

By Senator Brandes

24-00414C-21

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

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

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

16 768.0427 Recovery of past medical expenses in personal
17 injury or wrongful death actions.-

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

24 (2) ADMISSIBLE EVIDENCE.-Evidence offered to prove damages
25 for the cost of past medical expenses is admissible in a
26 personal injury or wrongful death action as provided in this
27 subsection.

28 (a) Past paid medical expenses.-Evidence offered to prove
29 the amount of a past medical expense that has been satisfied is

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30 limited to evidence of the amount paid, regardless of the source
31 of payment.

32 (b) Past unpaid medical expenses.—Evidence offered to prove
33 the amount necessary to satisfy an unpaid charge for a medical
34 expense is limited to evidence of the amount necessary to
35 satisfy the charge as provided in this paragraph.

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

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

54 (3) DAMAGES RECOVERABLE.—The damages that may be recovered
55 by a claimant in a personal injury or wrongful death action for
56 the reasonable and necessary cost or value of medical care
57 rendered may not exceed the sum of the amounts paid by or on
58 behalf of the injured person to a health care provider who

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59 rendered treatment and any amounts necessary to satisfy the
60 medical care charges that have been incurred but not yet
61 satisfied.

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