(LATE FILED FOR: 4/22/2008 5:00:00 PM)	HOUSE	AMENDMENT
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Bill No. CS/CS/HB 405

	Amendment No.
	CHAMBER ACTION
	<u>Senate</u> <u>House</u>
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1	Representative Galvano offered the following:
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3	Substitute Amendment for Amendment (439835) (with title
4	amendment)
5	Remove line(s) 52-214 and insert:
6	Section 2. Section 627.638, Florida Statutes, is amended
7	to read:
8	627.638 Direct payment for hospital, medical services
9	(1) Any health insurance policy insuring against loss or
10	expense due to hospital confinement or to medical and related
11	services may provide for payment of benefits directly to any
12	recognized hospital, licensed ambulance provider, doctor, or
13	other person who provided the services, in accordance with the
14	provisions of the policy. To comply with this section, the words
15	"or to the hospital, licensed ambulance provider, doctor, or
16	person rendering services covered by this policy," or similar
Į	638745
	4/22/2008 4:20 PM

Page 1 of 11

Bill No. CS/CS/HB 405

Amendment No.

17 words appropriate to the terms of the policy, shall be added to 18 applicable provisions of the policy.

19 (2)Whenever, in any health insurance claim form, an insured specifically authorizes payment of benefits directly to 20 any recognized hospital, licensed ambulance provider, physician, 21 22 or dentist, the insurer shall make such payment to the designated provider of such services, unless otherwise provided 23 in the insurance contract. The insurance contract may not 24 prohibit, and claims forms must provide an option for, the 25 payment of benefits directly to a licensed hospital, licensed 26 27 ambulance provider, physician, or dentist for care provided pursuant to s. 395.1041 or part III of chapter 401. The insurer 28 29 may require written attestation of assignment of benefits. Payment to the provider from the insurer may not be more than 30 31 the amount that the insurer would otherwise have paid without the assignment. 32

33 (3) Any insurer who has contracted with a preferred 34 provider, as defined in s. 627.6471(1)(b), for the delivery of 35 health care services to its insureds shall make payments 36 directly to the preferred provider for such services.

37 Section 3. Section 627.64731, Florida Statutes, is created38 to read:

39 <u>627.64731</u> Leasing, renting, or granting access to a 40 participating provider.--

41 (1) As used in this section:
42 (a) "Contracting entity" means any person or entity that
43 is engaged in the act of contracting with participating
44 providers and has a direct contract with a participating

Bill No. CS/CS/HB 405

Amendment No.

45	provider for the delivery of health care services or the selling
46	or assigning of physicians or physician panels to other health
47	care entities.
48	(b) "Participating provider" means a physician licensed
49	under chapter 458, chapter 459, chapter 460, chapter 461, or
50	chapter 466 or a physician group practice that has a health care
51	contract with a contracting entity and is entitled to
52	reimbursement for health care services rendered to an enrollee
53	under the health care contract and includes both preferred
54	providers as defined in s. 627.6471 and exclusive providers as
55	defined in s. 627.6472.
56	(2) A contracting entity may not sell, lease, rent, or
57	otherwise grant access to the health care services of a
58	participating provider under a health care contract unless
59	expressly authorized by the health care contract. The health
60	care contract must specifically provide that it applies to
61	network rental arrangements and state that one purpose of the
62	contract is selling, renting, or giving the contracting entity's
63	rights to the services of the participating provider, including
64	other preferred provider organizations. At the time a health
65	care contract is entered into with a participating provider, the
66	contracting entity shall, to the extent possible, identify any
67	third party to which the contracting entity has granted access
68	to the health care services of the participating provider. The
69	contracting entity may only sell, lease, rent, or otherwise
70	grant access to the participating provider's services to a third
71	party that is:

Bill No. CS/CS/HB 405

72	Amendment No. (a) A payor or a third-party administrator or other entity
73	responsible for administering claims on behalf of the payor;
74	(b) A preferred provider organization or preferred
75	provider network that receives access to the participating
76	provider's services pursuant to an arrangement with the
77	preferred provider organization or preferred provider network in
78	a contract with the participating provider is required to comply
79	with all of the terms, conditions, and affirmative obligations
80	to which the originally contracted primary participating
81	provider network is bound under its contract with the
82	participating provider, including, but not limited to,
83	obligations concerning patient steerage and the timeliness and
84	manner of reimbursement; or
85	(c) An entity that is engaged in the business of providing
86	electronic claims transport between the contracting entity and
87	the payor or third-party administrator and complies with all of
88	the applicable terms, conditions, and affirmative obligations of
89	the contracting entity's contract with the participating
90	provider, including, but not limited to, obligations concerning
91	patient steerage and the timeliness and manner of reimbursement.
92	(3) Upon a request by a participating provider, a
93	contracting entity must provide the identity of any third party
94	that has been granted access to the health care services of the
95	participating provider.
96	(4) A contracting entity that leases, rents, or otherwise
97	grants access to the health care services of a participating
98	provider must maintain an Internet website or a toll-free
99	telephone number through which the provider may obtain a
	638745 4/22/2008 4:20 PM
	Page 4 of 11

Bill No. CS/CS/HB 405

Amendment No.

100	listing, updated at least every 90 days, of the third parties
101	that have been granted access to the provider's health care
102	services.
103	(5) A contracting entity that leases, rents, or otherwise
104	grants access to a participating provider's health care services
105	must ensure that an explanation of benefits or remittance advice
106	furnished to the participating provider that delivers health
107	care services under the health care contract identifies the
108	contractual source of any applicable discount.
109	(6) Subject to applicable continuity of care laws, the
110	right of a third party to exercise the rights and
111	responsibilities of a contracting entity under a health care
112	contract terminates on the day after the termination of the
113	participating provider's contract with the contracting entity.
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114	(7) The provisions of this section do not apply if the
114	(7) The provisions of this section do not apply if the
114 115	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's
114 115 116	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is:
114 115 116 117	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is: (a) An employer or other entity providing coverage for
114 115 116 117 118	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is: (a) An employer or other entity providing coverage for health care services to the employer's employees or the entity's
114 115 116 117 118 119	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is: (a) An employer or other entity providing coverage for health care services to the employer's employees or the entity's members and the employer or entity has a contract with the
114 115 116 117 118 119 120	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is: (a) An employer or other entity providing coverage for health care services to the employer's employees or the entity's members and the employer or entity has a contract with the contracting entity or the contracting entity's affiliate for the
114 115 116 117 118 119 120 121	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is: (a) An employer or other entity providing coverage for health care services to the employer's employees or the entity's members and the employer or entity has a contract with the contracting entity or the contracting entity's affiliate for the administration or processing of claims for payment or services
114 115 116 117 118 119 120 121 122	(7) The provisions of this section do not apply if the third party that is granted access to a participating provider's health care services under a health care contract is: (a) An employer or other entity providing coverage for health care services to the employer's employees or the entity's members and the employer or entity has a contract with the contracting entity or the contracting entity's affiliate for the administration or processing of claims for payment or services provided under the health care contract;

Bill No. CS/CS/HB 405

126	Amendment No. (c) An affiliate or a subsidiary of a contracting entity
127	or other entity if operating under the same brand licensee
128	program as the contracting entity.
129	(8) A health care contract may provide for arbitration of
130	disputes arising under this section.
131	(9) A contracting entity shall ensure that all third
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	parties to which the contracting entity has sold, rented,
133	assigned, or otherwise given access to the participating
134	provider's discounted rate comply with the physician contract,
135	including all requirements to encourage access to the
136	participating provider, and pay the provider pursuant to the
137	rates of payment and methodology set forth in that contract,
138	unless otherwise agreed to by a participating provider.
139	(10) A contracting entity is deemed in compliance with
140	this section when the insured's identification card provides,
141	written or electronically, information that identifies the
142	preferred provider network or networks to be utilized to
143	reimburse the provider for covered services.
144	(11) This section shall not apply to a contract between a
145	contracting entity and a discount medical plan organization
146	licensed or exempt under part II of chapter 636.
147	Section 4. Present subsections (11), (12), and (13) of
148	section 627.662, Florida Statutes, are renumbered as subsections
149	(12), (13), and (14), respectively, and a new subsection (11) is
150	added to that section, to read:
151	627.662 Other provisions applicableThe following
152	provisions apply to group health insurance, blanket health
153	insurance, and franchise health insurance:
I	638745
	4/22/2008 4:20 PM Page 6 of 11

Bill No. CS/CS/HB 405

154	Amendment No. (11) Section 627.64731, relating to leasing, renting, or
155	granting access to a preferred provider or exclusive provider.
156	Section 5. Paragraph (v) of subsection (3) of section
157	627.6699, Florida Statutes, is amended to read:
158	627.6699 Employee Health Care Access Act
159	(3) DEFINITIONSAs used in this section, the term:
160	(v) "Small employer" means, in connection with a health
161	benefit plan with respect to a calendar year and a plan year,
162	any person, sole proprietor, self-employed individual,
163	independent contractor, firm, corporation, partnership, or
164	association that is actively engaged in business, has its
165	principal place of business in this state, employed an average
166	of at least 1 but not more than 50 eligible employees on
167	business days during the preceding calendar year <u>the majority of</u>
168	whom were employed in this state, and employs at least 1
169	employee on the first day of the plan year <u>, and is not formed</u>
170	primarily for purposes of purchasing insurance. In determining
171	the number of eligible employees, companies that are an
172	affiliated group as defined in s. 1504(a) of the Internal
173	Revenue Code of 1986, as amended, shall be considered a single
174	employer. For purposes of this section, a sole proprietor, an
175	independent contractor, or a self-employed individual is
176	considered a small employer only if all of the conditions and
177	criteria established in this section are met.
178	Section 6. Subsection (41) is added to section 641.31,
179	Florida Statutes, to read:
180	641.31 Health maintenance contracts

Bill No. CS/CS/HB 405

181	Amendment No. (41) Whenever, in any health maintenance organization
182	claim form, a subscriber specifically authorizes payment of
183	benefits directly to any hospital, ambulance provider,
184	physician, or dentist, the health maintenance organization shall
185	make such payment to the designated provider of such services,
186	provided any benefits are due to the subscriber under the terms
187	of the agreement between the subscriber and the health
188	maintenance organization. The health maintenance organization
189	contract may not prohibit, and claims forms must provide an
190	option for, the payment of benefits directly to a licensed
191	hospital, ambulance provider, physician, or dentist for covered
192	services provided, for services provided pursuant to s.
193	395.1041, and for ambulance transport and treatment provided
194	pursuant to part III of chapter 401. The attestation of
195	assignment of benefits may be in written or electronic form.
196	Payment to the provider from the health maintenance organization
197	may not be more than the amount that the insurer would otherwise
198	have paid without the assignment. Nothing in this subsection
199	affects the applicability of ss. 641.3154 and 641.513 with
200	respect to services provided and payment for such services
201	provided pursuant to this subsection.
202	Section 7. Subsections (18) and (19) are added to section
203	627.6131, Florida Statutes, to read:
204	627.6131 Payment of claims
205	(18) Notwithstanding the 30-month period provided in
206	subsection (6), all claims for overpayment submitted to a
207	provider licensed under chapter 458, chapter 459, chapter 460,
208	chapter 461, or chapter 466 must be submitted to the provider
	638745 4/22/2008 4:20 PM
	Page 8 of 11

Bill No. CS/CS/HB 405

Amendment No.

209	within 12 months after the health insurer's payment of the
210	claim. A claim for overpayment shall not be permitted beyond 12
211	months after the health insurer's payment of a claim, except
212	claims for overpayment may be sought beyond that time from
213	providers convicted of fraud pursuant to s. 817.234.
214	(19) Notwithstanding any other provision of this section,
215	all claims for underpayment from a provider licensed under
216	chapter 458, chapter 459, chapter 460, chapter 461, or chapter
217	466 must be submitted to the insurer within 12 months after the
218	health insurer's payment of the claim. A claim for underpayment
219	shall not be permitted beyond 12 months after the health
220	insurer's payment of a claim.
221	Section 8. Subsections (16) and (17) are added to section
222	641.3155, Florida Statutes, to read:
223	641.3155 Prompt payment of claims
224	(16) Notwithstanding the 30-month period provided in
225	subsection (5), all claims for overpayment submitted to a
226	provider licensed under chapter 458, chapter 459, chapter 460,
227	chapter 461, or chapter 466 must be submitted to the provider
228	within 12 months after the health maintenance organization's
229	payment of the claim. A claim for overpayment shall not be
230	permitted beyond 12 months after the health maintenance
231	organization's payment of a claim, except claims for overpayment
232	may be sought beyond that time from providers convicted of fraud
233	pursuant to s. 817.234.
234	(17) Notwithstanding any other provision of this section,
235	all claims for underpayment from a provider licensed under
236	chapter 458, chapter 459, chapter 460, chapter 461, or chapter
	638745 4/22/2008 4:20 PM
	Page 9 of 11

Bill No. CS/CS/HB 405

	Amendment No.
237	466 must be submitted to the health maintenance organization
238	within 12 months after the health maintenance organization's
239	payment of the claim. A claim for underpayment shall not be
240	permitted beyond 12 months after the health maintenance
241	organization's payment of a claim.
242	Section 9. This act shall take effect November 1, 2008,
243	and applies to contracts entered into, issued, or renewed on or
244	after that date, and the amendments made by this act to sections
245	627.6131 and 641.3155, Florida Statutes, apply to claims
246	payments made on or after November 1, 2008.
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250	TITLE AMENDMENT
251	Remove line(s) 7-36 and insert:
252	circumstances; amending s. 627.638, F.S.; authorizing the
253	payment of health insurance policy benefits directly to a
254	licensed ambulance provider; requiring that an insurer make
255	payments directly to the preferred provider for the delivery of
256	health care services; creating s. 627.64731, F.S.; providing
257	definitions; providing requirements, limitations, and procedures
258	for leasing, renting, or granting access to participating
259	providers by third parties; providing exceptions; providing for
260	arbitration; prohibiting third party access to certain services
261	under certain circumstances; providing exceptions; providing
262	application; amending s. 627.662, F.S.; applying the
263	requirements for the rent, lease, or granting of access to the
264	health care services of a preferred provider or exclusive
I	638745
	4/22/2008 4:20 PM Page 10 of 11

Page 10 of 11

Bill No. CS/CS/HB 405

Amendment No.

265 provider under a health care contract to group health insurance, 266 blanket health insurance, and franchise health insurance policies; amending s. 627.6699, F.S.; revising the definition of 267 268 the term "small employer"; amending s. 641.31; requiring health maintenance organizations to pay benefits directly to certain 269 270 providers under certain circumstances; prohibiting health maintenance contracts from prohibiting and requiring claims form 271 272 to provide the option for payment of benefits directly to certain providers; amending ss. 627.6131 and 641.3155, F.S.; 273 providing requirements for and prohibitions against filing 274 275 claims for overpayments and claims for underpayments with insurers and health maintenance organizations; providing 276 277 applicability; providing an effective date.