

1                   A bill to be entitled

2       An act relating to admissibility of evidence in civil  
3       cases; amending s. 768.0427, F.S.; revising provisions  
4       relating to evidence that is admissible to demonstrate  
5       past and future medical expenses in personal injury  
6       and wrongful death actions; providing construction;  
7       providing an effective date.

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

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11       **Section 1. Subsection (2) of section 768.0427, Florida**  
12 **Statutes, is amended to read:**

13       768.0427   Admissibility of evidence to prove or rebut  
14       medical expenses in personal injury or wrongful death actions;  
15       disclosure of letters of protection; recovery of past and future  
16       medical expenses damages.—

17       (2)   ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE  
18       EXPENSES.—Evidence offered to prove or rebut the amount of  
19       damages for past or future medical treatment or services in a  
20       personal injury or wrongful death action shall be ~~is~~ admissible  
21       as follows: ~~provided in this subsection.~~

22       (a)   Evidence offered to prove the amount of damages for  
23       past medical treatment or services that have been satisfied is  
24       limited to evidence of the amount actually paid, regardless of  
25       the source of payment.

26 (b) Evidence any party may offer ~~offered~~ to prove or rebut  
27 the amount necessary to satisfy unpaid charges for incurred  
28 medical treatment or services shall include, but is not limited  
29 to, the following: ~~evidence as provided in this paragraph.~~

30 1. If the claimant has health care coverage other than  
31 Medicare or Medicaid, evidence of the amount which such health  
32 care coverage is obligated to pay the health care provider to  
33 satisfy the charges for the claimant's incurred medical  
34 treatment or services, plus the claimant's share of medical  
35 expenses under the insurance contract or regulation.

36 2. If the claimant has health care coverage but obtains  
37 treatment under a letter of protection or otherwise does not  
38 submit charges for any health care provider's medical treatment  
39 or services to health care coverage, evidence of the amount the  
40 claimant's health care coverage would pay the health care  
41 provider to satisfy the past unpaid medical charges under the  
42 insurance contract or regulation, plus the claimant's share of  
43 medical expenses under the insurance contract or regulation, had  
44 the claimant obtained medical services or treatment pursuant to  
45 the health care coverage.

46 3. If the claimant does not have health care coverage or  
47 has health care coverage through Medicare or Medicaid, evidence  
48 of 120 percent of the Medicare reimbursement rate in effect on  
49 the date of the claimant's incurred medical treatment or  
50 services, or, if there is no applicable Medicare rate for a

51 service, 170 percent of the applicable state Medicaid rate.

52 4. If the claimant obtains medical treatment or services  
53 under a letter of protection and the health care provider  
54 subsequently transfers the right to receive payment under the  
55 letter of protection to a third party, evidence of the amount  
56 the third party paid or agreed to pay the health care provider  
57 in exchange for the right to receive payment pursuant to the  
58 letter of protection.

59 5. Any evidence of reasonable amounts billed to the  
60 claimant for medically necessary treatment or medically  
61 necessary services provided to the claimant.

62 (c) Evidence any party may offer ~~offered~~ to prove or rebut  
63 the amount of damages for any future medical treatment or  
64 services the claimant will receive shall include, but is not  
65 limited to, the following: ~~evidence as provided in this~~  
66 ~~paragraph.~~

67 1. If the claimant has health care coverage other than  
68 Medicare or Medicaid, or is eligible for any such health care  
69 coverage, evidence of the amount for which the future charges of  
70 health care providers could be satisfied if submitted to such  
71 health care coverage, plus the claimant's share of medical  
72 expenses under the insurance contract or regulation.

73 2. If the claimant does not have health care coverage or  
74 has health care coverage through Medicare or Medicaid, or is  
75 eligible for such health care coverage, evidence of 120 percent

76 of the Medicare reimbursement rate in effect at the time of  
77 trial for the medical treatment or services the claimant will  
78 receive, or, if there is no applicable Medicare rate for a  
79 service, 170 percent of the applicable state Medicaid rate.

80 3. Any evidence of reasonable future amounts to be billed  
81 to the claimant for medically necessary treatment or medically  
82 necessary services.

83 (d) This subsection does not impose an affirmative duty  
84 upon any party to seek a reduction in billed charges to which  
85 the party is not contractually entitled or to offer any specific  
86 evidence made admissible by this subsection.

87 (e) Individual contracts between providers and authorized  
88 commercial insurers or authorized health maintenance  
89 organizations are not subject to discovery or disclosure and are  
90 not admissible into evidence.

91 **Section 2.** The amendments made by this act to s.  
92 768.0427(2), Florida Statutes, are intended to clarify existing  
93 law.

94 **Section 3.** This act shall take effect upon becoming a law.