

1                   A bill to be entitled  
 2           An act relating to medical expenses in personal injury  
 3           or wrongful death actions; creating s. 768.0427, F.S.;  
 4           defining the term "health care coverage"; specifying  
 5           that certain evidence offered to prove damages for the  
 6           cost of past medical expenses is admissible in a  
 7           personal injury or wrongful death action under certain  
 8           circumstances; specifying damages that may be  
 9           recovered by a claimant for the reasonable and  
 10          necessary cost or value of medical care rendered;  
 11          providing an effective date.

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

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 15           Section 1. Section 768.0427, Florida Statutes, is created  
 16          to read:

17           768.0427 Recovery of past medical expenses in personal  
 18          injury or wrongful death actions.—

19           (1) DEFINITION.—For the purposes of this section, the term  
 20          "health care coverage" means any form of third-party coverage of  
 21          applicable medical expenses, including, but not limited to,  
 22          commercial health insurance, Medicare, Medicare supplemental  
 23          health insurance, Medicaid, Tricare, workers' compensation, and  
 24          personal injury protection.

25           (2) ADMISSIBLE EVIDENCE.—Evidence offered to prove damages

26 | for the cost of past medical expenses is admissible in a  
27 | personal injury or wrongful death action as follows:

28 | (a) Evidence offered to prove the amount of a past medical  
29 | expense that has been satisfied is limited to evidence of the  
30 | amount paid, regardless of the source of payment.

31 | (b) Evidence offered to prove the amount necessary to  
32 | satisfy an unpaid charge for a medical expense is limited to  
33 | evidence of the amount necessary to satisfy the charge as  
34 | follows:

35 | 1. If the claimant has health care coverage, evidence of  
36 | the amount necessary to satisfy an unpaid medical charge may not  
37 | exceed the amount by which the charge may be satisfied by such  
38 | health care coverage plus the claimant's share of medical  
39 | expenses under the insurance contract or regulation, and  
40 | regardless of whether the health care coverage is used or will  
41 | be used to satisfy the charge.

42 | 2. If the claimant does not have health care coverage,  
43 | evidence of the amount necessary to satisfy an unpaid medical  
44 | charge may not exceed the usual and customary amount or the  
45 | amount customarily accepted in payment for the services by the  
46 | claimant's medical providers and by other providers in the same  
47 | geographic area. In determining the amount customarily accepted,  
48 | the trier of fact shall consider amounts accepted by providers  
49 | in the same geographic area for identical or substantially  
50 | similar medical or health care services on a cash basis, under

51 Medicare, under the Workers' Compensation Law, and by payors  
52 regulated under the Florida Insurance Code.

53 (3) DAMAGES RECOVERABLE.—The damages that may be recovered  
54 by a claimant in a personal injury or wrongful death action for  
55 the reasonable and necessary cost or value of medical care  
56 rendered may not exceed the sum of the amounts paid by or on  
57 behalf of the injured or deceased person to a health care  
58 provider who rendered treatment and any amounts necessary to  
59 satisfy the medical care charges that have been incurred but not  
60 yet satisfied.

61 Section 2. This act shall take effect July 1, 2021.