hospital, or urgent care center shall comply with ss. 627.64194
 54 and 641.513 as a condition of licensure.

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

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

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

60 (a) The names and hyperlinks for direct access to the
 61 websites of all health insurers and health maintenance
 62 organizations for which the hospital contracts as a network
 63 provider or participating provider.

64 (b) A statement that:

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

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

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

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

79 hospital contracts as a network provider or participating
 80 provider.

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

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

86 (2)

87 (h) Either the contracted or noncontracted provider or the
 88 health plan may make an offer to settle the claim dispute when
 89 it submits a request for a claim dispute and supporting
 90 documentation. The offer to settle the claim dispute must state
 91 its total amount, and the party to whom it is directed has 15
 92 days to accept the offer once it is received. If the offer to
 93 settle the claim dispute is not accepted and the final order is
 94 within 10 percent of the offer, the entity that did not accept
 95 the offer shall pay the final order amount plus all accrued
 96 interest and shall be considered a nonprevailing party for
 97 purposes of this section. If the offer to settle the claim
 98 dispute is made by the contracted or noncontracted provider, the
 99 total amount in the offer to settle the presumed underpayment
 100 may not be within 10 percent of the reimbursement amount
 101 received by the contracted or noncontracted provider. If the
 102 offer to settle the claim dispute is made by the health plan,
 103 the offer to settle the presumed overpayment may not be within
 104 10 percent of the overpayment amount sought from the contracted

105 or noncontracted provider.

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.

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
 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
164 not a preferred provider as defined in s. 627.6471 or a provider
165 who is not an exclusive provider as defined in s. 627.6472. A
166 facility licensed under chapter 395 is not a nonparticipating
167 provider. A provider is also considered a nonparticipating
168 provider for the purposes of any emergency physician services
169 performed if:

170 1. The provider is employed by a facility licensed under
171 chapter 395 that has a contract with the insurer to provide
172 emergency services; and

173 2. The provider is not a preferred provider as defined in
174 s. 627.6471 or the provider is not an exclusive provider as
175 defined in s. 627.6472.

176 (f) "Participating provider" means a preferred provider as
177 defined in s. 627.6471 or an exclusive provider as defined in s.
178 627.6472, but does not mean a facility licensed under chapter
179 395.

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

183 health insurance policy, and such insured is not liable for
 184 payment of fees for covered services to a nonparticipating
 185 provider of emergency services, other than applicable copayments
 186 and deductibles. An insurer must provide coverage for emergency
 187 services that:

188 (a) May not require prior authorization.

189 (b) Must be provided regardless of whether the service is
 190 furnished by a participating provider or a nonparticipating
 191 provider.

192 (c) May impose a coinsurance amount, copayment, or
 193 limitation of benefits requirement for a nonparticipating
 194 provider only if the same requirement applies to a participating
 195 provider.

196
 197 The provisions of s. 627.638 apply to this subsection.

198 (3) An insurer is solely liable for payment of fees to a
 199 nonparticipating provider of covered nonemergency services
 200 provided to an insured in accordance with the coverage terms of
 201 the health insurance policy, and such insured is not liable for
 202 payment of fees to a nonparticipating provider, other than
 203 applicable copayments and deductibles, for covered nonemergency
 204 services that are:

205 (a) Provided in a facility that has a contract for the
 206 nonemergency services with the insurer which the facility would
 207 be otherwise obligated to provide under contract with the
 208 insurer; and

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

212
213 The provisions of s. 627.638 apply to this subsection.

214 (4) An insurer must reimburse a nonparticipating provider
215 of services under subsections (2) and (3) as specified in s.
216 641.513(5) within the applicable timeframe provided in s.
217 627.6131.

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

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

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

235 627.6471 Contracts for reduced rates of payment;
 236 limitations; coinsurance and deductibles.—

237 (2) Any insurer issuing a policy of health insurance in
 238 this state, which insurance includes coverage for the services
 239 of a preferred provider, must provide each policyholder and
 240 certificateholder with a current list of preferred providers and
 241 must make the list available on its website. The list must
 242 include, when applicable and reported, a listing by specialty of
 243 the names, addresses, and telephone numbers of all participating
 244 providers, including facilities, and, in the case of physicians,
 245 must also include board certifications, languages spoken, and
 246 any affiliations with participating hospitals. Information
 247 posted on the insurer's website must be updated on at least a
 248 calendar-month basis with additions or terminations of providers
 249 from the insurer's network or reported changes in physicians'
 250 hospital affiliations ~~for public inspection during regular~~
 251 ~~business hours at the principal office of the insurer within the~~
 252 ~~state.~~

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

256 627.6471 Contracts for reduced rates of payment;
 257 limitations; coinsurance and deductibles.—

258 (7) Any policy issued under this section after January 1,
 259 2017, must include the following disclosure: "WARNING: LIMITED
 260 BENEFITS WILL BE PAID WHEN NONPARTICIPATING PROVIDERS ARE USED.

261 You should be aware that when you elect to utilize the services
262 of a nonparticipating provider for a covered nonemergency
263 service, benefit payments to the provider are not based upon the
264 amount the provider charges. The basis of the payment will be
265 determined according to your policy's out-of-network
266 reimbursement benefit. Nonparticipating providers may bill
267 insureds for any difference in the amount. YOU MAY BE REQUIRED
268 TO PAY MORE THAN THE COINSURANCE OR COPAYMENT AMOUNT.
269 Participating providers have agreed to accept discounted
270 payments for services with no additional billing to you other
271 than coinsurance and deductible amounts. You may obtain further
272 information about the providers who have contracted with your
273 insurance plan by consulting your insurer's website or
274 contacting your insurer or agent directly."

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

277 627.662 Other provisions applicable.—The following
278 provisions apply to group health insurance, blanket health
279 insurance, and franchise health insurance:

280 (15) Section 627.64194, relating to coverage requirements
281 for services provided by nonparticipating providers and payment
282 collection limitations.

283 Section 12. Except as otherwise expressly provided in this
284 act and except for this section, which shall take effect upon
285 this act becoming a law, this act shall take effect October 1,
286 2016.