

By the Committee on Appropriations; and Senator Brodeur

576-04679-21

20211976c1

1 A bill to be entitled
2 An act relating to freestanding emergency departments;
3 amending s. 395.002, F.S.; defining and revising
4 terms; amending s. 395.003, F.S.; deleting an obsolete
5 provision relating to a prohibition on new emergency
6 departments located off the premises of licensed
7 hospitals; amending s. 395.1041, F.S.; prohibiting a
8 freestanding emergency department from holding itself
9 out to the public as an urgent care center; providing
10 an exception; requiring a freestanding emergency
11 department to clearly identify itself as a hospital
12 emergency department using certain signage; requiring
13 a freestanding emergency department to post signs in
14 certain locations which contain specified statements;
15 providing requirements for such signs; providing
16 requirements for the advertisement of freestanding
17 emergency departments; requiring the Agency for Health
18 Care Administration to post information on its website
19 describing the differences between a freestanding
20 emergency department and an urgent care center;
21 requiring the agency to update such information on its
22 website at least annually; requiring hospitals to post
23 a link to such information on their websites;
24 requiring certain freestanding emergency departments
25 to provide an emergency room billing acknowledgement
26 form to patients under certain circumstances;
27 requiring that the form contain a specified heading
28 and statement; amending s. 627.6405, F.S.; deleting
29 legislative findings and intent; requiring health

576-04679-21

20211976c1

30 insurers to post certain information regarding
31 appropriate use of emergency care services on their
32 websites and update such information at least
33 annually; revising the definition of the term
34 "emergency care"; amending ss. 385.211, 390.011,
35 394.4787, 395.701, 400.9935, 409.905, 409.975,
36 468.505, 627.64194, and 765.101, F.S.; conforming
37 cross-references; providing an effective date.
38

39 Be It Enacted by the Legislature of the State of Florida:
40

41 Section 1. Present subsections (10) through (32) of section
42 395.002, Florida Statutes, are redesignated as subsections (11)
43 through (33), respectively, a new subsection (10) is added to
44 that section, and present subsections (10), (27), and (29) are
45 amended, to read:

46 395.002 Definitions.—As used in this chapter:

47 (10) "Freestanding emergency department" means a facility
48 that:

49 (a) Provides emergency services and care;

50 (b) Is owned and operated by a licensed hospital and
51 operates under the license of the hospital; and

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

53 (11)~~(10)~~ "General hospital" means any facility which meets
54 the provisions of subsection (13) ~~(12)~~ and which regularly makes
55 its facilities and services available to the general population.

56 (28)~~(27)~~ "Specialty hospital" means any facility which
57 meets the provisions of subsection (13) ~~(12)~~, and which
58 regularly makes available either:

576-04679-21

20211976c1

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

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

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

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

73 (a) An offsite facility of a facility licensed under this
74 chapter, or a joint venture between a facility licensed under
75 this chapter and a provider licensed under chapter 458 or
76 chapter 459, that does not require a patient to make an
77 appointment and is presented to the general public in any manner
78 as a facility where immediate but not emergent medical care is
79 provided.

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

86 Section 2. Paragraph (c) of subsection (1) of section
87 395.003, Florida Statutes, is amended to read:

576-04679-21

20211976c1

88 395.003 Licensure; denial, suspension, and revocation.—

89 (1)

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

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

95 395.1041 Access to emergency services and care.—

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

98 (m)1. A freestanding emergency department may not hold
99 itself out to the public as an urgent care center, unless that
100 site is operating in accordance with s. 395.107 and provides
101 urgent care services that are not billed at emergency department
102 rates, and must clearly identify itself as a hospital emergency
103 department using, at a minimum, prominent lighted external
104 signage that includes the word "EMERGENCY" in conjunction with
105 the name of the hospital.

106 2. A freestanding emergency department shall conspicuously
107 post signs at locations that are readily accessible to and
108 visible by patients outside the entrance to the facility and in
109 patient waiting areas which state the following: "THIS IS A
110 HOSPITAL EMERGENCY DEPARTMENT." Unless the freestanding
111 emergency department shares a location and a public entrance
112 with an urgent care center, the signs must also state the
113 following: "THIS IS NOT AN URGENT CARE CENTER. HOSPITAL
114 EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR SERVICES." The
115 signs must also specify the facility's average facility fee, if
116 any, and notify the public that the facility or a physician

576-04679-21

20211976c1

117 providing medical care at the facility may be an out-of-network
118 provider. The signs must be at least 2 square feet in size and
119 the text must be in at least 36-point type. A freestanding
120 emergency department that shares a location and public entrance
121 with an urgent care center that operates in accordance with s.
122 395.107 and does not bill patients at emergency department rates
123 may also state "AND URGENT CARE SERVICES" in addition to any
124 signage requirements required by this paragraph.

125 3. Except as provided in this paragraph, any advertisement
126 for a freestanding emergency department that does not provide
127 and bill for urgent care services in accordance with s. 395.107
128 must include the following statement: "This emergency department
129 is not an urgent care center. It is part of (insert hospital
130 name) and its services and care are billed at hospital emergency
131 department rates." Any billboard advertising a freestanding
132 emergency department that does not provide and bill for urgent
133 care services in accordance with s. 395.107 which measures at
134 least 200 square feet must include the following statement in
135 clearly legible contrasting color text at least 15 inches high:
136 "(INSERT NAME OF HOSPITAL) EMERGENCY DEPARTMENT. THIS IS NOT AN
137 URGENT CARE CENTER."

138 4.a. The agency shall post information on its website which
139 provides a description of the differences between a freestanding
140 emergency department and an urgent care center. Such description
141 must include:

142 (I) At least two examples illustrating the impact on both
143 insured and insurer paid amounts from the inappropriate use of
144 nonemergent services and care in a hospital emergency department
145 setting compared to the use of nonemergent services and care in

576-04679-21

20211976c1

146 an urgent care center;

147 (II) An interactive tool to locate local urgent care
148 centers; and

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

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

153 5. A freestanding emergency department that provides and
154 bills for urgent care services in accordance with s. 395.107
155 shall provide an emergency room billing acknowledgement form to
156 a patient receiving emergency medical treatment from the
157 emergency department after a medical screening examination is
158 conducted and stabilizing care is provided to the patient. The
159 form must have a heading that reads, "Your visit today will be
160 billed as an emergency room visit" and must contain the
161 following statement: "I, (insert patient's name), understand
162 that today's visit will be BILLED AS AN EMERGENCY ROOM VISIT. I
163 certify that the (insert hospital name) has not withheld,
164 delayed, or conditioned a medical screening examination or
165 stabilizing care based upon me signing or refusing to sign this
166 form or based upon any payment related concerns. I understand
167 that I may qualify for financial assistance if I am unable to
168 pay for my care today."

169 Section 4. Section 627.6405, Florida Statutes, is amended
170 to read:

171 627.6405 Decreasing inappropriate utilization of emergency
172 care.—

173 ~~(1) The Legislature finds and declares it to be of vital~~
174 ~~importance that emergency services and care be provided by~~

576-04679-21

20211976c1

175 ~~hospitals and physicians to every person in need of such care,~~
176 ~~but with the double-digit increases in health insurance~~
177 ~~premiums, health care providers and insurers should encourage~~
178 ~~patients and the insured to assume responsibility for their~~
179 ~~treatment, including emergency care. The Legislature finds that~~
180 ~~inappropriate utilization of emergency department services~~
181 ~~increases the overall cost of providing health care and these~~
182 ~~costs are ultimately borne by the hospital, the insured~~
183 ~~patients, and, many times, by the taxpayers of this state.~~
184 ~~Finally, the Legislature declares that the providers and~~
185 ~~insurers must share the responsibility of providing alternative~~
186 ~~treatment options to urgent care patients outside of the~~
187 ~~emergency department. Therefore, it is the intent of the~~
188 ~~Legislature to place the obligation for educating consumers and~~
189 ~~creating mechanisms for delivery of care that will decrease the~~
190 ~~overutilization of emergency service on health insurers and~~
191 ~~providers.~~

192 ~~(2) A health insurer~~ insurers shall post ~~provide~~ on its
193 website ~~their websites~~ information regarding appropriate
194 utilization of emergency care services which shall include, but
195 need not be limited to:;

196 (a) A list of alternative urgent care contracted
197 providers;;

198 (b) The types of services offered by these providers;;

199 (c) A comparison of statewide average in-network and out-
200 of-network urgent care center and freestanding emergency
201 department charges for the 30 most common urgent care center
202 services;

203 (d) At least two examples illustrating the impact on

576-04679-21

20211976c1

204 insured and insurer paid amounts of inappropriate utilization of
205 nonemergent services and care in a hospital emergency department
206 setting compared to utilization of nonemergent services and care
207 in an urgent care center;

208 (e) An interactive tool to locate local in-network and out-
209 of-network urgent care centers; and

210 (f) What to do in the event of a true emergency.

211

212 Health insurers shall update the information required in this
213 subsection on its website at least annually.

214 (2)-(3) Health insurers shall develop community emergency
215 department diversion programs. Such programs may include, at the
216 discretion of the insurer, but not be limited to, enlisting
217 providers to be on call to insurers after hours, coordinating
218 care through local community resources, and providing incentives
219 to providers for case management.

220 (3)-(4) As a disincentive for insureds to inappropriately
221 use emergency department services for nonemergency care, health
222 insurers may require higher copayments for urgent care or
223 primary care provided in an emergency department and higher
224 copayments for use of out-of-network emergency departments.
225 Higher copayments may not be charged for the utilization of the
226 emergency department for emergency care. For the purposes of
227 this section, the term "emergency care" has the same meaning as
228 the term "emergency services and care" as defined provided in s.
229 395.002(9) s. 395.002 and includes shall include services
230 provided to rule out an emergency medical condition.

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

576-04679-21

20211976c1

233 385.211 Refractory and intractable epilepsy treatment and
234 research at recognized medical centers.—

235 (2) Notwithstanding chapter 893, medical centers recognized
236 pursuant to s. 381.925, or an academic medical research
237 institution legally affiliated with a licensed children's
238 specialty hospital as defined in s. 395.002(28) ~~s. 395.002(27)~~
239 that contracts with the Department of Health, may conduct
240 research on cannabidiol and low-THC cannabis. This research may
241 include, but is not limited to, the agricultural development,
242 production, clinical research, and use of liquid medical
243 derivatives of cannabidiol and low-THC cannabis for the
244 treatment for refractory or intractable epilepsy. The authority
245 for recognized medical centers to conduct this research is
246 derived from 21 C.F.R. parts 312 and 316. Current state or
247 privately obtained research funds may be used to support the
248 activities described in this section.

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

251 390.011 Definitions.—As used in this chapter, the term:

252 (7) "Hospital" means a facility as defined in s.
253 395.002(13) ~~s. 395.002(12)~~ and licensed under chapter 395 and
254 part II of chapter 408.

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

257 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788, and
258 394.4789.—As used in this section and ss. 394.4786, 394.4788,
259 and 394.4789:

260 (7) "Specialty psychiatric hospital" means a hospital
261 licensed by the agency pursuant to s. 395.002(28) ~~s. 395.002(27)~~

576-04679-21

20211976c1

262 and part II of chapter 408 as a specialty psychiatric hospital.

263 Section 8. Paragraph (c) of subsection (1) of section
264 395.701, Florida Statutes, is amended to read:

265 395.701 Annual assessments on net operating revenues for
266 inpatient and outpatient services to fund public medical
267 assistance; administrative fines for failure to pay assessments
268 when due; exemption.—

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

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

273 Section 9. Paragraph (i) of subsection (1) of section
274 400.9935, Florida Statutes, is amended to read:

275 400.9935 Clinic responsibilities.—

276 (1) Each clinic shall appoint a medical director or clinic
277 director who shall agree in writing to accept legal
278 responsibility for the following activities on behalf of the
279 clinic. The medical director or the clinic director shall:

280 (i) Ensure that the clinic publishes a schedule of charges
281 for the medical services offered to patients. The schedule must
282 include the prices charged to an uninsured person paying for
283 such services by cash, check, credit card, or debit card. The
284 schedule may group services by price levels, listing services in
285 each price level. The schedule must be posted in a conspicuous
286 place in the reception area of any clinic that is considered an
287 urgent care center as defined in s. 395.002(30)(b) ~~s.~~
288 ~~395.002(29)(b)~~ and must include, but is not limited to, the 50
289 services most frequently provided by the clinic. The posting may
290 be a sign that must be at least 15 square feet in size or

576-04679-21

20211976c1

291 through an electronic messaging board that is at least 3 square
292 feet in size. The failure of a clinic, including a clinic that
293 is considered an urgent care center, to publish and post a
294 schedule of charges as required by this section shall result in
295 a fine of not more than \$1,000, per day, until the schedule is
296 published and posted.

297 Section 10. Subsection (8) of section 409.905, Florida
298 Statutes, is amended to read:

299 409.905 Mandatory Medicaid services.—The agency may make
300 payments for the following services, which are required of the
301 state by Title XIX of the Social Security Act, furnished by
302 Medicaid providers to recipients who are determined to be
303 eligible on the dates on which the services were provided. Any
304 service under this section shall be provided only when medically
305 necessary and in accordance with state and federal law.

306 Mandatory services rendered by providers in mobile units to
307 Medicaid recipients may be restricted by the agency. Nothing in
308 this section shall be construed to prevent or limit the agency
309 from adjusting fees, reimbursement rates, lengths of stay,
310 number of visits, number of services, or any other adjustments
311 necessary to comply with the availability of moneys and any
312 limitations or directions provided for in the General
313 Appropriations Act or chapter 216.

314 (8) NURSING FACILITY SERVICES.—The agency shall pay for 24-
315 hour-a-day nursing and rehabilitative services for a recipient
316 in a nursing facility licensed under part II of chapter 400 or
317 in a rural hospital, as defined in s. 395.602, or in a Medicare
318 certified skilled nursing facility operated by a hospital, as
319 defined by s. 395.002(11) ~~s. 395.002(10)~~, that is licensed under

576-04679-21

20211976c1

320 part I of chapter 395, and in accordance with ~~provisions set~~
321 ~~forth in~~ s. 409.908(2)(a), which services are ordered by and
322 provided under the direction of a licensed physician. However,
323 if a nursing facility has been destroyed or otherwise made
324 uninhabitable by natural disaster or other emergency and another
325 nursing facility is not available, the agency must pay for
326 similar services temporarily in a hospital licensed under part I
327 of chapter 395 provided federal funding is approved and
328 available. The agency shall pay only for bed-hold days if the
329 facility has an occupancy rate of 95 percent or greater. The
330 agency is authorized to seek any federal waivers to implement
331 this policy.

332 Section 11. Paragraph (b) of subsection (1) of section
333 409.975, Florida Statutes, is amended to read:

334 409.975 Managed care plan accountability.—In addition to
335 the requirements of s. 409.967, plans and providers
336 participating in the managed medical assistance program shall
337 comply with the requirements of this section.

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

344 (b) Certain providers are statewide resources and essential
345 providers for all managed care plans in all regions. All managed
346 care plans must include these essential providers in their
347 networks. Statewide essential providers include:

348 1. Faculty plans of Florida medical schools.

576-04679-21

20211976c1

349 2. Regional perinatal intensive care centers as defined in
350 s. 383.16(2).

351 3. Hospitals licensed as specialty children's hospitals as
352 defined in s. 395.002(28) ~~s. 395.002(27)~~.

353 4. Accredited and integrated systems serving medically
354 complex children which comprise separately licensed, but
355 commonly owned, health care providers delivering at least the
356 following services: medical group home, in-home and outpatient
357 nursing care and therapies, pharmacy services, durable medical
358 equipment, and Prescribed Pediatric Extended Care.

359
360 Managed care plans that have not contracted with all statewide
361 essential providers in all regions as of the first date of
362 recipient enrollment must continue to negotiate in good faith.
363 Payments to physicians on the faculty of nonparticipating
364 Florida medical schools shall be made at the applicable Medicaid
365 rate. Payments for services rendered by regional perinatal
366 intensive care centers shall be made at the applicable Medicaid
367 rate as of the first day of the contract between the agency and
368 the plan. Except for payments for emergency services, payments
369 to nonparticipating specialty children's hospitals shall equal
370 the highest rate established by contract between that provider
371 and any other Medicaid managed care plan.

372 Section 12. Paragraph (1) of subsection (1) of section
373 468.505, Florida Statutes, is amended to read:

374 468.505 Exemptions; exceptions.—

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

377 (1) A person employed by a nursing facility exempt from

576-04679-21

20211976c1

378 licensing under s. 395.002(13) ~~s. 395.002(12)~~, or a person
379 exempt from licensing under s. 464.022.

380 Section 13. Paragraph (b) of subsection (1) of section
381 627.64194, Florida Statutes, is amended to read:

382 627.64194 Coverage requirements for services provided by
383 nonparticipating providers; payment collection limitations.—

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

385 (b) "Facility" means a licensed facility as defined in s.
386 395.002(17) ~~s. 395.002(16)~~ and an urgent care center as defined
387 in s. 395.002.

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

390 765.101 Definitions.—As used in this chapter:

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

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