

By Senator Campbell

33-570-02

See HB 589

1 A bill to be entitled

2 An act relating to health care; amending s.

3 395.002, F.S.; revising definitions relating to

4 emergency services and care provided by

5 hospitals and related facilities; amending s.

6 395.1041, F.S.; revising provisions relating to

7 hospital service capability and access to

8 emergency services and care; directing the

9 Agency for Health Care Administration to

10 convene a workgroup to report to the

11 Legislature regarding hospital service

12 capability requirements; creating s. 395.1042,

13 F.S.; establishing a program under the agency

14 to reimburse health care facilities and

15 practitioners for the cost of uncompensated

16 emergency services and care; amending ss.

17 383.50, 394.4787, 395.602, 395.701, 400.051,

18 409.905, 468.505, and 812.014, F.S.; conforming

19 cross-references; amending s. 401.23, F.S.;

20 revising definitions relating to emergency

21 medical transportation services; amending s.

22 409.901, F.S.; revising definitions relating to

23 emergency services and care for purposes of

24 Medicaid coverage; amending s. 409.9128, F.S.;

25 revising requirements for providing emergency

26 services and care under Medicaid managed care

27 plans and MediPass; creating s. 627.6053, F.S.;

28 providing requirements for health insurance

29 policy coverage of hospital emergency services

30 and care; amending ss. 641.19, 641.47, and

31 641.513, F.S.; revising definitions and

1 requirements relating to the provision of
2 emergency services and care by health
3 maintenance organizations and prepaid health
4 clinics; providing an appropriation; providing
5 an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Subsection (4) of section 383.50, Florida
10 Statutes, is amended to read:

11 383.50 Treatment of abandoned newborn infant.--

12 (4) Each hospital of this state subject to s. 395.1041
13 shall, and any other hospital may, admit and provide all
14 necessary emergency services and care, as defined in s.
15 395.002(11)~~(10)~~, to any newborn infant left with the hospital
16 in accordance with this section. The hospital or any of its
17 licensed health care professionals shall consider these
18 actions as implied consent for treatment, and a hospital
19 accepting physical custody of a newborn infant has implied
20 consent to perform all necessary emergency services and care.
21 The hospital or any of its licensed health care professionals
22 is immune from criminal or civil liability for acting in good
23 faith in accordance with this section. Nothing in this
24 subsection limits liability for negligence.

25 Section 2. Subsection (7) of section 394.4787, Florida
26 Statutes, is amended to read:

27 394.4787 Definitions; ss. 394.4786, 394.4787,
28 394.4788, and 394.4789.--As used in this section and ss.
29 394.4786, 394.4788, and 394.4789:

30
31

1 (7) "Specialty psychiatric hospital" means a hospital
2 licensed by the agency pursuant to s. 395.002~~(31)~~~~(29)~~ as a
3 specialty psychiatric hospital.

4 Section 3. Present subsections (9), (10), (26), and
5 (30) of section 395.002, Florida Statutes, are amended,
6 present subsections (10) through (21) and (22) through (33)
7 are renumbered as subsections (11) through (22) and (24)
8 through (35), respectively, and new subsections (10) and (23)
9 are added to that section, to read:

10 395.002 Definitions.--As used in this chapter:

11 (9) "Emergency medical condition" means:

12 (a) A medical condition manifesting itself by acute
13 symptoms of sufficient severity, which may include severe
14 pain, psychiatric disturbances, symptoms of substance abuse,
15 or other acute symptoms, such that the absence of immediate
16 medical attention could reasonably be expected to result in
17 any of the following:

- 18 1. Serious jeopardy to patient health, including a
19 pregnant woman or fetus.
20 2. Serious impairment to bodily functions.
21 3. Serious dysfunction of any bodily organ or part.

22 (b) With respect to a pregnant woman:

- 23 1. That there is inadequate time to effect safe
24 transfer to another hospital prior to delivery;
25 2. That a transfer may pose a threat to the health and
26 safety of the patient or fetus; or
27 3. That there is evidence of the onset and persistence
28 of uterine contractions or rupture of the membranes.

29 (c) With respect to a person exhibiting acute
30 psychiatric disturbance or substance abuse, or taken into
31 custody and delivered to a hospital under a court ex parte

1 order for examination or placed by an authorized party for
2 involuntary examination in accordance with chapter 394 or
3 chapter 397, that the absence of immediate medical attention
4 could reasonably be expected to result in:

5 1. Serious jeopardy to the health of a patient; or

6 2. Serious jeopardy to the health of others.

7 (10) "Emergency medical services provider" means a
8 provider licensed pursuant to chapter 401.

9 (11)(10) "Emergency services and care" means medical
10 screening, examination, and evaluation by a physician, or, to
11 the extent permitted by applicable law, by other appropriate
12 personnel under the supervision of a physician, to determine
13 if an emergency medical condition exists and, if it does, the
14 care, treatment, or surgery by a physician necessary to
15 stabilize ~~relieve or eliminate~~ the emergency medical
16 condition, within the service capability of the facility.

17 (23) "Medically unnecessary procedure" means a
18 surgical or other invasive procedure that no reasonable
19 physician, in light of the patient's history and available
20 diagnostic information, would deem to be indicated in order to
21 treat, cure, or palliate the patient's condition or disease.

22 (28)(26) "Service capability" means the physical
23 space, equipment, supplies, and services that the hospital
24 provides and the level of care that the medical staff can
25 provide within the training and scope of their professional
26 licenses and hospital privileges ~~all services offered by the~~
27 ~~facility where identification of services offered is evidenced~~
28 ~~by the appearance of the service in a patient's medical record~~
29 ~~or itemized bill.~~

30 (32)(30) "Stabilized" means, with respect to an
31 emergency medical condition, that no material deterioration of

1 the condition is likely, within reasonable medical
2 probability, to result from the transfer or discharge of the
3 patient from a hospital.

4 Section 4. Subsections (1) and (2) and paragraphs (c)
5 and (d) of subsection (3) of section 395.1041, Florida
6 Statutes, are amended to read:

7 395.1041 Access to emergency services and care.--

8 (1) LEGISLATIVE INTENT.--The Legislature finds and
9 declares it to be of vital importance that emergency services
10 and care be provided by hospitals and physicians to every
11 person in need of such care. The Legislature finds that
12 persons have been denied emergency services and care by
13 hospitals. It is the intent of the Legislature that the
14 agency vigorously enforce the ability of persons to receive
15 all necessary and appropriate emergency services and care and
16 that the agency act in a thorough and timely manner against
17 hospitals and physicians which deny persons emergency services
18 and care. It is further the intent of the Legislature that
19 hospitals, emergency medical services providers, and other
20 health care providers work together in their local communities
21 to enter into agreements or arrangements to ensure access to
22 emergency services and care. ~~The Legislature further~~
23 ~~recognizes that appropriate emergency services and care often~~
24 ~~require followup consultation and treatment in order to~~
25 ~~effectively care for emergency medical conditions.~~

26 (2) INVENTORY OF HOSPITAL EMERGENCY SERVICES.--The
27 agency shall establish and maintain an inventory of hospitals
28 with emergency services. The inventory shall list all
29 services within the service capability of the hospital, and
30 such services shall appear on the face of the hospital
31 license. Each hospital having emergency services shall notify

1 the agency of its service capability in the manner and form
2 prescribed by the agency. The agency, in cooperation with the
3 Department of Health shall provide ~~use~~ the inventory to ~~assist~~
4 emergency medical services providers and shall make the
5 inventory available to others to assist in locating
6 appropriate emergency medical care. The inventory shall also
7 be made available to the general public. On or before August
8 1, 1992, the agency shall request that each hospital identify
9 the services which are within its service capability. ~~On or~~
10 ~~before November 1, 1992, the agency shall notify each hospital~~
11 ~~of the service capability to be included in the inventory.~~
12 ~~The hospital has 15 days from the date of receipt to respond~~
13 ~~to the notice. By December 1, 1992, the agency shall publish~~
14 ~~a final inventory.~~ Each hospital shall reaffirm its service
15 capability when its license is renewed and shall notify the
16 agency of the addition of a new service or the termination of
17 a service prior to a change in its service capability.

18 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
19 FACILITY OR HEALTH CARE PERSONNEL.--

20 (c) A patient that has not been stabilized, ~~whether~~
21 ~~stabilized or not~~, may be transferred to another hospital
22 which has the requisite service capability or is not at
23 service capacity, if:

24 1. The patient, or a person who is legally responsible
25 for the patient and acting on the patient's behalf, after
26 being informed of the hospital's obligation under this section
27 and of the risk of transfer, requests that the transfer be
28 effected;

29 2. A physician has signed a certification that, based
30 upon the reasonable risks and benefits to the patient, and
31 based upon the information available at the time of transfer,

1 the medical benefits reasonably expected from the provision of
2 appropriate medical treatment at another hospital outweigh the
3 increased risks to the individual's medical condition from
4 effecting the transfer; or

5 3. A physician is not physically present in the
6 emergency services area at the time an individual is
7 transferred and a qualified medical person signs a
8 certification that a physician, in consultation with
9 personnel, has determined that the medical benefits reasonably
10 expected from the provision of appropriate medical treatment
11 at another medical facility outweigh the increased risks to
12 the individual's medical condition from effecting the
13 transfer. The consulting physician must countersign the
14 certification;

15
16 provided that this paragraph shall not be construed to require
17 acceptance of a transfer that is not medically necessary.

18 (d)1. Every hospital shall ensure the provision of
19 services within the service capability of the hospital, at all
20 times, either directly or indirectly through an arrangement
21 with another hospital, through an arrangement with one or more
22 physicians, or as otherwise made through prior arrangements.
23 A hospital may enter into an agreement with another hospital
24 for purposes of meeting its service capability requirement,
25 and appropriate compensation or other reasonable conditions
26 may be negotiated for these backup services.

27 2. If any arrangement requires the provision of
28 emergency medical transportation, such arrangement must be
29 made in consultation with the applicable emergency medical
30 service provider and may not require the emergency medical
31 service provider to provide transportation that is outside the

1 routine service area of that emergency medical service
2 provider or in a manner that impairs the ability of the
3 emergency medical service provider to timely respond to
4 prehospital emergency calls.

5 3. A hospital shall not be required to ensure service
6 capability at all times as required in subparagraph 1. if,
7 prior to the receiving of any patient needing such service
8 capability, such hospital has demonstrated to the agency that
9 it lacks the ability to ensure such capability and it has
10 exhausted all reasonable efforts to ensure such capability
11 through backup arrangements. In reviewing a hospital's
12 demonstration of lack of ability to ensure service capability,
13 the agency shall consider factors relevant to the particular
14 case, including the following:

15 a. Number and proximity of hospitals with the same
16 service capability.

17 b. Number, type, credentials, and privileges of
18 specialists.

19 c. Frequency of procedures.

20 d. Size of hospital.

21 4. The agency shall publish proposed rules
22 implementing a reasonable exemption procedure ~~by November 1,~~
23 ~~1992. Subparagraph 1. shall become effective upon the~~
24 ~~effective date of said rules or January 31, 1993, whichever is~~
25 ~~earlier. For a period not to exceed 1 year from the effective~~
26 ~~date of subparagraph 1., a hospital requesting an exemption~~
27 ~~shall be deemed to be exempt from offering the service until~~
28 ~~the agency initially acts to deny or grant the original~~
29 ~~request. The agency has 45 days from the date of receipt of~~
30 ~~the request for exemption to approve or deny the request.~~
31 ~~After the first year from the effective date of subparagraph~~

1 ~~1.~~If the agency fails to initially act within the time
2 period, the hospital is deemed to be exempt from offering the
3 service until the agency initially acts to deny the request.

4 5. The agency shall convene a workgroup consisting of
5 representatives from the Florida Hospital Association, the
6 Florida Medical Association, and the Florida College of
7 Emergency Physicians to make recommendations to the
8 Legislature for changes to this paragraph regarding:

9 a. Services performed on an infrequent basis that
10 would not be considered to be within the service capability of
11 the hospital.

12 b. Situations in which hospitals would be deemed
13 exempt from providing services at all times that are within
14 their service capability.

15 Section 5. Section 395.1042, Florida Statutes, is
16 created to read:

17 395.1042 Uncompensated Emergency Services and Care
18 Reimbursement Program.--

19 (1) There is established the Uncompensated Emergency
20 Services and Care Reimbursement Program for the purpose of
21 reimbursing health care facilities and health care
22 practitioners for the cost of uncompensated emergency services
23 and care provided as required by s. 395.1041. The Agency for
24 Health Care Administration shall reimburse providers for
25 services at the Medicaid rate in an amount equal to the
26 provider's pro rata share of uncompensated emergency services
27 and care provided in the prior fiscal year.

28 (2) Any funds appropriated in the General
29 Appropriations Act for the implementation of s. 395.1041, and
30 any other funds that become available for the implementation
31 of s. 395.1041, shall be used exclusively to compensate

1 providers under the Uncompensated Emergency Services and Care
2 Reimbursement Program.

3 Section 6. Paragraph (c) of subsection (2) of section
4 395.602, Florida Statutes, is amended to read:

5 395.602 Rural hospitals.--

6 (2) DEFINITIONS.--As used in this part:

7 (c) "Inactive rural hospital bed" means a licensed
8 acute care hospital bed, as defined in s. 395.002~~(15)~~~~(14)~~,
9 that is inactive in that it cannot be occupied by acute care
10 inpatients.

11 Section 7. Paragraph (c) of subsection (1) of section
12 395.701, Florida Statutes, is amended to read:

13 395.701 Annual assessments on net operating revenues
14 for inpatient and outpatient services to fund public medical
15 assistance; administrative fines for failure to pay
16 assessments when due; exemption.--

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

18 (c) "Hospital" means a health care institution as
19 defined in s. 395.002~~(14)~~~~(13)~~, but does not include any
20 hospital operated by the agency or the Department of
21 Corrections.

22 Section 8. Paragraph (b) of subsection (1) of section
23 400.051, Florida Statutes, is amended to read:

24 400.051 Homes or institutions exempt from the
25 provisions of this part.--

26 (1) The following shall be exempt from the provisions
27 of this part:

28 (b) Any hospital, as defined in s. 395.002~~(12)~~~~(11)~~,
29 that is licensed under chapter 395.

30 Section 9. Subsections (1) and (7) of section 401.23,
31 Florida Statutes, are amended to read:

1 401.23 Definitions.--As used in this part, the term:

2 (1) "Advanced life support" means assessment,
3 monitoring, or treatment of medical conditions, through use of
4 techniques described in the Paramedic Basic Training Course
5 Curriculum of the United States Department of Transportation,
6 by a paramedic under the supervision of a medical director of
7 a licensee, pursuant to rules of the department. The term
8 "advanced life support" also includes techniques provided to
9 persons with psychiatric disturbances, symptoms of substance
10 abuse, or emergency medical conditions, as defined in 42
11 U.S.C. 1395dd treatment of life-threatening medical
12 emergencies through the use of techniques such as endotracheal
13 intubation, the administration of drugs or intravenous fluids,
14 telemetry, cardiac monitoring, and cardiac defibrillation by a
15 qualified person, pursuant to rules of the department.

16 (7) "Basic life support" means assessment, monitoring,
17 or treatment of medical conditions ~~treatment of medical~~
18 ~~emergencies by a qualified person through the use of~~
19 ~~techniques such as patient assessment, cardiopulmonary~~
20 ~~resuscitation (CPR), splinting, obstetrical assistance,~~
21 ~~bandaging, administration of oxygen, application of medical~~
22 ~~antishock trousers, administration of a subcutaneous injection~~
23 ~~using a premeasured autoinjector of epinephrine to a person~~
24 ~~suffering an anaphylactic reaction, and other techniques~~
25 ~~described in the Emergency Medical Technician Basic Training~~
26 ~~Course Curriculum of the United States Department of~~
27 ~~Transportation, by an emergency medical technician or~~
28 paramedic under the supervision of a medical director, as
29 required by the department. The term "basic life support"
30 also includes ~~other~~ techniques provided to persons with
31 psychiatric disturbances, symptoms of substance abuse, or

1 emergency medical conditions as defined in 42 U.S.C. 1395dd;
2 and other techniques which have been approved and are
3 performed under conditions specified by rules of the
4 department.

5 Section 10. Subsections (9) and (10) of section
6 409.901, Florida Statutes, are amended to read:

7 409.901 Definitions; ss. 409.901-409.920.--As used in
8 ss. 409.901-409.920, except as otherwise specifically
9 provided, the term:

10 (9) "Emergency medical condition" means:

11 (a) A medical condition manifesting itself by acute
12 symptoms of sufficient severity, which may include severe
13 pain, psychiatric disturbances, symptoms of substance abuse,
14 or other acute symptoms, such that the absence of immediate
15 medical attention could reasonably be expected to result in
16 any of the following:

- 17 1. Serious jeopardy to the health of a patient,
18 including a pregnant woman or a fetus.
- 19 2. Serious impairment to bodily functions.
- 20 3. Serious dysfunction of any bodily organ or part.

21 (b) With respect to a pregnant woman:

- 22 1. That there is inadequate time to effect safe
23 transfer to another hospital prior to delivery.
- 24 2. That a transfer may pose a threat to the health and
25 safety of the patient or fetus.
- 26 3. That there is evidence of the onset and persistence
27 of uterine contractions or rupture of the membranes.

28 (c) With respect to a person exhibiting acute
29 psychiatric disturbance or substance abuse, or taken into
30 custody and delivered to a hospital under a court ex parte
31 order for examination or placed by an authorized party for

1 involuntary examination in accordance with chapter 394 or
2 chapter 397, that the absence of immediate medical attention
3 could reasonably be expected to result in:

4 1. Serious jeopardy to the health of a patient; or

5 2. Serious jeopardy to the health of others.

6 (10) "Emergency services and care" means medical
7 screening, examination, and evaluation by a physician, or, to
8 the extent permitted by applicable laws, by other appropriate
9 personnel under the supervision of a physician, to determine
10 whether an emergency medical condition exists and, if it does,
11 the care, treatment, or surgery for a covered service by a
12 physician which is necessary to stabilize ~~relieve or eliminate~~
13 the emergency medical condition, within the service capability
14 of a hospital.

15 Section 11. Subsection (8) of section 409.905, Florida
16 Statutes, is amended to read:

17 409.905 Mandatory Medicaid services.--The agency may
18 make payments for the following services, which are required
19 of the state by Title XIX of the Social Security Act,
20 furnished by Medicaid providers to recipients who are
21 determined to be eligible on the dates on which the services
22 were provided. Any service under this section shall be
23 provided only when medically necessary and in accordance with
24 state and federal law. Mandatory services rendered by
25 providers in mobile units to Medicaid recipients may be
26 restricted by the agency. Nothing in this section shall be
27 construed to prevent or limit the agency from adjusting fees,
28 reimbursement rates, lengths of stay, number of visits, number
29 of services, or any other adjustments necessary to comply with
30 the availability of moneys and any limitations or directions
31 provided for in the General Appropriations Act or chapter 216.

1 (8) NURSING FACILITY SERVICES.--The agency shall pay
2 for 24-hour-a-day nursing and rehabilitative services for a
3 recipient in a nursing facility licensed under part II of
4 chapter 400 or in a rural hospital, as defined in s. 395.602,
5 or in a Medicare certified skilled nursing facility operated
6 by a hospital, as defined by s. 395.002~~(11)~~(12), that is
7 licensed under part I of chapter 395, and in accordance with
8 provisions set forth in s. 409.908(2)(a), which services are
9 ordered by and provided under the direction of a licensed
10 physician. However, if a nursing facility has been destroyed
11 or otherwise made uninhabitable by natural disaster or other
12 emergency and another nursing facility is not available, the
13 agency must pay for similar services temporarily in a hospital
14 licensed under part I of chapter 395 provided federal funding
15 is approved and available.

16 Section 12. Section 409.9128, Florida Statutes, is
17 amended to read:

18 409.9128 Requirements for providing emergency services
19 and care.--

20 (1) Emergency services and care is a covered service.

21 In providing for emergency services and care as a covered
22 service, neither a managed care plan nor the MediPass program
23 may:

24 (a) Require prior authorization for the receipt of
25 prehospital transport or treatment or for the provision of
26 emergency services and care.

27 (b) Indicate that emergencies are covered only if care
28 is secured within a certain period of time or from a health
29 care provider that has a contract with the managed care plan
30 or MediPass program.

31

1 (c) Use terms such as "life threatening" or "bona
2 fide" to qualify the kind of emergency that is covered.

3 (d) Deny payment based on the enrollee's or the
4 hospital's failure to notify the managed care plan or MediPass
5 primary care provider in advance or within a certain period of
6 time after the care is given or to obtain care from a health
7 care provider that has a contract with the managed care plan.

8 (2) Prehospital and hospital-based trauma services and
9 emergency services and care must be provided as a covered
10 service to an enrollee of a managed care plan or the MediPass
11 program as required under ss. 395.1041, 395.4045, and 401.45.

12 (3)(a) When an enrollee is present at a hospital
13 seeking emergency services and care, the determination as to
14 whether an emergency medical condition, as defined in s.
15 409.901, exists shall be made, for the purposes of treatment,
16 by a physician of the hospital or, to the extent permitted by
17 applicable law, by other appropriate licensed professional
18 hospital personnel under the supervision of the hospital
19 physician. The physician or the appropriate personnel shall
20 indicate in the patient's chart the results of the screening,
21 examination, and evaluation. The managed care plan or the
22 Medicaid program on behalf of MediPass patients shall
23 compensate the provider for the screening, evaluation, and
24 examination that is required by law to determine ~~reasonably~~
25 ~~calculated to assist the health care provider in arriving at a~~
26 ~~determination as to~~ whether the patient's condition is an
27 emergency medical condition and shall not deny payment if an
28 emergency medical condition is not found to exist. When an
29 emergency medical condition does exist, the managed care plan
30 or the Medicaid program on behalf of MediPass patients shall
31 compensate the provider for all emergency services and care

1 and any medically necessary followup care provided in
2 accordance with this subsection. ~~If a determination is made~~
3 ~~that an emergency medical condition does not exist, payment~~
4 ~~for services rendered subsequent to that determination is~~
5 ~~governed by the managed care plan's contract with the agency.~~

6 (b) If a determination has been made that an emergency
7 medical condition exists and the enrollee has notified the
8 hospital, or the hospital emergency personnel otherwise has
9 knowledge that the patient is an enrollee of the managed care
10 plan or the MediPass program, the hospital must make a
11 reasonable attempt to notify the enrollee's primary care
12 physician, if known, or the managed care plan, if the managed
13 care plan had previously requested in writing that the
14 notification be made directly to the managed care plan, of the
15 existence of the emergency medical condition. If the primary
16 care physician is not known, or has not been contacted, the
17 hospital must:

18 1. Notify the managed care plan or the MediPass
19 provider as soon as possible prior to discharge of the
20 enrollee from the emergency care area; or

21 2. Notify the managed care plan or the MediPass
22 provider within 24 hours or on the next business day after
23 admission of the enrollee as an inpatient to the hospital.

24
25 If notification required by this paragraph is not
26 accomplished, the hospital must document its attempts to
27 notify the managed care plan or the MediPass provider or the
28 circumstances that precluded attempts to notify the managed
29 care plan or the MediPass provider. Neither a managed care
30 plan nor the Medicaid program on behalf of MediPass patients
31 may deny payment for emergency services and care based on a

1 hospital's failure to comply with the notification
2 requirements of this paragraph.

3 (c) The physician who provides the care, treatment, or
4 surgery necessary to stabilize the emergency medical condition
5 may, at his or her sole discretion, continue to care for the
6 patient for the duration of the patient's hospital stay and
7 for any medically necessary followup or may transfer care of
8 the patient, in accordance with state and federal laws, to a
9 provider that has a contract with the managed care plan or
10 MediPass provider.~~If the enrollee's primary care physician~~
11 ~~responds to the notification, the hospital physician and the~~
12 ~~primary care physician may discuss the appropriate care and~~
13 ~~treatment of the enrollee. The managed care plan may have a~~
14 ~~member of the hospital staff with whom it has a contract~~
15 ~~participate in the treatment of the enrollee within the scope~~
16 ~~of the physician's hospital staff privileges. The enrollee~~
17 ~~may be transferred, in accordance with state and federal law,~~
18 ~~to a hospital that has a contract with the managed care plan~~
19 ~~and has the service capability to treat the enrollee's~~
20 ~~emergency medical condition. Notwithstanding any other state~~
21 ~~law, a hospital may request and collect insurance or financial~~
22 ~~information from a patient in accordance with federal law,~~
23 ~~which is necessary to determine if the patient is an enrollee~~
24 ~~of a managed care plan or the MediPass program, if emergency~~
25 ~~services and care are not delayed.~~

26 (4) Nothing in this section is intended to prohibit or
27 limit application of a nominal copayment as provided in s.
28 409.9081 for the use of an emergency room for services other
29 than emergency services and care.

30 (5) Reimbursement amounts for services provided to an
31 enrollee of a managed care plan under this section shall be

1 governed by the terms of the contract with the provider if
2 such contract exists. Reimbursement amounts for services under
3 this section by a provider that ~~who~~ does not have a contract
4 with the managed care plan shall be the lesser of:

5 (a) The provider's charges;

6 (b) For noninstitutional providers, the usual and
7 customary provider charges for similar services in the
8 community where the services were provided;

9 (c) The charge mutually agreed to by the entity and
10 the provider within 35 ~~60~~ days after submittal of the claim;
11 or

12 (d) The Medicaid rate.

13 (6) The provisions of this section may not be waived,
14 voided, or nullified by contract.

15 Section 13. Paragraph (1) of subsection (1) of section
16 468.505, Florida Statutes, is amended to read:

17 468.505 Exemptions; exceptions.--

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

21 (1) A person employed by a nursing facility exempt
22 from licensing under s. 395.002~~(14)~~~~(13)~~, or a person exempt
23 from licensing under s. 464.022.

24 Section 14. Section 627.6053, Florida Statutes, is
25 created to read:

26 627.6053 Requirements for providing emergency services
27 and care.--

28 (1) An individual, group, blanket, or franchise health
29 insurance policy governed by this chapter, including a health
30 benefit plan issued pursuant to s. 627.6699, must provide
31

1 coverage for hospital emergency services and care pursuant to
2 this section.

3 (2) As used in this section, the term:

4 (a) "Emergency medical condition" means:

5 1. A medical condition manifesting itself by acute
6 symptoms of sufficient severity, which may include severe
7 pain, psychiatric disturbances, symptoms of substance abuse,
8 or other acute symptoms, such that the absence of immediate
9 medical attention could reasonably be expected to result in
10 any of the following:

11 a. Serious jeopardy to the health of a patient,
12 including a pregnant woman or a fetus.

13 b. Serious impairment to bodily functions.

14 c. Serious dysfunction of any bodily organ or part.

15 2. With respect to a pregnant woman:

16 a. That there is inadequate time to effect safe
17 transfer to another hospital prior to delivery;

18 b. That a transfer may pose a threat to the health and
19 safety of the patient or fetus; or

20 c. That there is evidence of the onset and persistence
21 of uterine contractions or rupture of the membranes.

22 3. With respect to a person exhibiting acute
23 psychiatric disturbance or substance abuse, or taken into
24 custody and delivered to a hospital under a court ex parte
25 order for examination or placed by an authorized party for
26 involuntary examination in accordance with chapter 394 or
27 chapter 397, that the absence of immediate medical attention
28 could reasonably be expected to result in:

29 a. Serious jeopardy to the health of a patient; or

30 b. Serious jeopardy to the health of others.

31

1 (b) "Emergency services and care" means medical
2 screening, examination, and evaluation by a physician, or, to
3 the extent permitted by applicable law, by other appropriate
4 personnel under the supervision of a physician, to determine
5 if an emergency medical condition exists and, if it does, the
6 care, treatment, or surgery for a covered service by a
7 physician necessary to stabilize the emergency medical
8 condition, within the service capability of a hospital.

9 (c) "Provider" means any physician, hospital, or other
10 institution, organization, or person that furnishes health
11 care services and is licensed or otherwise authorized to
12 practice in the state.

13 (3) Emergency services and care is a covered service.
14 In providing for emergency services and care as a covered
15 service, a health insurer may not:

16 (a) Require prior authorization for the receipt of
17 prehospital transport or treatment or for the provision of
18 emergency services and care.

19 (b) Indicate that emergencies are covered only if care
20 is secured within a certain period of time or from a health
21 care provider who has a contract with the health insurer.

22 (c) Use terms such as "life threatening" or "bona
23 fide" to qualify the kind of emergency that is covered.

24 (d) Deny payment based on the insured's failure to
25 notify the health insurer in advance of seeking treatment or
26 within a certain period after the care is given or to obtain
27 care from a health care provider that has a contract with the
28 health insurer.

29 (4) Prehospital and hospital-based trauma services and
30 emergency services and care must be provided as a covered
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1 service to an insured as required under ss. 395.1041,
2 395.4045, and 401.45.

3 (5)(a) When an insured is present at a hospital
4 seeking emergency services and care, the determination as to
5 whether an emergency medical condition exists shall be made,
6 for the purposes of treatment, by a physician of the hospital
7 or, to the extent permitted by applicable law, by other
8 appropriate licensed professional hospital personnel under the
9 supervision of the hospital physician. The physician or the
10 appropriate personnel shall indicate in the patient's chart
11 the results of the screening, examination, and evaluation.
12 The health insurer shall compensate the provider for the
13 screening, evaluation, and examination that is required by law
14 to determine whether the patient's condition is an emergency
15 medical condition and shall not deny payment if an emergency
16 medical condition is not found to exist. When an emergency
17 medical condition does exist, the health insurer shall
18 compensate the provider for all emergency services and care
19 and any medically necessary followup care provided in
20 accordance with this subsection.

21 (b) If a determination has been made that an emergency
22 medical condition exists and the insured has notified the
23 hospital, or the hospital emergency personnel otherwise has
24 knowledge that the patient has health insurance, the hospital
25 must make a reasonable attempt to notify the insurer of the
26 existence of the emergency medical condition. The hospital
27 must:

28 1. Notify the health insurer as soon as possible prior
29 to discharge of the insured from the emergency care area; or
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1 2. Notify the health insurer within 24 hours or on the
2 next business day after admission of the insured as an
3 inpatient to the hospital.

4
5 If notification required by this paragraph is not
6 accomplished, the hospital must document its attempts to
7 notify the health insurer of the circumstances that precluded
8 attempts to notify the health insurer. A health insurer may
9 not deny payment for emergency services and care based on a
10 hospital's failure to comply with the notification
11 requirements of this paragraph. This paragraph does not alter
12 any contractual responsibility of an insured to make contact
13 with a health insurer, subsequent to receiving treatment for
14 the emergency medical condition.

15 (c) The physician who provides the care, treatment, or
16 surgery necessary to stabilize the emergency medical condition
17 may, at his or her sole discretion, continue to provide care
18 to the patient for the duration of the patient's hospital stay
19 and for any medically necessary followup or may transfer care
20 of the patient, in accordance with state and federal laws, to
21 a provider that has a contract with the health insurer.

22 (6) Reimbursement amounts for services under this
23 section shall be governed by the terms of the contract with
24 the provider if such contract exists. Reimbursement amounts
25 for services under this section by a provider that does not
26 have a contract with the health insurer shall be the lesser
27 of:

28 (a) The provider's charges;

29 (b) For noninstitutional providers, the usual and
30 customary provider charges for similar services in the
31 community where the services were provided; or

1 (c) The charge mutually agreed to by the health
2 insurer and the provider within 35 days after the submittal of
3 the claim.

4 (7) This section shall govern the provision of
5 emergency services and care pursuant to a policy subject to s.
6 627.6471 or s. 627.6472.

7 (8) The provisions of this section may not be waived,
8 voided, or nullified by contract.

9 Section 15. Subsection (7) of section 641.19, Florida
10 Statutes, is amended to read:

11 641.19 Definitions.--As used in this part, the term:

12 (7) "Emergency medical condition" means:

13 (a) A medical condition manifesting itself by acute
14 symptoms of sufficient severity, which may include severe
15 pain, psychiatric disturbances, symptoms of substance abuse,
16 or other acute symptoms, such that the absence of immediate
17 medical attention could reasonably be expected to result in
18 any of the following:

19 1. Serious jeopardy to the health of a patient,
20 including a pregnant woman or a fetus.

21 2. Serious impairment to bodily functions.

22 3. Serious dysfunction of any bodily organ or part.

23 (b) With respect to a pregnant woman:

24 1. That there is inadequate time to effect safe
25 transfer to another hospital prior to delivery;

26 2. That a transfer may pose a threat to the health and
27 safety of the patient or fetus; or

28 3. That there is evidence of the onset and persistence
29 of uterine contractions or rupture of the membranes.

30 (c) With respect to a person exhibiting acute
31 psychiatric disturbance or substance abuse, or taken into

1 custody and delivered to a hospital under a court ex parte
2 order for examination or placed by an authorized party for
3 involuntary examination in accordance with chapter 394 or
4 chapter 397, that the absence of immediate medical attention
5 could reasonably be expected to result in:

- 6 1. Serious jeopardy to the health of a patient; or
- 7 2. Serious jeopardy to the health of others.

8 Section 16. Subsection (7) of section 641.47, Florida
9 Statutes, is amended to read:

10 641.47 Definitions.--As used in this part, the term:

11 (7) "Emergency medical condition" means:

12 (a) A medical condition manifesting itself by acute
13 symptoms of sufficient severity, which may include severe
14 pain, psychiatric disturbances, symptoms of substance abuse,
15 or other acute symptoms, such that the absence of immediate
16 medical attention could reasonably be expected to result in
17 any of the following:

- 18 1. Serious jeopardy to the health of a patient,
19 including a pregnant woman or a fetus.
- 20 2. Serious impairment to bodily functions.
- 21 3. Serious dysfunction of any bodily organ or part.

22 (b) With respect to a pregnant woman:

- 23 1. That there is inadequate time to effect safe
24 transfer to another hospital prior to delivery;
- 25 2. That a transfer may pose a threat to the health and
26 safety of the patient or fetus; or
- 27 3. That there is evidence of the onset and persistence
28 of uterine contractions or rupture of the membranes.

29 (c) With respect to a person exhibiting acute
30 psychiatric disturbance or substance abuse, or taken into
31 custody and delivered to a hospital under a court ex parte

1 order for examination or placed by authorized party for
2 involuntary examination in accordance with chapter 394 or
3 chapter 397, that the absence of immediate medical attention
4 could reasonably be expected to result in:

- 5 1. Serious jeopardy to the health of a patient; or
6 2. Serious jeopardy to the health of others.

7 Section 17. Section 641.513, Florida Statutes, is
8 amended to read:

9 641.513 Requirements for providing emergency services
10 and care.--

- 11 (1) Emergency services and care is a covered service.

12 In providing for emergency services and care as a covered
13 service, a health maintenance organization may not:

14 (a) Require prior authorization for the receipt of
15 prehospital transport or treatment or for the provision of
16 emergency services and care.

17 (b) Indicate that emergencies are covered only if care
18 is secured within a certain period of time or from a health
19 care provider that has a contract with the health maintenance
20 organization.

21 (c) Use terms such as "life threatening" or "bona
22 fide" to qualify the kind of emergency that is covered.

23 (d) Deny payment based on the subscriber's failure to
24 notify the health maintenance organization in advance of
25 seeking treatment or within a certain period of time after the
26 care is given or to obtain care from a health care provider
27 that does not have a contract with the health maintenance
28 organization.

29 (2) Prehospital and hospital-based trauma services and
30 emergency services and care must be provided as a covered
31

1 service to a subscriber of a health maintenance organization
2 as required under ss. 395.1041, 395.4045, and 401.45.

3 (3)(a) When a subscriber is present at a hospital
4 seeking emergency services and care, the determination as to
5 whether an emergency medical condition, as defined in s.
6 641.47, exists shall be made, for the purposes of treatment,
7 by a physician of the hospital or, to the extent permitted by
8 applicable law, by other appropriate licensed professional
9 hospital personnel under the supervision of the hospital
10 physician. The physician or the appropriate personnel shall
11 indicate in the patient's chart the results of the screening,
12 examination, and evaluation. The health maintenance
13 organization shall compensate the provider for the screening,
14 evaluation, and examination that is required by law to
15 determine ~~reasonably calculated to assist the health care~~
16 ~~provider in arriving at a determination as to~~ whether the
17 patient's condition is an emergency medical condition and
18 shall not deny payment if an emergency medical condition is
19 not found to exist. When an emergency medical condition does
20 exist, the health maintenance organization shall compensate
21 the provider for all emergency services and care and any
22 medically necessary followup care provided in accordance with
23 this subsection. If a determination is made that an emergency
24 ~~medical condition does not exist, payment for services~~
25 ~~rendered subsequent to that determination is governed by the~~
26 ~~contract under which the subscriber is covered.~~

27 (b) If a determination has been made that an emergency
28 medical condition exists and the subscriber has notified the
29 hospital, or the hospital emergency personnel otherwise have
30 knowledge that the patient is a subscriber of the health
31 maintenance organization, the hospital must make a reasonable

1 attempt to notify the subscriber's primary care physician, if
2 known, or the health maintenance organization, if the health
3 maintenance organization had previously requested in writing
4 that the notification be made directly to the health
5 maintenance organization, of the existence of the emergency
6 medical condition. If the primary care physician is not
7 known, or has not been contacted, the hospital must:

8 1. Notify the health maintenance organization as soon
9 as possible prior to discharge of the subscriber from the
10 emergency care area; or

11 2. Notify the health maintenance organization within
12 24 hours or on the next business day after admission of the
13 subscriber as an inpatient to the hospital.

14
15 If notification required by this paragraph is not
16 accomplished, the hospital must document its attempts to
17 notify the health maintenance organization of the
18 circumstances that precluded attempts to notify the health
19 maintenance organization. A health maintenance organization
20 may not deny payment for emergency services and care based on
21 a hospital's failure to comply with the notification
22 requirements of this paragraph. Nothing in this paragraph
23 shall alter any contractual responsibility of a subscriber to
24 make contact with the health maintenance organization,
25 subsequent to receiving treatment for the emergency medical
26 condition.

27 (c) The physician who provides the care, treatment, or
28 surgery necessary to stabilize the emergency medical condition
29 may, at his or her sole discretion, continue to provide care
30 to the patient for the duration of the patient's hospital stay
31 and for any medically necessary followup, or may transfer care

1 of the patient, in accordance with state and federal law, to a
2 provider that has a contract with the health maintenance
3 organization.~~if the subscriber's primary care physician~~
4 ~~responds to the notification, the hospital physician and the~~
5 ~~primary care physician may discuss the appropriate care and~~
6 ~~treatment of the subscriber. The health maintenance~~
7 ~~organization may have a member of the hospital staff with whom~~
8 ~~it has a contract participate in the treatment of the~~
9 ~~subscriber within the scope of the physician's hospital staff~~
10 ~~privileges. The subscriber may be transferred, in accordance~~
11 ~~with state and federal law, to a hospital that has a contract~~
12 ~~with the health maintenance organization and has the service~~
13 ~~capability to treat the subscriber's emergency medical~~
14 ~~condition. Notwithstanding any other state law, a hospital may~~
15 ~~request and collect insurance or financial information from a~~
16 ~~patient in accordance with federal law, which is necessary to~~
17 ~~determine if the patient is a subscriber of a health~~
18 ~~maintenance organization, if emergency services and care are~~
19 ~~not delayed.~~

20 (4) A subscriber may be charged a reasonable
21 copayment, as provided in s. 641.31(12), for the use of an
22 emergency room.

23 (5) Reimbursement amounts for services pursuant to
24 this section shall be governed by the terms of the contract
25 with the provider if such contract exists. Reimbursement
26 amounts for services pursuant to this section by a provider
27 that ~~who~~ does not have a contract with the health maintenance
28 organization shall be the lesser of:

29 (a) The provider's charges;

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1 (b) For noninstitutional providers, the usual and
2 customary provider charges for similar services in the
3 community where the services were provided; or

4 (c) The charge mutually agreed to by the health
5 maintenance organization and the provider within 35 ~~60~~ days
6 after ~~of~~ the submittal of the claim.

7
8 Such reimbursement shall be net of any applicable copayment
9 authorized pursuant to subsection (4).

10 (6) Reimbursement amounts for services under this
11 section provided to subscribers who are Medicaid recipients
12 shall be governed by the terms of the contract with the
13 provider. Reimbursement amounts for services under this
14 section by a provider when ~~for whom~~ no contract exists between
15 the provider and the health maintenance organization shall be
16 the lesser of:

17 (a) The provider's charges;

18 (b) For noninstitutional providers, the usual and
19 customary provider charges for similar services in the
20 community where the services were provided;

21 (c) The charge mutually agreed to by the entity and
22 the provider within 35 ~~60~~ days after submittal of the claim;
23 or

24 (d) The Medicaid rate.

25 (7) The provisions of this section may not be waived,
26 voided, or nullified by contract.

27 Section 18. Paragraph (b) of subsection (2) of section
28 812.014, Florida Statutes, is amended to read:

29 812.014 Theft.--

30 (2)

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

3 2. The property stolen is cargo valued at less than
4 \$50,000 that has entered the stream of interstate or
5 intrastate commerce from the shipper's loading platform to the
6 consignee's receiving dock; or

7 3. The property stolen is emergency medical equipment,
8 valued at \$300 or more, that is taken from a facility licensed
9 under chapter 395 or from an aircraft or vehicle permitted
10 under chapter 401,

11
12 the offender commits grand theft in the second degree,
13 punishable as a felony of the second degree, as provided in s.
14 775.082, s. 775.083, or s. 775.084. Emergency medical
15 equipment means mechanical or electronic apparatus used to
16 provide emergency services and care as defined in s.
17 395.002(11)~~(10)~~ or to treat medical emergencies.

18 Section 19. There is appropriated from the General
19 Revenue Fund to the Agency for Health Care Administration the
20 sum of \$50 million for the Uncompensated Emergency Services
21 and Care Reimbursement Program.

22 Section 20. This act shall take effect July 1, 2002.
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LEGISLATIVE SUMMARY

Revises and conforms definitions relating to emergency services and care provided by hospitals, Health Maintenance Organizations, and prepaid health clinics and covered by Medicaid. Revises definitions relating to emergency medical transportation services. Revises provisions relating to inventory of hospital service capability and access to hospital emergency services and care. Directs the Agency for Health Care Administration to convene a workgroup to make recommendations to the Legislature regarding hospital service capability requirements. Establishes a program under the agency to reimburse health care facilities and practitioners for the cost of uncompensated emergency services and care, and provides an appropriation therefor. Revises requirements for the provision of emergency services and care by Health Maintenance Organizations and prepaid health clinics, and under Medicaid managed care plans and MediPass, and provides requirements for health insurance policy coverage of hospital emergency services and care. (See bill for details.)