

1 A bill to be entitled
 2 An act relating to Florida Health Choices Program;
 3 amending s. 408.910, F.S.; providing and revising
 4 definitions; revising eligibility requirements for
 5 participation in the Florida Health Choices Program;
 6 providing that statutory rural hospitals are eligible as
 7 employers rather than participants under the program;
 8 permitting specified eligible vendors to sell health
 9 maintenance contracts; requiring certain risk-bearing
 10 products offered by insurers to be approved by the Office
 11 of Insurance Regulation; providing requirements for
 12 product certification; providing duties of the Florida
 13 Health Choices, Inc., including maintenance of a toll-free
 14 telephone hotline to respond to requests for assistance;
 15 providing for enrollment periods; providing for certain
 16 risk pooling data used by the corporation to be reported
 17 annually; amending s. 409.821, F.S.; authorizing personal
 18 identifying information of a Florida Kidcare program
 19 applicant to be disclosed to the Florida Health Choices,
 20 Inc., to administer the program; providing an effective
 21 date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 408.910, Florida Statutes, is amended
 26 to read:

27 408.910 Florida Health Choices Program.—

28 (1) LEGISLATIVE INTENT.—The Legislature finds that a

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29 significant number of the residents of this state do not have
30 adequate access to affordable, quality health care. The
31 Legislature further finds that increasing access to affordable,
32 quality health care can be best accomplished by establishing a
33 competitive market for purchasing health insurance and health
34 services. It is therefore the intent of the Legislature to
35 create the Florida Health Choices Program to:

36 (a) Expand opportunities for Floridians to purchase
37 affordable health insurance and health services.

38 (b) Preserve the benefits of employment-sponsored
39 insurance while easing the administrative burden for employers
40 who offer these benefits.

41 (c) Enable individual choice in both the manner and amount
42 of health care purchased.

43 (d) Provide for the purchase of individual, portable
44 health care coverage.

45 (e) Disseminate information to consumers on the price and
46 quality of health services.

47 (f) Sponsor a competitive market that stimulates product
48 innovation, quality improvement, and efficiency in the
49 production and delivery of health services.

50 (2) DEFINITIONS.—As used in this section, the term:

51 (a) "Corporation" means the Florida Health Choices, Inc.,
52 established under this section.

53 (b) "Corporation's marketplace" means the single,
54 centralized market established by the program that facilitates
55 the purchase of products made available in the marketplace.

56 (c) ~~(b)~~ "Health insurance agent" means an agent licensed

57 | under part IV of chapter 626.

58 | (d)~~(e)~~ "Insurer" means an entity licensed under chapter
 59 | 624 which offers an individual health insurance policy or a
 60 | group health insurance policy, a preferred provider organization
 61 | as defined in s. 627.6471, ~~or~~ an exclusive provider organization
 62 | as defined in s. 627.6472, or a health maintenance organization
 63 | licensed under part I of chapter 641.

64 | (e)~~(d)~~ "Program" means the Florida Health Choices Program
 65 | established by this section.

66 | (3) PROGRAM PURPOSE AND COMPONENTS.—The Florida Health
 67 | Choices Program is created as a single, centralized market for
 68 | the sale and purchase of various products that enable
 69 | individuals to pay for health care. These products include, but
 70 | are not limited to, health insurance plans, health maintenance
 71 | organization plans, prepaid services, service contracts, and
 72 | flexible spending accounts. The components of the program
 73 | include:

74 | (a) Enrollment of employers.

75 | (b) Administrative services for participating employers,
 76 | including:

77 | 1. Assistance in seeking federal approval of cafeteria
 78 | plans.

79 | 2. Collection of premiums and other payments.

80 | 3. Management of individual benefit accounts.

81 | 4. Distribution of premiums to insurers and payments to
 82 | other eligible vendors.

83 | 5. Assistance for participants in complying with reporting
 84 | requirements.

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- 85 (c) Services to individual participants, including:
- 86 1. Information about available products and participating
- 87 vendors.
- 88 2. Assistance with assessing the benefits and limits of
- 89 each product, including information necessary to distinguish
- 90 between policies offering creditable coverage and other products
- 91 available through the program.
- 92 3. Account information to assist individual participants
- 93 with managing available resources.
- 94 4. Services that promote healthy behaviors.
- 95 (d) Recruitment of vendors, including insurers, health
- 96 maintenance organizations, prepaid clinic service providers,
- 97 provider service networks, and other providers.
- 98 (e) Certification of vendors to ensure capability,
- 99 reliability, and validity of offerings.
- 100 (f) Collection of data, monitoring, assessment, and
- 101 reporting of vendor performance.
- 102 (g) Information services for individuals and employers.
- 103 (h) Program evaluation.
- 104 (4) ELIGIBILITY AND PARTICIPATION.—Participation in the
- 105 program is voluntary and shall be available to employers,
- 106 individuals, vendors, and health insurance agents as specified
- 107 in this subsection.
- 108 (a) Employers eligible to enroll in the program include:
- 109 1. Employers meeting criteria established by the
- 110 corporation and that elect to make employees of such employer
- 111 eligible for one or more of the health plans offered through the
- 112 program ~~have 1 to 50 employees.~~

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113 2. Fiscally constrained counties described in s. 218.67.

114 3. Municipalities having populations of fewer than 50,000
115 residents.

116 4. School districts in fiscally constrained counties.

117 5. Statutory rural hospitals.

118 (b) Individuals eligible to participate in the program
119 include:

120 1. Individual employees of enrolled employers.

121 2. State employees not eligible for state employee health
122 benefits.

123 3. State retirees.

124 4. Medicaid ~~reform~~ participants who opt out ~~select the~~
125 ~~opt-out provision of reform.~~

126 ~~5. Statutory rural hospitals.~~

127 (c) Employers who choose to participate in the program may
128 enroll by complying with the procedures established by the
129 corporation. The procedures must include, but are not limited
130 to:

131 1. Submission of required information.

132 2. Compliance with federal tax requirements for the
133 establishment of a cafeteria plan, pursuant to s. 125 of the
134 Internal Revenue Code, including designation of the employer's
135 plan as a premium payment plan, a salary reduction plan that has
136 flexible spending arrangements, or a salary reduction plan that
137 has a premium payment and flexible spending arrangements.

138 3. Determination of the employer's contribution, if any,
139 per employee, provided that such contribution is equal for each
140 eligible employee.

141 4. Establishment of payroll deduction procedures, subject
 142 to the agreement of each individual employee who voluntarily
 143 participates in the program.

144 5. Designation of the corporation as the third-party
 145 administrator for the employer's health benefit plan.

146 6. Identification of eligible employees.

147 7. Arrangement for periodic payments.

148 8. Employer notification to employees of the intent to
 149 transfer from an existing employee health plan to the program at
 150 least 90 days before the transition.

151 (d) Eligible vendors and the products and services that
 152 the vendors are permitted to sell are as follows:

153 1. Insurers licensed under chapter 624 may sell health
 154 insurance policies, limited benefit policies, other risk-bearing
 155 coverage, and other products or services.

156 2. Health maintenance organizations licensed under part I
 157 of chapter 641 may sell health maintenance contracts ~~insurance~~
 158 ~~policies~~, limited benefit policies, other risk-bearing products,
 159 and other products or services.

160 3. Prepaid health clinic service providers licensed under
 161 part II of chapter 641 may sell prepaid service contracts and
 162 other arrangements for a specified amount and type of health
 163 services or treatments.

164 4. Health care providers, including hospitals and other
 165 licensed health facilities, health care clinics, licensed health
 166 professionals, pharmacies, and other licensed health care
 167 providers, may sell service contracts and arrangements for a
 168 specified amount and type of health services or treatments.

169 5. Provider organizations, including service networks,
 170 group practices, professional associations, and other
 171 incorporated organizations of providers, may sell service
 172 contracts and arrangements for a specified amount and type of
 173 health services or treatments.

174 6. Corporate entities providing specific health services
 175 in accordance with applicable state law may sell service
 176 contracts and arrangements for a specified amount and type of
 177 health services or treatments.

178
 179 A vendor described in subparagraphs 3.-6. may not sell products
 180 that provide risk-bearing coverage unless that vendor is
 181 authorized under a certificate of authority issued by the Office
 182 of Insurance Regulation under the provisions of the Florida
 183 Insurance Code. Otherwise eligible vendors may be excluded from
 184 participating in the program for deceptive or predatory
 185 practices, financial insolvency, or failure to comply with the
 186 terms of the participation agreement or other standards set by
 187 the corporation.

188 (e) Any risk-bearing product available under subparagraph
 189 (d)1. or subparagraph (d)2. must be approved by the Office of
 190 Insurance Regulation. Any non-risk-bearing product must be
 191 approved by the corporation.

192 (f)~~(e)~~ Eligible individuals may voluntarily continue
 193 participation in the program regardless of subsequent changes in
 194 job status or Medicaid eligibility. Individuals who join the
 195 program may participate by complying with the procedures
 196 established by the corporation. These procedures must include,

197 but are not limited to:

- 198 1. Submission of required information.
- 199 2. Authorization for payroll deduction.
- 200 3. Compliance with federal tax requirements.
- 201 4. Arrangements for payment in the event of job changes.
- 202 5. Selection of products and services.

203 (g)~~(f)~~ Vendors who choose to participate in the program
 204 may enroll by complying with the procedures established by the
 205 corporation. These procedures may ~~must~~ include, but are not
 206 limited to:

- 207 1. Submission of required information, including a
 208 complete description of the coverage, services, provider
 209 network, payment restrictions, and other requirements of each
 210 product offered through the program.
- 211 2. Execution of an agreement to make all risk-bearing
 212 products offered through the program guaranteed-issue policies,
 213 subject to preexisting condition exclusions established by the
 214 corporation.
- 215 3. Execution of an agreement that prohibits refusal to
 216 sell any offered non-risk-bearing product to a participant who
 217 elects to buy it.
- 218 4. Establishment of product prices based on age, gender,
 219 and location of the individual participant, which may include
 220 medical underwriting.
- 221 5. Arrangements for receiving payment for enrolled
 222 participants.
- 223 6. Participation in ongoing reporting processes
 224 established by the corporation.

225 7. Compliance with grievance procedures established by the
 226 corporation.

227 (h)~~(g)~~ Health insurance agents licensed under part IV of
 228 chapter 626 are eligible to voluntarily participate as buyers'
 229 representatives. A buyer's representative acts on behalf of an
 230 individual purchasing health insurance and health services
 231 through the program by providing information about products and
 232 services available through the program and assisting the
 233 individual with both the decision and the procedure of selecting
 234 specific products. Serving as a buyer's representative does not
 235 constitute a conflict of interest with continuing
 236 responsibilities as a health insurance agent if the relationship
 237 between each agent and any participating vendor is disclosed
 238 before advising an individual participant about the products and
 239 services available through the program. In order to participate,
 240 a health insurance agent shall comply with the procedures
 241 established by the corporation, including:

- 242 1. Completion of training requirements.
- 243 2. Execution of a participation agreement specifying the
 244 terms and conditions of participation.
- 245 3. Disclosure of any appointments to solicit insurance or
 246 procure applications for vendors participating in the program.
- 247 4. Arrangements to receive payment from the corporation
 248 for services as a buyer's representative.

249 (5) PRODUCTS.—

250 (a) The products that may be made available for purchase
 251 through the program include, but are not limited to:

- 252 1. Health insurance policies.

253 2. Health maintenance contracts.
 254 ~~3.2.~~ Limited benefit plans.
 255 ~~4.3.~~ Prepaid clinic services.
 256 ~~5.4.~~ Service contracts.
 257 ~~6.5.~~ Arrangements for purchase of specific amounts and
 258 types of health services and treatments.
 259 ~~7.6.~~ Flexible spending accounts.
 260 (b) Health insurance policies, health maintenance
 261 contracts, limited benefit plans, prepaid service contracts, and
 262 other contracts for services must ensure the availability of
 263 covered services ~~and benefits to participating individuals for~~
 264 ~~at least 1 full enrollment year.~~
 265 (c) Products may be offered for multiyear periods provided
 266 the price of the product is specified for the entire period or
 267 for each separately priced segment of the policy or contract.
 268 (d) The corporation shall provide a disclosure form for
 269 consumers to acknowledge their understanding of the nature of,
 270 and any limitations to, the benefits provided by the products
 271 and services being purchased by the consumer.
 272 (e) The corporation must determine that making the plan
 273 available through the program is in the interest of eligible
 274 individuals and eligible employers in the state.
 275 (6) PRICING.—Prices for the products sold through the
 276 program must be transparent to participants and established by
 277 the vendors based on age, gender, and location of participants.
 278 ~~The corporation shall develop a methodology for evaluating the~~
 279 ~~actuarial soundness of products offered through the program. The~~
 280 ~~methodology shall be reviewed by the Office of Insurance~~

281 ~~Regulation prior to use by the corporation. Before making the~~
282 ~~product available to individual participants, the corporation~~
283 ~~shall use the methodology to compare the expected health care~~
284 ~~costs for the covered services and benefits to the vendor's~~
285 ~~price for that coverage. The results shall be reported to~~
286 ~~individuals participating in the program. Once established, the~~
287 ~~price set by the vendor must remain in force for at least 1 year~~
288 ~~and may only be redetermined by the vendor at the next annual~~
289 ~~enrollment period.~~ The corporation shall annually assess a
290 surcharge for each premium or price set by a participating
291 vendor. The surcharge may not be more than 2.5 percent of the
292 price and shall be used to generate funding for administrative
293 services provided by the corporation and payments to buyers'
294 representatives.

295 (7) THE MARKETPLACE EXCHANGE PROCESS.—The program shall
296 provide a single, centralized market for purchase of health
297 insurance, health maintenance contracts, and other health
298 services. Purchases may be made by participating individuals
299 over the Internet or through the services of a participating
300 health insurance agent. Information about each product and
301 service available through the program shall be made available
302 through printed material and an interactive Internet website. A
303 participant needing personal assistance to select products and
304 services shall be referred to a participating agent in his or
305 her area.

306 (a) Participation in the program may begin at any time
307 during a year after the employer completes enrollment and meets
308 the requirements specified by the corporation pursuant to

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309 paragraph (4) (c).

310 (b) Initial selection of products and services must be
311 made by an individual participant within 60 days after the date
312 the individual's employer qualified for participation. An
313 individual who fails to enroll in products and services by the
314 end of this period is limited to participation in flexible
315 spending account services until the next annual enrollment
316 period.

317 (c) Initial enrollment periods for each product selected
318 by an individual participant must last at least 12 months,
319 unless the individual participant specifically agrees to a
320 different enrollment period.

321 (d) If an individual has selected one or more products and
322 enrolled in those products for at least 12 months or any other
323 period specifically agreed to by the individual participant,
324 changes in selected products and services may only be made
325 during the annual enrollment period established by the
326 corporation.

327 (e) The limits established in paragraphs (b)-(d) apply to
328 any risk-bearing product that promises future payment or
329 coverage for a variable amount of benefits or services. The
330 limits do not apply to initiation of flexible spending plans if
331 those plans are not associated with specific high-deductible
332 insurance policies or the use of spending accounts for any
333 products offering individual participants specific amounts and
334 types of health services and treatments at a contracted price.

335 (8) CONSUMER INFORMATION.—The corporation shall:

336 (a) Establish a secure website to facilitate the purchase

337 of products and services by participating individuals. The
338 website must provide information about each product or service
339 available through the program.

340 (b) Inform individuals about other public health care
341 programs.

342 ~~(a) Prior to making a risk-bearing product available~~
343 ~~through the program, the corporation shall provide information~~
344 ~~regarding the product to the Office of Insurance Regulation. The~~
345 ~~office shall review the product information and provide consumer~~
346 ~~information and a recommendation on the risk-bearing product to~~
347 ~~the corporation within 30 days after receiving the product~~
348 ~~information.~~

349 ~~1. Upon receiving a recommendation that a risk-bearing~~
350 ~~product should be made available in the marketplace, the~~
351 ~~corporation may include the product on its website. If the~~
352 ~~consumer information and recommendation is not received within~~
353 ~~30 days, the corporation may make the risk-bearing product~~
354 ~~available on the website without consumer information from the~~
355 ~~office.~~

356 ~~2. Upon receiving a recommendation that a risk-bearing~~
357 ~~product should not be made available in the marketplace, the~~
358 ~~risk-bearing product may be included as an eligible product in~~
359 ~~the marketplace and on its website only if a majority of the~~
360 ~~board of directors vote to include the product.~~

361 ~~(b) If a risk-bearing product is made available on the~~
362 ~~website, the corporation shall make the consumer information and~~
363 ~~office recommendation available on the website and in print~~
364 ~~format. The corporation shall make late-submitted and ongoing~~

365 ~~updates to consumer information available on the website and in~~
366 ~~print format.~~

367 (9) RISK POOLING.—The program shall utilize methods for
368 pooling the risk of individual participants and preventing
369 selection bias. These methods shall include, but are not limited
370 to, a postenrollment risk adjustment of the premium payments to
371 the vendors. The corporation shall establish a methodology for
372 assessing the risk of enrolled individual participants based on
373 data reported annually by the vendors about their enrollees.
374 Monthly distributions of payments to the vendors shall be
375 adjusted based on the assessed relative risk profile of the
376 enrollees in each risk-bearing product for the most recent
377 period for which data is available.

378 (10) EXEMPTIONS.—

379 (a) Products, other than the risk-bearing products set
380 forth in subparagraph (4) (d)1. or subparagraph (4) (d)2.,
381 ~~Policies~~ sold as part of the program are not subject to the
382 licensing requirements of the Florida Insurance Code, as defined
383 in s. 624.01 ~~chapter 641~~, or the mandated offerings or coverages
384 established in part VI of chapter 627 and chapter 641.

385 (b) The corporation may act as an administrator as defined
386 in s. 626.88 but is not required to be certified pursuant to
387 part VII of chapter 626. However, a third party administrator
388 used by the corporation must be certified under part VII of
389 chapter 626.

390 (11) CORPORATION.—There is created the Florida Health
391 Choices, Inc., which shall be registered, incorporated,
392 organized, and operated in compliance with part III of chapter

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393 112 and chapters 119, 286, and 617. The purpose of the
394 corporation is to administer the program created in this section
395 and to conduct such other business as may further the
396 administration of the program.

397 (a) The corporation shall be governed by a 15-member board
398 of directors consisting of:

399 1. Three ex officio, nonvoting members to include:

400 a. The Secretary of Health Care Administration or a
401 designee with expertise in health care services.

402 b. The Secretary of Management Services or a designee with
403 expertise in state employee benefits.

404 c. The commissioner of the Office of Insurance Regulation
405 or a designee with expertise in insurance regulation.

406 2. Four members appointed by and serving at the pleasure
407 of the Governor.

408 3. Four members appointed by and serving at the pleasure
409 of the President of the Senate.

410 4. Four members appointed by and serving at the pleasure
411 of the Speaker of the House of Representatives.

412 5. Board members may not include insurers, health
413 insurance agents or brokers, health care providers, health
414 maintenance organizations, prepaid service providers, or any
415 other entity, affiliate or subsidiary of eligible vendors.

416 (b) Members shall be appointed for terms of up to 3 years.
417 Any member is eligible for reappointment. A vacancy on the board
418 shall be filled for the unexpired portion of the term in the
419 same manner as the original appointment.

420 (c) The board shall select a chief executive officer for

421 the corporation who shall be responsible for the selection of
 422 such other staff as may be authorized by the corporation's
 423 operating budget as adopted by the board.

424 (d) Board members are entitled to receive, from funds of
 425 the corporation, reimbursement for per diem and travel expenses
 426 as provided by s. 112.061. No other compensation is authorized.

427 (e) There is no liability on the part of, and no cause of
 428 action shall arise against, any member of the board or its
 429 employees or agents for any action taken by them in the
 430 performance of their powers and duties under this section.

431 (f) The board shall develop and adopt bylaws and other
 432 corporate procedures as necessary for the operation of the
 433 corporation and carrying out the purposes of this section. The
 434 bylaws shall:

435 1. Specify procedures for selection of officers and
 436 qualifications for reappointment, provided that no board member
 437 shall serve more than 9 consecutive years.

438 2. Require an annual membership meeting that provides an
 439 opportunity for input and interaction with individual
 440 participants in the program.

441 3. Specify policies and procedures regarding conflicts of
 442 interest, including the provisions of part III of chapter 112,
 443 which prohibit a member from participating in any decision that
 444 would inure to the benefit of the member or the organization
 445 that employs the member. The policies and procedures shall also
 446 require public disclosure of the interest that prevents the
 447 member from participating in a decision on a particular matter.

448 (g) The corporation may exercise all powers granted to it

449 | under chapter 617 necessary to carry out the purposes of this
450 | section, including, but not limited to, the power to receive and
451 | accept grants, loans, or advances of funds from any public or
452 | private agency and to receive and accept from any source
453 | contributions of money, property, labor, or any other thing of
454 | value to be held, used, and applied for the purposes of this
455 | section.

456 | (h) The corporation may establish technical advisory
457 | panels consisting of interested parties, including consumers,
458 | health care providers, individuals with expertise in insurance
459 | regulation, and insurers.

460 | (i) The corporation shall:

461 | 1. Determine eligibility of employers, vendors,
462 | individuals, and agents in accordance with subsection (4).

463 | 2. Establish procedures necessary for the operation of the
464 | program, including, but not limited to, procedures for
465 | application, enrollment, risk assessment, risk adjustment, plan
466 | administration, performance monitoring, and consumer education.

467 | 3. Arrange for collection of contributions from
468 | participating employers and individuals.

469 | 4. Arrange for payment of premiums and other appropriate
470 | disbursements based on the selections of products and services
471 | by the individual participants.

472 | 5. Establish criteria for disenrollment of participating
473 | individuals based on failure to pay the individual's share of
474 | any contribution required to maintain enrollment in selected
475 | products.

476 | 6. Establish criteria for exclusion of vendors pursuant to

477 paragraph (4) (d).

478 7. Develop and implement a plan for promoting public
479 awareness of and participation in the program.

480 8. Secure staff and consultant services necessary to the
481 operation of the program.

482 9. Establish policies and procedures regarding
483 participation in the program for individuals, vendors, health
484 insurance agents, and employers.

485 10. Provide for the operation of a toll-free hotline to
486 respond to requests for assistance.

487 11. Provide for initial, open, and special enrollment
488 periods.

489 ~~10. Develop a plan, in coordination with the Department of~~
490 ~~Revenue, to establish tax credits or refunds for employers that~~
491 ~~participate in the program. The corporation shall submit the~~
492 ~~plan to the Governor, the President of the Senate, and the~~
493 ~~Speaker of the House of Representatives by January 1, 2009.~~

494 (12) REPORT.—Beginning in the 2009-2010 fiscal year,
495 submit by February 1 an annual report to the Governor, the
496 President of the Senate, and the Speaker of the House of
497 Representatives documenting the corporation's activities in
498 compliance with the duties delineated in this section.

499 (13) PROGRAM INTEGRITY.—To ensure program integrity and to
500 safeguard the financial transactions made under the auspices of
501 the program, the corporation is authorized to establish
502 qualifying criteria and certification procedures for vendors,
503 require performance bonds or other guarantees of ability to
504 complete contractual obligations, monitor the performance of

505 vendors, and enforce the agreements of the program through
 506 financial penalty or disqualification from the program.

507 Section 2. Section 409.821, Florida Statutes, is amended
 508 to read:

509 409.821 Florida Kidcare program public records exemption.—

510 (1) Personal identifying information of a Florida Kidcare
 511 program applicant or enrollee, as defined in s. 409.811, held by
 512 the Agency for Health Care Administration, the Department of
 513 Children and Family Services, the Department of Health, or the
 514 Florida Healthy Kids Corporation is confidential and exempt from
 515 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

516 (2)(a) Upon request, such information shall be disclosed
 517 to:

518 1. Another governmental entity in the performance of its
 519 official duties and responsibilities;

520 2. The Department of Revenue for purposes of administering
 521 the state Title IV-D program; ~~or~~

522 3. The Florida Health Choices, Inc., for the purpose of
 523 administering the program authorized pursuant to s. 408.910; or

524 ~~4.3.~~ Any person who has the written consent of the program
 525 applicant.

526 (b) This section does not prohibit an enrollee's legal
 527 guardian from obtaining confirmation of coverage, dates of
 528 coverage, the name of the enrollee's health plan, and the amount
 529 of premium being paid.

530 (3) This exemption applies to any information identifying
 531 a Florida Kidcare program applicant or enrollee held by the
 532 Agency for Health Care Administration, the Department of

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533 Children and Family Services, the Department of Health, or the
534 Florida Healthy Kids Corporation before, on, or after the
535 effective date of this exemption.

536 (4) A knowing and willful violation of this section is a
537 misdemeanor of the second degree, punishable as provided in s.
538 775.082 or s. 775.083.

539 Section 3. This act shall take effect July 1, 2011.