

1 A bill to be entitled
2 An act relating to freestanding emergency departments;
3 amending s. 395.002, F.S.; providing and revising
4 definitions; conforming cross-references; amending s.
5 395.003, F.S.; removing an obsolete date related to a
6 prohibition on new emergency departments located off
7 the premises of licensed hospitals; amending s.
8 395.1041, F.S.; prohibiting a hospital-based off-
9 campus emergency department from holding itself out to
10 the public as an urgent care center; requiring a
11 hospital-based off-campus emergency department to
12 clearly identify itself as a hospital emergency
13 department using certain signage; requiring a
14 hospital-based off-campus emergency department to post
15 signs in certain locations which contain specified
16 statements; providing requirements for such signs;
17 providing requirements for the advertisement of
18 hospital-based off-campus emergency departments;
19 requiring the Agency for Health Care Administration to
20 post certain information on its website describing the
21 differences between a hospital-based off-campus
22 emergency department and an urgent care center;
23 requiring the agency to update such information on its
24 website at least annually; requiring a hospital to
25 post a link to such information on its website;

26 | amending s. 627.6405, F.S.; removing legislative
 27 | findings and intent; requiring a health insurer to
 28 | post certain information regarding appropriate
 29 | utilization of emergency care services on its website
 30 | and update such information annually; revising a
 31 | definition; amending ss. 385.211, 390.011, 394.4787,
 32 | 395.701, 400.9935, 409.905, 409.975, 468.505,
 33 | 627.64194, and 765.101, F.S.; conforming cross-
 34 | references; providing an effective date.

35 |

36 | Be It Enacted by the Legislature of the State of Florida:

37 |

38 | Section 1. Subsections (10) through (32) of section
 39 | 395.002, Florida Statutes, are renumbered as subsections (11)
 40 | through (33), respectively, present subsections (10), (27), and
 41 | (29) are amended, and a new subsection (10) is added to that
 42 | section, to read:

43 | 395.002 Definitions.—As used in this chapter:

44 | (10) "Hospital-based off-campus emergency department"

45 | means a facility that:

46 | (a) Provides emergency services and care;

47 | (b) Is owned and operated by a licensed hospital and
 48 | operates under the license of the hospital; and

49 | (c) Is located on separate premises from the hospital.

50 (11) ~~(10)~~ "General hospital" means any facility which meets
 51 the provisions of subsection (13) ~~(12)~~ and which regularly makes
 52 its facilities and services available to the general population.

53 (28) ~~(27)~~ "Specialty hospital" means any facility which
 54 meets the provisions of subsection (13) ~~(12)~~, and which
 55 regularly makes available either:

56 (a) The range of medical services offered by general
 57 hospitals, but restricted to a defined age or gender group of
 58 the population;

59 (b) A restricted range of services appropriate to the
 60 diagnosis, care, and treatment of patients with specific
 61 categories of medical or psychiatric illnesses or disorders; or

62 (c) Intensive residential treatment programs for children
 63 and adolescents as defined in subsection (16) ~~(15)~~.

64 (30) ~~(29)~~ "Urgent care center" means a facility or clinic
 65 that provides immediate but not emergent ambulatory medical care
 66 to patients. ~~The term includes an offsite emergency department~~
 67 ~~of a hospital that is presented to the general public in any~~
 68 ~~manner as a department where immediate and not only emergent~~
 69 ~~medical care is provided.~~ The term also includes:

70 (a) An offsite facility of a facility licensed under this
 71 chapter, or a joint venture between a facility licensed under
 72 this chapter and a provider licensed under chapter 458 or
 73 chapter 459, that does not require a patient to make an
 74 appointment and is presented to the general public in any manner

75 as a facility where immediate but not emergent medical care is
76 provided.

77 (b) A clinic organization that is licensed under part X of
78 chapter 400, maintains three or more locations using the same or
79 a similar name, does not require a patient to make an
80 appointment, and holds itself out to the general public in any
81 manner as a facility or clinic where immediate but not emergent
82 medical care is provided.

83 Section 2. Paragraph (c) of subsection (1) of section
84 395.003, Florida Statutes, is amended to read:

85 395.003 Licensure; denial, suspension, and revocation.—

86 (1)

87 ~~(c) Until July 1, 2006, additional emergency departments~~
88 ~~located off the premises of licensed hospitals may not be~~
89 ~~authorized by the agency.~~

90 Section 3. Paragraph (m) is added to subsection (3) of
91 section 395.1041, Florida Statutes, to read:

92 395.1041 Access to emergency services and care.—

93 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
94 FACILITY OR HEALTH CARE PERSONNEL.—

95 (m)1. A hospital-based off-campus emergency department may
96 not hold itself out to the public as an urgent care center and
97 must clearly identify itself as a hospital emergency department,
98 using, at a minimum, prominent lighted external signage that
99 includes the word "EMERGENCY" or "ER" in conjunction with the

100 name of the hospital. A hospital-based off-campus emergency
101 department located on the same premises as an urgent care center
102 may also identify itself as an urgent care center on such
103 signage.

104 2. A hospital-based off-campus emergency department shall
105 conspicuously post signs at locations that are readily
106 accessible to and visible by patients outside the entrance to
107 the facility and in patient waiting areas which state the
108 following: "THIS IS A HOSPITAL EMERGENCY DEPARTMENT." Unless the
109 hospital-based off-campus emergency department shares a premises
110 and a public entrance with an urgent care center, the signs must
111 also state the following: "THIS IS NOT AN URGENT CARE CENTER.
112 HOSPITAL EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR
113 SERVICES." The signs must also specify the facility's average
114 facility fee, if any, and notify the public that the facility or
115 a physician providing medical care at the facility may be an
116 out-of-network provider. The signs must be at least 2 square
117 feet in size and the text must be in at least 36 point type.

118 3. Except as provided in this paragraph, any advertisement
119 for a hospital-based off-campus emergency department must
120 include the following statement: "This emergency department is
121 not an urgent care center. It is part of (insert hospital name)
122 and its services and care are billed at hospital emergency
123 department rates." Any billboard advertising a hospital-based
124 off-campus emergency department which measures at least 200

125 square feet must include the following statement in clearly
 126 legible contrasting color text at least 15 inches high: "(INSERT
 127 NAME OF HOSPITAL) EMERGENCY DEPARTMENT. THIS IS NOT AN URGENT
 128 CARE CENTER."

129 4.a. The agency shall post on its website information that
 130 provides a description of the differences between a hospital-
 131 based off-campus emergency department and an urgent care center.
 132 Such description must include:

133 (I) At least two examples illustrating the impact on
 134 insured and insurer paid amounts of inappropriate utilization of
 135 nonemergent services and care in a hospital emergency department
 136 setting compared to utilization of nonemergent services and care
 137 in an urgent care center;

138 (II) An interactive tool to locate local urgent care
 139 centers; and

140 (III) What to do in the event of a true emergency.

141 b. The agency shall update the information required in
 142 sub-subparagraph a. at least annually. Each hospital shall post
 143 a link to such information in a prominent location on its
 144 website.

145 Section 4. Section 627.6405, Florida Statutes, is amended
 146 to read:

147 627.6405 Decreasing inappropriate utilization of emergency
 148 care.-

149 ~~(1) The Legislature finds and declares it to be of vital~~
150 ~~importance that emergency services and care be provided by~~
151 ~~hospitals and physicians to every person in need of such care,~~
152 ~~but with the double-digit increases in health insurance~~
153 ~~premiums, health care providers and insurers should encourage~~
154 ~~patients and the insured to assume responsibility for their~~
155 ~~treatment, including emergency care. The Legislature finds that~~
156 ~~inappropriate utilization of emergency department services~~
157 ~~increases the overall cost of providing health care and these~~
158 ~~costs are ultimately borne by the hospital, the insured~~
159 ~~patients, and, many times, by the taxpayers of this state.~~
160 ~~Finally, the Legislature declares that the providers and~~
161 ~~insurers must share the responsibility of providing alternative~~
162 ~~treatment options to urgent care patients outside of the~~
163 ~~emergency department. Therefore, it is the intent of the~~
164 ~~Legislature to place the obligation for educating consumers and~~
165 ~~creating mechanisms for delivery of care that will decrease the~~
166 ~~overutilization of emergency service on health insurers and~~
167 ~~providers.~~

168 ~~(1)(2)~~ A health insurer ~~insurers~~ shall post ~~provide~~ on its
169 website ~~their websites~~ information regarding appropriate
170 utilization of emergency care services which shall include, but
171 need not be limited to:7

172 (a) A list of alternative urgent care contracted
173 providers;7

174 (b) The types of services offered by these providers;~~;~~
 175 (c) A comparison of statewide average in-network and out-
 176 of-network urgent care center and hospital-based off-campus
 177 emergency department charges for the 30 most common urgent care
 178 center services;
 179 (d) At least two examples illustrating the impact on
 180 insured and insurer paid amounts of inappropriate utilization of
 181 nonemergent services and care in a hospital emergency department
 182 setting compared to utilization of nonemergent services and care
 183 in an urgent care center;
 184 (e) An interactive tool to locate local in-network and
 185 out-of-network urgent care centers; and
 186 (f) What to do in the event of a true emergency.
 187
 188 Health insurers shall update the information required in this
 189 subsection on its website at least annually.
 190 ~~(2)-(3)~~ Health insurers shall develop community emergency
 191 department diversion programs. Such programs may include, at the
 192 discretion of the insurer, but not be limited to, enlisting
 193 providers to be on call to insurers after hours, coordinating
 194 care through local community resources, and providing incentives
 195 to providers for case management.
 196 ~~(3)-(4)~~ As a disincentive for insureds to inappropriately
 197 use emergency department services for nonemergency care, health
 198 insurers may require higher copayments for urgent care or

199 primary care provided in an emergency department and higher
 200 copayments for use of out-of-network emergency departments.
 201 Higher copayments may not be charged for the utilization of the
 202 emergency department for emergency care. For the purposes of
 203 this section, the term "emergency care" has the same meaning as
 204 the term "emergency services and care" as defined ~~provided~~ in s.
 205 395.002(9) ~~s. 395.002~~ and includes ~~shall include~~ services
 206 provided to rule out an emergency medical condition.

207 Section 5. Subsection (2) of section 385.211, Florida
 208 Statutes, is amended to read:

209 385.211 Refractory and intractable epilepsy treatment and
 210 research at recognized medical centers.—

211 (2) Notwithstanding chapter 893, medical centers
 212 recognized pursuant to s. 381.925, or an academic medical
 213 research institution legally affiliated with a licensed
 214 children's specialty hospital as defined in s. 395.002(28) ~~s.~~
 215 ~~395.002(27)~~ that contracts with the Department of Health, may
 216 conduct research on cannabidiol and low-THC cannabis. This
 217 research may include, but is not limited to, the agricultural
 218 development, production, clinical research, and use of liquid
 219 medical derivatives of cannabidiol and low-THC cannabis for the
 220 treatment for refractory or intractable epilepsy. The authority
 221 for recognized medical centers to conduct this research is
 222 derived from 21 C.F.R. parts 312 and 316. Current state or
 223 privately obtained research funds may be used to support the

224 activities described in this section.

225 Section 6. Subsection (7) of section 390.011, Florida
226 Statutes, is amended to read:

227 390.011 Definitions.—As used in this chapter, the term:

228 (7) "Hospital" means a facility as defined in s.
229 395.002(13) ~~s. 395.002(12)~~ and licensed under chapter 395 and
230 part II of chapter 408.

231 Section 7. Subsection (7) of section 394.4787, Florida
232 Statutes, is amended to read:

233 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
234 and 394.4789.—As used in this section and ss. 394.4786,
235 394.4788, and 394.4789:

236 (7) "Specialty psychiatric hospital" means a hospital
237 licensed by the agency pursuant to s. 395.002(28) ~~s. 395.002(27)~~
238 and part II of chapter 408 as a specialty psychiatric hospital.

239 Section 8. Paragraph (c) of subsection (1) of section
240 395.701, Florida Statutes, is amended to read:

241 395.701 Annual assessments on net operating revenues for
242 inpatient and outpatient services to fund public medical
243 assistance; administrative fines for failure to pay assessments
244 when due; exemption.—

245 (1) For the purposes of this section, the term:

246 (c) "Hospital" means a health care institution as defined
247 in s. 395.002(13) ~~s. 395.002(12)~~, but does not include any
248 hospital operated by a state agency.

249 Section 9. Paragraph (i) of subsection (1) of section
 250 400.9935, Florida Statutes, is amended to read:

251 400.9935 Clinic responsibilities.—

252 (1) Each clinic shall appoint a medical director or clinic
 253 director who shall agree in writing to accept legal
 254 responsibility for the following activities on behalf of the
 255 clinic. The medical director or the clinic director shall:

256 (i) Ensure that the clinic publishes a schedule of charges
 257 for the medical services offered to patients. The schedule must
 258 include the prices charged to an uninsured person paying for
 259 such services by cash, check, credit card, or debit card. The
 260 schedule may group services by price levels, listing services in
 261 each price level. The schedule must be posted in a conspicuous
 262 place in the reception area of any clinic that is considered an
 263 urgent care center as defined in s. 395.002(30)(b) ~~s.~~
 264 ~~395.002(29)(b)~~ and must include, but is not limited to, the 50
 265 services most frequently provided by the clinic. The posting may
 266 be a sign that must be at least 15 square feet in size or
 267 through an electronic messaging board that is at least 3 square
 268 feet in size. The failure of a clinic, including a clinic that
 269 is considered an urgent care center, to publish and post a
 270 schedule of charges as required by this section shall result in
 271 a fine of not more than \$1,000, per day, until the schedule is
 272 published and posted.

273 Section 10. Subsection (8) of section 409.905, Florida

274 Statutes, is amended to read:

275 409.905 Mandatory Medicaid services.—The agency may make
276 payments for the following services, which are required of the
277 state by Title XIX of the Social Security Act, furnished by
278 Medicaid providers to recipients who are determined to be
279 eligible on the dates on which the services were provided. Any
280 service under this section shall be provided only when medically
281 necessary and in accordance with state and federal law.

282 Mandatory services rendered by providers in mobile units to
283 Medicaid recipients may be restricted by the agency. Nothing in
284 this section shall be construed to prevent or limit the agency
285 from adjusting fees, reimbursement rates, lengths of stay,
286 number of visits, number of services, or any other adjustments
287 necessary to comply with the availability of moneys and any
288 limitations or directions provided for in the General
289 Appropriations Act or chapter 216.

290 (8) NURSING FACILITY SERVICES.—The agency shall pay for
291 24-hour-a-day nursing and rehabilitative services for a
292 recipient in a nursing facility licensed under part II of
293 chapter 400 or in a rural hospital, as defined in s. 395.602, or
294 in a Medicare certified skilled nursing facility operated by a
295 hospital, as defined by s. 395.002(11) ~~s. 395.002(10)~~, that is
296 licensed under part I of chapter 395, and in accordance with
297 provisions set forth in s. 409.908(2)(a), which services are
298 ordered by and provided under the direction of a licensed

299 physician. However, if a nursing facility has been destroyed or
300 otherwise made uninhabitable by natural disaster or other
301 emergency and another nursing facility is not available, the
302 agency must pay for similar services temporarily in a hospital
303 licensed under part I of chapter 395 provided federal funding is
304 approved and available. The agency shall pay only for bed-hold
305 days if the facility has an occupancy rate of 95 percent or
306 greater. The agency is authorized to seek any federal waivers to
307 implement this policy.

308 Section 11. Paragraph (b) of subsection (1) of section
309 409.975, Florida Statutes, is amended to read:

310 409.975 Managed care plan accountability.—In addition to
311 the requirements of s. 409.967, plans and providers
312 participating in the managed medical assistance program shall
313 comply with the requirements of this section.

314 (1) PROVIDER NETWORKS.—Managed care plans must develop and
315 maintain provider networks that meet the medical needs of their
316 enrollees in accordance with standards established pursuant to
317 s. 409.967(2)(c). Except as provided in this section, managed
318 care plans may limit the providers in their networks based on
319 credentials, quality indicators, and price.

320 (b) Certain providers are statewide resources and
321 essential providers for all managed care plans in all regions.
322 All managed care plans must include these essential providers in
323 their networks. Statewide essential providers include:

- 324 1. Faculty plans of Florida medical schools.
- 325 2. Regional perinatal intensive care centers as defined in
- 326 s. 383.16(2).
- 327 3. Hospitals licensed as specialty children's hospitals as
- 328 defined in s. 395.002(28) ~~s. 395.002(27)~~.
- 329 4. Accredited and integrated systems serving medically
- 330 complex children which comprise separately licensed, but
- 331 commonly owned, health care providers delivering at least the
- 332 following services: medical group home, in-home and outpatient
- 333 nursing care and therapies, pharmacy services, durable medical
- 334 equipment, and Prescribed Pediatric Extended Care.
- 335
- 336 Managed care plans that have not contracted with all statewide
- 337 essential providers in all regions as of the first date of
- 338 recipient enrollment must continue to negotiate in good faith.
- 339 Payments to physicians on the faculty of nonparticipating
- 340 Florida medical schools shall be made at the applicable Medicaid
- 341 rate. Payments for services rendered by regional perinatal
- 342 intensive care centers shall be made at the applicable Medicaid
- 343 rate as of the first day of the contract between the agency and
- 344 the plan. Except for payments for emergency services, payments
- 345 to nonparticipating specialty children's hospitals shall equal
- 346 the highest rate established by contract between that provider
- 347 and any other Medicaid managed care plan.
- 348 Section 12. Paragraph (1) of subsection (1) of section

349 468.505, Florida Statutes, is amended to read:

350 468.505 Exemptions; exceptions.—

351 (1) Nothing in this part may be construed as prohibiting
352 or restricting the practice, services, or activities of:

353 (1) A person employed by a nursing facility exempt from
354 licensing under s. 395.002(13) ~~s. 395.002(12)~~, or a person
355 exempt from licensing under s. 464.022.

356 Section 13. Paragraph (b) of subsection (1) of section
357 627.64194, Florida Statutes, is amended to read:

358 627.64194 Coverage requirements for services provided by
359 nonparticipating providers; payment collection limitations.—

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

361 (b) "Facility" means a licensed facility as defined in s.
362 395.002(17) ~~s. 395.002(16)~~ and an urgent care center as defined
363 in s. 395.002.

364 Section 14. Subsection (2) of section 765.101, Florida
365 Statutes, is amended to read:

366 765.101 Definitions.—As used in this chapter:

367 (2) "Attending physician" means the physician who has
368 primary responsibility for the treatment and care of the patient
369 while the patient receives such treatment or care in a hospital
370 as defined in s. 395.002(13) ~~s. 395.002(12)~~.

371 Section 15. This act shall take effect July 1, 2021.