

1 A bill to be entitled
2 An act relating to health care consumer protection;
3 amending s. 381.026, F.S.; revising the Florida
4 Patient's Bill of Rights and Responsibilities to
5 require certain health care practitioners to publish
6 and distribute a schedule of charges for services
7 provided to patients; specifying text display
8 requirements; providing that a primary care provider
9 who voluntarily published and maintained a schedule of
10 charges within specified dates is exempt from certain
11 requirements; amending s. 395.002, F.S.; defining the
12 term "diagnostic-imaging center"; revising the
13 definition of the term "urgent care center" to include
14 facilities or clinic organizations that meet certain
15 requirements; conforming cross-references; amending s.
16 395.107, F.S.; requiring that urgent care centers,
17 ambulatory surgical centers, and diagnostic-imaging
18 centers publish and post a schedule of charges for
19 services provided to patients; specifying text display
20 requirements; requiring the schedule to be in language
21 comprehensible to a layperson; providing schedule
22 requirements; specifying posting size and allowing for
23 electronic posting; providing an exception; providing
24 for fines; amending s. 456.072, F.S.; adding failure
25 to comply with the provisions of s. 381.026, F.S., to
26 the grounds for discipline of a health care
27 practitioner, to which penalties apply; amending s.
28 627.6131, F.S.; prohibiting a provider of emergency

29 | medical care and services from billing a patient under
30 | certain circumstances; prohibiting certain providers
31 | of nonemergency medical care and services from billing
32 | a patient under certain circumstances; creating s.
33 | 627.6385, F.S.; requiring insurers to inform an
34 | insured of certain providers who may bill the insured
35 | for medical services; requiring hospitals to disclose
36 | to certain patients which of its contracted providers
37 | will treat the patients and which of those may bill
38 | the patients directly; providing an exception;
39 | requiring hospitals to provide contact information for
40 | those providers to the patient; requiring certain
41 | providers in a hospital to inform certain patients in
42 | writing whether the patients will be billed directly
43 | by the providers; requiring certain providers in a
44 | hospital to provide to the patient an estimate of the
45 | amount to be billed directly by the provider;
46 | prohibiting certain providers from directly billing a
47 | patient if the actual charges are 200 percent or more
48 | greater than the estimate provided to the patient;
49 | releasing a patient from liability if a provider fails
50 | to disclose billing information; providing an
51 | exception; amending ss. 383.50, 390.011, 394.4787,
52 | 395.003, 395.602, 395.701, 408.051, 409.905, 409.97,
53 | 409.975, 468.505, 627.736, 766.118, 766.316, and
54 | 812.014, F.S.; conforming cross-references; providing
55 | an effective date.

56

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

58

59 Section 1. Paragraph (c) of subsection (4) of section
60 381.026, Florida Statutes, is amended to read:

61 381.026 Florida Patient's Bill of Rights and
62 Responsibilities.—

63 (4) RIGHTS OF PATIENTS.—Each health care facility or
64 provider shall observe the following standards:

65 (c) Financial information and disclosure.—

66 1. A patient has the right to be given, upon request, by
67 the responsible provider, his or her designee, or a
68 representative of the health care facility full information and
69 necessary counseling on the availability of known financial
70 resources for the patient's health care.

71 2. A health care provider or a health care facility shall,
72 upon request, disclose to each patient who is eligible for
73 Medicare, before treatment, whether the health care provider or
74 the health care facility in which the patient is receiving
75 medical services accepts assignment under Medicare reimbursement
76 as payment in full for medical services and treatment rendered
77 in the health care provider's office or health care facility.

78 3.a. A practitioner licensed under chapter 458 or chapter
79 459 must ~~primary care provider may~~ publish a schedule of charges
80 for the medical services that the practitioner ~~provider~~ offers
81 to patients and distribute the schedule to each patient upon
82 each visit. The schedule must describe the medical services in
83 language comprehensible to a layperson. The schedule must
84 include the prices charged to an uninsured person paying for

85 such services by cash, check, credit card, or debit card.

86 b. The schedule may ~~must~~ be posted in a conspicuous place
87 in the reception area of the practitioner's ~~provider's~~ office
88 and must include, but need ~~is~~ not be limited to, the 50 services
89 most frequently provided by the practitioner ~~primary care~~
90 ~~provider~~. The schedule may group services by three price levels,
91 listing services in each price level. The posting must be at
92 least 15 square feet in size. The text describing the medical
93 services must fill at least 12 square feet of the posting. A
94 primary care provider who voluntarily published and maintained
95 ~~publishes and maintains~~ a schedule of charges for medical
96 services from July 1, 2011, through June 30, 2012, in accordance
97 with chapter 2011-122, Laws of Florida, is exempt from the
98 license fee requirements for a single period of renewal of a
99 professional license under chapter 456 for that licensure term
100 and is exempt from the continuing education requirements of
101 chapter 456 and the rules implementing those requirements for a
102 single 2-year period.

103 4. If a primary care provider publishes a schedule of
104 charges pursuant to subparagraph 3., he or she must continually
105 post it at all times for the duration of active licensure in
106 this state when primary care services are provided to patients.
107 If a primary care provider fails to post the schedule of charges
108 in accordance with this subparagraph, the provider shall be
109 required to pay any license fee and comply with any continuing
110 education requirements for which an exemption was received.

111 5. A health care provider or a health care facility shall,
112 upon request, ~~furnish a person,~~ before the provision of medical

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113 services, furnish a reasonable estimate of charges for such
114 services. The health care provider or the health care facility
115 shall provide an uninsured person, before the provision of a
116 planned nonemergency medical service, a reasonable estimate of
117 charges for such service and information regarding the
118 provider's or facility's discount or charity policies for which
119 the uninsured person may be eligible. Such estimates ~~by a~~
120 ~~primary care provider~~ must be consistent with the schedule
121 posted under subparagraph 3. Estimates shall, to the extent
122 possible, be written in a language comprehensible to an ordinary
123 layperson. Such reasonable estimate does not preclude the health
124 care provider or health care facility from exceeding the
125 estimate or making additional charges based on changes in the
126 patient's condition or treatment needs.

127 6. Each licensed facility not operated by the state shall
128 make available to the public on its Internet website or by other
129 electronic means a description of and a link to the performance
130 outcome and financial data that is published by the agency
131 pursuant to s. 408.05(3)(k). The facility shall place a notice
132 in the reception area that such information is available
133 electronically and the website address. The licensed facility
134 may indicate that the pricing information is based on a
135 compilation of charges for the average patient and that each
136 patient's bill may vary from the average depending upon the
137 severity of illness and individual resources consumed. The
138 licensed facility may also indicate that the price of service is
139 negotiable for eligible patients based upon the patient's
140 ability to pay.

141 7. A patient has the right to receive a copy of an
 142 itemized bill upon request. A patient has a right to be given an
 143 explanation of charges upon request.

144 Section 2. Subsections (6) through (33) of section
 145 395.002, Florida Statutes, are renumbered as subsections (7)
 146 through (34), respectively, present subsections (10), (28), and
 147 (30) of that section are amended, and a new subsection (6) is
 148 added to that section, to read:

149 395.002 Definitions.—As used in this chapter:

150 (6) "Diagnostic-imaging center" means a freestanding
 151 outpatient facility that provides specialized services for the
 152 diagnosis of a disease by examination and also provides
 153 radiological services.

154 ~~(11)~~~~(10)~~ "General hospital" means any facility which meets
 155 the provisions of subsection (13) ~~(12)~~ and which regularly makes
 156 its facilities and services available to the general population.

157 ~~(29)~~~~(28)~~ "Specialty hospital" means any facility which
 158 meets the provisions of subsection (13) ~~(12)~~, and which
 159 regularly makes available either:

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

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

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

168 ~~(31)~~~~(30)~~ "Urgent care center" means a facility or clinic

169 that provides immediate but not emergent ambulatory medical care
 170 to patients with or without an appointment. The term ~~it~~ does not
 171 include the emergency department of a hospital. The term
 172 includes a facility or clinic organization that maintains three
 173 or more locations using the same or similar name, does not
 174 require a patient to make an appointment, and holds itself out
 175 to the general public in any manner as a facility or clinic
 176 where immediate but not emergent medical care is provided.

177 Section 3. Section 395.107, Florida Statutes, is amended
 178 to read:

179 395.107 ~~Urgent care centers;~~ Publishing and posting
 180 schedule of charges; penalties.-

181 (1) An urgent care center, an ambulatory surgical center,
 182 and a diagnostic-imaging center must publish and post a schedule
 183 of charges for the medical services offered to patients.

184 (2) The schedule of charges must describe the medical
 185 services in language comprehensible to a layperson. The schedule
 186 must include the prices charged to an uninsured person paying
 187 for such services by cash, check, credit card, or debit card.
 188 The schedule must be posted in a conspicuous place in the
 189 reception area ~~of the urgent care center~~ and must include, but
 190 is not limited to, the 50 services most frequently provided ~~by~~
 191 ~~the urgent care center~~. The schedule may group services by three
 192 price levels, listing services in each price level. The posting
 193 must be at least 15 square feet in size. If an urgent care
 194 center is affiliated with a facility licensed under chapter 395,
 195 the schedule must include text that notifies the insured whether
 196 the charges for medical services received at the center will be

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197 the same as, or more than, charges for medical services received
198 at a hospital. The text notifying the patient shall be in a font
199 size equal to or greater than the font size used for prices and
200 must be in a contrasting color. Such text shall be included in
201 all advertisements for the center and in language comprehensible
202 to a layperson.

203 (3) The posted text describing the medical services must
204 fill at least 12 square feet of the posting. A center may use an
205 electronic device to post the schedule of charges. Such a device
206 must measure at least 22 inches by 33 inches in size, and
207 patients must be able to access the schedule during all hours of
208 operation.

209 (4) An urgent care center that is operated and used
210 exclusively for employees and the dependents of employees of the
211 business that owns or contracts for the urgent care center is
212 exempt from this section.

213 (5) A fine of up to \$1,000, per day shall be imposed on an
214 urgent care center, an ambulatory surgical center, or a
215 diagnostic-imaging center that fails to comply with this section
216 until the center comes into compliance ~~The failure of an urgent~~
217 ~~care center to publish and post a schedule of charges as~~
218 ~~required by this section shall result in a fine of not more than~~
219 ~~\$1,000, per day, until the schedule is published and posted.~~

220 Section 4. Paragraph (oo) is added to subsection (1) of
221 section 456.072, Florida Statutes, to read:

222 456.072 Grounds for discipline; penalties; enforcement.—

223 (1) The following acts shall constitute grounds for which
224 the disciplinary actions specified in subsection (2) may be

225 taken:

226 (oo) Failure to comply with the provisions of s. 381.026.

227 Section 5. Subsections (20) and (21) are added to section
228 627.6131, Florida Statutes, to read:

229 627.6131 Payment of claims.—

230 (20) If any insurer is liable for emergency services and
231 care, as defined in s. 395.002, regardless of whether a contract
232 exists between the insurer and the provider of emergency
233 services and care, the insurer is solely liable for payment of
234 fees to the provider, and the insured is not liable for payment
235 of fees to the provider, other than applicable copayments and
236 deductibles, for the first 24 hours, if the insured is
237 transported to the facility by emergency medical transportation
238 services, as defined in s. 945.6041(1) (a).

239 (21) An insurer is solely liable for payment of fees to
240 the provider and the insured is not liable for payment of fees
241 to the provider, other than applicable copayments and
242 deductibles, for medical services and care that are:

243 (a) Nonemergency services and care as defined in s.
244 395.002;

245 (b) Provided in a facility licensed under chapter 395
246 which has a contract with the insurer; and

247 (c) Provided by a provider that does not have a contract
248 with the insurer where the patient has no ability and
249 opportunity to choose an alternative provider having a contract
250 with the insurer.

251 Section 6. Section 627.6385, Florida Statutes, is created
252 to read:

253 627.6385 Hospital and provider transparency; duty to
 254 inform.—

255 (1) Each insurer issuing a health insurance policy
 256 insuring against loss or expense due to medical and related
 257 services provided within a facility licensed under chapter 395
 258 shall disclose to its insured whether the facility contracts
 259 with providers who are not under contract with the insurer. Such
 260 disclosure must be included in the insurer's member website and
 261 distributed by the insurer to each insured.

262 (2) Each facility licensed under chapter 395 shall
 263 disclose to each patient upon scheduling services or
 264 nonemergency admission which providers will treat the patient
 265 and which of those providers is not under contract with the
 266 patient's insurer. The disclosure must include notification to
 267 the insured that such providers may bill the insured directly
 268 for services rendered within the facility. The disclosure must
 269 be limited to the providers that are reasonably expected to
 270 provide specific medical services and treatment scheduled to be
 271 received by the insured, must be in writing, and must include
 272 the name, professional address, and telephone number of all such
 273 providers. Failure to make such a disclosure shall result in a
 274 fine of \$500 per occurrence pursuant to s. 408.813. If during an
 275 episode of care the patient's condition becomes emergent, the
 276 disclosure provision of this subsection does not apply.

277 (3) For a patient scheduled or admitted for nonemergency
 278 services to a facility licensed under chapter 395 and receiving
 279 medical services from a provider not under contract with the
 280 patient's insurer, that provider shall disclose to the patient

281 in writing, prior to the provision of medical services, whether
 282 the patient will be billed directly for medical services
 283 rendered within the facility and provide an estimate of the
 284 amount to be billed directly to the patient. The patient is not
 285 liable for any charges, other than applicable copayments or
 286 deductibles, billed to the patient by the provider who failed to
 287 make the disclosure. If the actual amount billed directly to the
 288 patient is 200 percent or more above the estimate required by
 289 this subsection, that provider may not bill the patient directly
 290 for any charges for services rendered within the facility. If
 291 during an episode of care the patient's condition becomes
 292 emergent, the disclosure provision of this subsection does not
 293 apply.

294 Section 7. Subsection (4) of section 383.50, Florida
 295 Statutes, is amended to read:

296 383.50 Treatment of surrendered newborn infant.—

297 (4) Each hospital of this state subject to s. 395.1041
 298 shall, and any other hospital may, admit and provide all
 299 necessary emergency services and care, as defined in s.
 300 395.002(9), to any newborn infant left with the hospital in
 301 accordance with this section. The hospital or any of its
 302 licensed health care professionals shall consider these actions
 303 as implied consent for treatment, and a hospital accepting
 304 physical custody of a newborn infant has implied consent to
 305 perform all necessary emergency services and care. The hospital
 306 or any of its licensed health care professionals is immune from
 307 criminal or civil liability for acting in good faith in
 308 accordance with this section. Nothing in this subsection limits

309 liability for negligence.

310 Section 8. Subsection (5) of section 390.011, Florida
311 Statutes, is amended to read:

312 390.011 Definitions.—As used in this chapter, the term:

313 (5) "Hospital" means a facility as defined in s.
314 395.002(13) ~~395.002(12)~~ and licensed under chapter 395 and part
315 II of chapter 408.

316 Section 9. Subsection (7) of section 394.4787, Florida
317 Statutes, is amended to read:

318 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
319 and 394.4789.—As used in this section and ss. 394.4786,
320 394.4788, and 394.4789:

321 (7) "Specialty psychiatric hospital" means a hospital
322 licensed by the agency pursuant to s. 395.002(29) ~~395.002(28)~~
323 and part II of chapter 408 as a specialty psychiatric hospital.

324 Section 10. Paragraph (b) of subsection (2) of section
325 395.003, Florida Statutes, is amended to read:

326 395.003 Licensure; denial, suspension, and revocation.—

327 (2)

328 (b) The agency shall, at the request of a licensee that is
329 a teaching hospital as defined in s. 408.07(45), issue a single
330 license to a licensee for facilities that have been previously
331 licensed as separate premises, provided such separately licensed
332 facilities, taken together, constitute the same premises as
333 defined in s. ~~395.002(23)~~. Such license for the single premises
334 shall include all of the beds, services, and programs that were
335 previously included on the licenses for the separate premises.
336 The granting of a single license under this paragraph shall not

337 in any manner reduce the number of beds, services, or programs
 338 operated by the licensee.

339 Section 11. Paragraph (c) of subsection (2) of section
 340 395.602, Florida Statutes, is amended to read:

341 395.602 Rural hospitals.—

342 (2) DEFINITIONS.—As used in this part:

343 (c) "Inactive rural hospital bed" means a licensed acute
 344 care hospital bed, as defined in s. 395.002(~~13~~), that is
 345 inactive in that it cannot be occupied by acute care inpatients.

346 Section 12. Paragraph (c) of subsection (1) of section
 347 395.701, Florida Statutes, is amended to read:

348 395.701 Annual assessments on net operating revenues for
 349 inpatient and outpatient services to fund public medical
 350 assistance; administrative fines for failure to pay assessments
 351 when due; exemption.—

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

353 (c) "Hospital" means a health care institution as defined
 354 in s. 395.002(13) ~~395.002(12)~~, but does not include any hospital
 355 operated by the agency or the Department of Corrections.

356 Section 13. Subsection (3) of section 408.051, Florida
 357 Statutes, is amended to read:

358 408.051 Florida Electronic Health Records Exchange Act.—

359 (3) EMERGENCY RELEASE OF IDENTIFIABLE HEALTH RECORD.—A
 360 health care provider may release or access an identifiable
 361 health record of a patient without the patient's consent for use
 362 in the treatment of the patient for an emergency medical
 363 condition, as defined in s. 395.002(~~8~~), when the health care
 364 provider is unable to obtain the patient's consent or the

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365 consent of the patient representative due to the patient's
366 condition or the nature of the situation requiring immediate
367 medical attention. A health care provider who in good faith
368 releases or accesses an identifiable health record of a patient
369 in any form or medium under this subsection is immune from civil
370 liability for accessing or releasing an identifiable health
371 record.

372 Section 14. Subsection (8) of section 409.905, Florida
373 Statutes, is amended to read:

374 409.905 Mandatory Medicaid services.—The agency may make
375 payments for the following services, which are required of the
376 state by Title XIX of the Social Security Act, furnished by
377 Medicaid providers to recipients who are determined to be
378 eligible on the dates on which the services were provided. Any
379 service under this section shall be provided only when medically
380 necessary and in accordance with state and federal law.

381 Mandatory services rendered by providers in mobile units to
382 Medicaid recipients may be restricted by the agency. Nothing in
383 this section shall be construed to prevent or limit the agency
384 from adjusting fees, reimbursement rates, lengths of stay,
385 number of visits, number of services, or any other adjustments
386 necessary to comply with the availability of moneys and any
387 limitations or directions provided for in the General
388 Appropriations Act or chapter 216.

389 (8) NURSING FACILITY SERVICES.—The agency shall pay for
390 24-hour-a-day nursing and rehabilitative services for a
391 recipient in a nursing facility licensed under part II of
392 chapter 400 or in a rural hospital, as defined in s. 395.602, or

393 | in a Medicare certified skilled nursing facility operated by a
 394 | hospital, as defined by s. 395.002(11) ~~395.002(10)~~, that is
 395 | licensed under part I of chapter 395, and in accordance with
 396 | provisions set forth in s. 409.908(2)(a), which services are
 397 | ordered by and provided under the direction of a licensed
 398 | physician. However, if a nursing facility has been destroyed or
 399 | otherwise made uninhabitable by natural disaster or other
 400 | emergency and another nursing facility is not available, the
 401 | agency must pay for similar services temporarily in a hospital
 402 | licensed under part I of chapter 395 provided federal funding is
 403 | approved and available. The agency shall pay only for bed-hold
 404 | days if the facility has an occupancy rate of 95 percent or
 405 | greater. The agency is authorized to seek any federal waivers to
 406 | implement this policy.

407 | Section 15. Paragraph (a) of subsection (4) of section
 408 | 409.97, Florida Statutes, is amended to read:

409 | 409.97 State and local Medicaid partnerships.—

410 | (4) HOSPITAL RATE DISTRIBUTION.—

411 | (a) The agency is authorized to implement a tiered
 412 | hospital rate system to enhance Medicaid payments to all
 413 | hospitals when resources for the tiered rates are available from
 414 | general revenue and such contributions pursuant to subsection
 415 | (1) as are authorized under the General Appropriations Act.

416 | 1. Tier 1 hospitals are statutory rural hospitals as
 417 | defined in s. 395.602, statutory teaching hospitals as defined
 418 | in s. 408.07(45), and specialty children's hospitals as defined
 419 | in s. 395.002(29) ~~395.002(28)~~.

420 | 2. Tier 2 hospitals are community hospitals not included

421 in Tier 1 that provided more than 9 percent of the hospital's
 422 total inpatient days to Medicaid patients and charity patients,
 423 as defined in s. 409.911, and are located in the jurisdiction of
 424 a local funding source pursuant to subsection (1).

425 3. Tier 3 hospitals include all community hospitals.

426 Section 16. Paragraph (b) of subsection (1) of section
 427 409.975, Florida Statutes, is amended to read:

428 409.975 Managed care plan accountability.—In addition to
 429 the requirements of s. 409.967, plans and providers
 430 participating in the managed medical assistance program shall
 431 comply with the requirements of this section.

432 (1) PROVIDER NETWORKS.—Managed care plans must develop and
 433 maintain provider networks that meet the medical needs of their
 434 enrollees in accordance with standards established pursuant to
 435 s. 409.967(2)(b). Except as provided in this section, managed
 436 care plans may limit the providers in their networks based on
 437 credentials, quality indicators, and price.

438 (b) Certain providers are statewide resources and
 439 essential providers for all managed care plans in all regions.
 440 All managed care plans must include these essential providers in
 441 their networks. Statewide essential providers include:

442 1. Faculty plans of Florida medical schools.

443 2. Regional perinatal intensive care centers as defined in
 444 s. 383.16(2).

445 3. Hospitals licensed as specialty children's hospitals as
 446 defined in s. 395.002(29) ~~395.002(28)~~.

447 4. Accredited and integrated systems serving medically
 448 complex children that are comprised of separately licensed, but

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449 commonly owned, health care providers delivering at least the
450 following services: medical group home, in-home and outpatient
451 nursing care and therapies, pharmacy services, durable medical
452 equipment, and Prescribed Pediatric Extended Care.

453
454 Managed care plans that have not contracted with all statewide
455 essential providers in all regions as of the first date of
456 recipient enrollment must continue to negotiate in good faith.
457 Payments to physicians on the faculty of nonparticipating
458 Florida medical schools shall be made at the applicable Medicaid
459 rate. Payments for services rendered by regional perinatal
460 intensive care centers shall be made at the applicable Medicaid
461 rate as of the first day of the contract between the agency and
462 the plan. Payments to nonparticipating specialty children's
463 hospitals shall equal the highest rate established by contract
464 between that provider and any other Medicaid managed care plan.

465 Section 17. Paragraph (1) of subsection (1) of section
466 468.505, Florida Statutes, is amended to read:

467 468.505 Exemptions; exceptions.—

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

470 (1) A person employed by a nursing facility exempt from
471 licensing under s. 395.002(13) ~~395.002(12)~~, or a person exempt
472 from licensing under s. 464.022.

473 Section 18. Paragraph (c) of subsection (4) and paragraph
474 (a) of subsection (5) of section 627.736, Florida Statutes, are
475 amended to read:

476 627.736 Required personal injury protection benefits;

477 exclusions; priority; claims.—

478 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
 479 ss. 627.730-627.7405 shall be primary, except that benefits
 480 received under any workers' compensation law shall be credited
 481 against the benefits provided by subsection (1) and shall be due
 482 and payable as loss accrues, upon receipt of reasonable proof of
 483 such loss and the amount of expenses and loss incurred which are
 484 covered by the policy issued under ss. 627.730-627.7405. When
 485 the Agency for Health Care Administration provides, pays, or
 486 becomes liable for medical assistance under the Medicaid program
 487 related to injury, sickness, disease, or death arising out of
 488 the ownership, maintenance, or use of a motor vehicle, benefits
 489 under ss. 627.730-627.7405 shall be subject to the provisions of
 490 the Medicaid program.

491 (c) Upon receiving notice of an accident that is
 492 potentially covered by personal injury protection benefits, the
 493 insurer must reserve \$5,000 of personal injury protection
 494 benefits for payment to physicians licensed under chapter 458 or
 495 chapter 459 or dentists licensed under chapter 466 who provide
 496 emergency services and care, as defined in s. 395.002(9), or who
 497 provide hospital inpatient care. The amount required to be held
 498 in reserve may be used only to pay claims from such physicians
 499 or dentists until 30 days after the date the insurer receives
 500 notice of the accident. After the 30-day period, any amount of
 501 the reserve for which the insurer has not received notice of a
 502 claim from a physician or dentist who provided emergency
 503 services and care or who provided hospital inpatient care may
 504 then be used by the insurer to pay other claims. The time

505 periods specified in paragraph (b) for required payment of
506 personal injury protection benefits shall be tolled for the
507 period of time that an insurer is required by this paragraph to
508 hold payment of a claim that is not from a physician or dentist
509 who provided emergency services and care or who provided
510 hospital inpatient care to the extent that the personal injury
511 protection benefits not held in reserve are insufficient to pay
512 the claim. This paragraph does not require an insurer to
513 establish a claim reserve for insurance accounting purposes.

514 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

515 (a)1. Any physician, hospital, clinic, or other person or
516 institution lawfully rendering treatment to an injured person
517 for a bodily injury covered by personal injury protection
518 insurance may charge the insurer and injured party only a
519 reasonable amount pursuant to this section for the services and
520 supplies rendered, and the insurer providing such coverage may
521 pay for such charges directly to such person or institution
522 lawfully rendering such treatment, if the insured receiving such
523 treatment or his or her guardian has countersigned the properly
524 completed invoice, bill, or claim form approved by the office
525 upon which such charges are to be paid for as having actually
526 been rendered, to the best knowledge of the insured or his or
527 her guardian. In no event, however, may such a charge be in
528 excess of the amount the person or institution customarily
529 charges for like services or supplies. With respect to a
530 determination of whether a charge for a particular service,
531 treatment, or otherwise is reasonable, consideration may be
532 given to evidence of usual and customary charges and payments

533 | accepted by the provider involved in the dispute, and
 534 | reimbursement levels in the community and various federal and
 535 | state medical fee schedules applicable to automobile and other
 536 | insurance coverages, and other information relevant to the
 537 | reasonableness of the reimbursement for the service, treatment,
 538 | or supply.

539 | 2. The insurer may limit reimbursement to 80 percent of
 540 | the following schedule of maximum charges:

541 | a. For emergency transport and treatment by providers
 542 | licensed under chapter 401, 200 percent of Medicare.

543 | b. For emergency services and care provided by a hospital
 544 | licensed under chapter 395, 75 percent of the hospital's usual
 545 | and customary charges.

546 | c. For emergency services and care as defined by s.
 547 | ~~395.002(9)~~ provided in a facility licensed under chapter 395
 548 | rendered by a physician or dentist, and related hospital
 549 | inpatient services rendered by a physician or dentist, the usual
 550 | and customary charges in the community.

551 | d. For hospital inpatient services, other than emergency
 552 | services and care, 200 percent of the Medicare Part A
 553 | prospective payment applicable to the specific hospital
 554 | providing the inpatient services.

555 | e. For hospital outpatient services, other than emergency
 556 | services and care, 200 percent of the Medicare Part A Ambulatory
 557 | Payment Classification for the specific hospital providing the
 558 | outpatient services.

559 | f. For all other medical services, supplies, and care, 200
 560 | percent of the allowable amount under the participating

561 physicians schedule of Medicare Part B. However, if such
562 services, supplies, or care is not reimbursable under Medicare
563 Part B, the insurer may limit reimbursement to 80 percent of the
564 maximum reimbursable allowance under workers' compensation, as
565 determined under s. 440.13 and rules adopted thereunder which
566 are in effect at the time such services, supplies, or care is
567 provided. Services, supplies, or care that is not reimbursable
568 under Medicare or workers' compensation is not required to be
569 reimbursed by the insurer.

570 3. For purposes of subparagraph 2., the applicable fee
571 schedule or payment limitation under Medicare is the fee
572 schedule or payment limitation in effect at the time the
573 services, supplies, or care was rendered and for the area in
574 which such services were rendered, except that it may not be
575 less than the allowable amount under the participating
576 physicians schedule of Medicare Part B for 2007 for medical
577 services, supplies, and care subject to Medicare Part B.

578 4. Subparagraph 2. does not allow the insurer to apply any
579 limitation on the number of treatments or other utilization
580 limits that apply under Medicare or workers' compensation. An
581 insurer that applies the allowable payment limitations of
582 subparagraph 2. must reimburse a provider who lawfully provided
583 care or treatment under the scope of his or her license,
584 regardless of whether such provider would be entitled to
585 reimbursement under Medicare due to restrictions or limitations
586 on the types or discipline of health care providers who may be
587 reimbursed for particular procedures or procedure codes.

588 5. If an insurer limits payment as authorized by

589 | subparagraph 2., the person providing such services, supplies,
 590 | or care may not bill or attempt to collect from the insured any
 591 | amount in excess of such limits, except for amounts that are not
 592 | covered by the insured's personal injury protection coverage due
 593 | to the coinsurance amount or maximum policy limits.

594 | Section 19. Subsection (4) of section 766.118, Florida
 595 | Statutes, is amended to read:

596 | 766.118 Determination of noneconomic damages.—

597 | (4) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF
 598 | PRACTITIONERS PROVIDING EMERGENCY SERVICES AND CARE.—

599 | Notwithstanding subsections (2) and (3), with respect to a cause
 600 | of action for personal injury or wrongful death arising from
 601 | medical negligence of practitioners providing emergency services
 602 | and care, as defined in s. 395.002~~(9)~~, or providing services as
 603 | provided in s. 401.265, or providing services pursuant to
 604 | obligations imposed by 42 U.S.C. s. 1395dd to persons with whom
 605 | the practitioner does not have a then-existing health care
 606 | patient-practitioner relationship for that medical condition:

607 | (a) Regardless of the number of such practitioner
 608 | defendants, noneconomic damages shall not exceed \$150,000 per
 609 | claimant.

610 | (b) Notwithstanding paragraph (a), the total noneconomic
 611 | damages recoverable by all claimants from all such practitioners
 612 | shall not exceed \$300,000.

613 |
 614 | The limitation provided by this subsection applies only to
 615 | noneconomic damages awarded as a result of any act or omission
 616 | of providing medical care or treatment, including diagnosis that

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617 occurs prior to the time the patient is stabilized and is
618 capable of receiving medical treatment as a nonemergency
619 patient, unless surgery is required as a result of the emergency
620 within a reasonable time after the patient is stabilized, in
621 which case the limitation provided by this subsection applies to
622 any act or omission of providing medical care or treatment which
623 occurs prior to the stabilization of the patient following the
624 surgery.

625 Section 20. Section 766.316, Florida Statutes, is amended
626 to read:

627 766.316 Notice to obstetrical patients of participation in
628 the plan.—Each hospital with a participating physician on its
629 staff and each participating physician, other than residents,
630 assistant residents, and interns deemed to be participating
631 physicians under s. 766.314(4)(c), under the Florida Birth-
632 Related Neurological Injury Compensation Plan shall provide
633 notice to the obstetrical patients as to the limited no-fault
634 alternative for birth-related neurological injuries. Such notice
635 shall be provided on forms furnished by the association and
636 shall include a clear and concise explanation of a patient's
637 rights and limitations under the plan. The hospital or the
638 participating physician may elect to have the patient sign a
639 form acknowledging receipt of the notice form. Signature of the
640 patient acknowledging receipt of the notice form raises a
641 rebuttable presumption that the notice requirements of this
642 section have been met. Notice need not be given to a patient
643 when the patient has an emergency medical condition as defined
644 in s. 395.002(9)(b) ~~395.002(8)(b)~~ or when notice is not

645 practicable.

646 Section 21. Paragraph (b) of subsection (2) of section
647 812.014, Florida Statutes, is amended to read:

648 812.014 Theft.—

649 (2)

650 (b)1. If the property stolen is valued at \$20,000 or more,
651 but less than \$100,000;

652 2. The property stolen is cargo valued at less than
653 \$50,000 that has entered the stream of interstate or intrastate
654 commerce from the shipper's loading platform to the consignee's
655 receiving dock;

656 3. The property stolen is emergency medical equipment,
657 valued at \$300 or more, that is taken from a facility licensed
658 under chapter 395 or from an aircraft or vehicle permitted under
659 chapter 401; or

660 4. The property stolen is law enforcement equipment,
661 valued at \$300 or more, that is taken from an authorized
662 emergency vehicle, as defined in s. 316.003,
663
664 the offender commits grand theft in the second degree,
665 punishable as a felony of the second degree, as provided in s.
666 775.082, s. 775.083, or s. 775.084. Emergency medical equipment
667 means mechanical or electronic apparatus used to provide
668 emergency services and care as defined in s. 395.002~~(9)~~ or to
669 treat medical emergencies. Law enforcement equipment means any
670 property, device, or apparatus used by any law enforcement
671 officer as defined in s. 943.10 in the officer's official
672 business. However, if the property is stolen within a county

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673 that is subject to a state of emergency declared by the Governor
674 under chapter 252, the theft is committed after the declaration
675 of emergency is made, and the perpetration of the theft is
676 facilitated by conditions arising from the emergency, the theft
677 is a felony of the first degree, punishable as provided in s.
678 775.082, s. 775.083, or s. 775.084. As used in this paragraph,
679 the term "conditions arising from the emergency" means civil
680 unrest, power outages, curfews, voluntary or mandatory
681 evacuations, or a reduction in the presence of or response time
682 for first responders or homeland security personnel. For
683 purposes of sentencing under chapter 921, a felony offense that
684 is reclassified under this paragraph is ranked one level above
685 the ranking under s. 921.0022 or s. 921.0023 of the offense
686 committed.

687 Section 22. This act shall take effect July 1, 2012.