

1                   A bill to be entitled  
 2           An act relating to workers' compensation; amending s.  
 3           440.13, F.S.; deleting the definition of the term  
 4           "certified health care provider"; deleting provisions  
 5           providing for removal of physicians from lists of  
 6           those authorized to render medical care under certain  
 7           conditions; conforming provisions to changes made by  
 8           the act; amending s. 440.102, F.S.; revising a cross-  
 9           reference to conform to changes made by the act;  
 10          providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Paragraphs (e) through (t) of subsection (1) of  
 15           section 440.13, Florida Statutes, are redesignated as paragraphs  
 16           (d) through (s), respectively, subsections (14) through (17) of  
 17           that section are renumbered as subsections (13) through (16),  
 18           respectively, and present paragraphs (d), (h), and (q) of  
 19           subsection (1), paragraphs (a), (c), (e), and (i) of subsection  
 20           (3), paragraph (b) of subsection (8), paragraph (e) of  
 21           subsection (12), subsection (13), and paragraph (a) of present  
 22           subsection (14) of that section, are amended to read:

23           440.13 Medical services and supplies; penalty for  
 24           violations; limitations.—

25           (1) DEFINITIONS.—As used in this section, the term:

26           ~~(d) "Certified health care provider" means a health care~~  
 27           ~~provider who has been certified by the department or who has~~  
 28           ~~entered an agreement with a licensed managed care organization~~

29 ~~to provide treatment to injured workers under this section.~~  
 30 ~~Certification of such health care provider must include~~  
 31 ~~documentation that the health care provider has read and is~~  
 32 ~~familiar with the portions of the statute, impairment guides,~~  
 33 ~~practice parameters, protocols of treatment, and rules which~~  
 34 ~~govern the provision of remedial treatment, care, and~~  
 35 ~~attendance.~~

36 (g) ~~(h)~~ "Health care provider" means a physician or any  
 37 recognized practitioner who provides skilled services pursuant  
 38 to a prescription or under the supervision or direction of a  
 39 physician and ~~who has been certified by the department as a~~  
 40 ~~health care provider.~~ The term "health care provider" includes a  
 41 health care facility.

42 (p) ~~(q)~~ "Physician" or "doctor" means a physician licensed  
 43 under chapter 458, an osteopathic physician licensed under  
 44 chapter 459, a chiropractic physician licensed under chapter  
 45 460, a podiatric physician licensed under chapter 461, an  
 46 optometrist licensed under chapter 463, or a dentist licensed  
 47 under chapter 466, ~~each of whom must be certified by the~~  
 48 ~~department as a health care provider.~~

49 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

50 (a) As a condition to eligibility for payment under this  
 51 chapter, a health care provider who renders services ~~must be a~~  
 52 ~~certified health care provider and~~ must receive authorization  
 53 from the carrier before providing treatment. This paragraph does  
 54 not apply to emergency care. ~~The department shall adopt rules to~~  
 55 ~~implement the certification of health care providers.~~

56 (c) A health care provider may not refer the employee to

HB 4181

2012

57 another health care provider, diagnostic facility, therapy  
58 center, or other facility without prior authorization from the  
59 carrier, except when emergency care is rendered. Any referral  
60 ~~must be to a health care provider that has been certified by the~~  
61 ~~department,~~ unless the referral is for emergency treatment, ~~and~~  
62 ~~the referral~~ must be made in accordance with practice parameters  
63 and protocols of treatment as provided for in this chapter.

64 (e) Carriers shall adopt procedures for receiving,  
65 reviewing, documenting, and responding to requests for  
66 authorization. Such procedures shall be for a health care  
67 provider ~~certified~~ under this section.

68 (i) Notwithstanding paragraph (d), a claim for specialist  
69 consultations, surgical operations, physiotherapeutic or  
70 occupational therapy procedures, X-ray examinations, or special  
71 diagnostic laboratory tests that cost more than \$1,000 and other  
72 specialty services that the department identifies by rule is not  
73 valid and reimbursable unless the services have been expressly  
74 authorized by the carrier, or unless the carrier has failed to  
75 respond within 10 days to a written request for authorization,  
76 or unless emergency care is required. The insurer shall  
77 authorize such consultation or procedure unless the health care  
78 provider or facility is not authorized ~~or certified~~, unless such  
79 treatment is not in accordance with practice parameters and  
80 protocols of treatment established in this chapter, or unless a  
81 judge of compensation claims has determined that the  
82 consultation or procedure is not medically necessary, not in  
83 accordance with the practice parameters and protocols of  
84 treatment established in this chapter, or otherwise not

HB 4181

2012

85 | compensable under this chapter. Authorization of a treatment  
 86 | plan does not constitute express authorization for purposes of  
 87 | this section, except to the extent the carrier provides  
 88 | otherwise in its authorization procedures. This paragraph does  
 89 | not limit the carrier's obligation to identify and disallow  
 90 | overutilization or billing errors.

91 | (8) PATTERN OR PRACTICE OF OVERUTILIZATION.—

92 | (b) If the department determines that a health care  
 93 | provider has engaged in a pattern or practice of overutilization  
 94 | or a violation of this chapter or rules adopted by the  
 95 | department, including a pattern or practice of providing  
 96 | treatment in excess of the practice parameters or protocols of  
 97 | treatment, it may impose one or more of the following penalties:

98 | 1. An order of the department barring the provider from  
 99 | payment under this chapter;

100 | 2. Deauthorization of care under review;

101 | 3. Denial of payment for care rendered in the future;

102 | ~~4. Decertification of a health care provider certified as~~  
 103 | ~~an expert medical advisor under subsection (9) or of a~~  
 104 | ~~rehabilitation provider certified under s. 440.49;~~

105 | 4.5. An administrative fine assessed by the department in  
 106 | an amount not to exceed \$5,000 per instance of overutilization  
 107 | or violation; and

108 | 5.6. Notification of and review by the appropriate  
 109 | licensing authority pursuant to s. 440.106(3).

110 | (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
 111 | REIMBURSEMENT ALLOWANCES.—

112 | (e) In addition to establishing the uniform schedule of

HB 4181

2012

113 maximum reimbursement allowances, the panel shall:

114 1. Take testimony, receive records, and collect data to  
115 evaluate the adequacy of the workers' compensation fee schedule,  
116 nationally recognized fee schedules and alternative methods of  
117 reimbursement to ~~certified~~ health care providers and health care  
118 facilities for inpatient and outpatient treatment and care.

119 2. Survey ~~certified~~ health care providers and health care  
120 facilities to determine the availability and accessibility of  
121 workers' compensation health care delivery systems for injured  
122 workers.

123 3. Survey carriers to determine the estimated impact on  
124 carrier costs and workers' compensation premium rates by  
125 implementing changes to the carrier reimbursement schedule or  
126 implementing alternative reimbursement methods.

127 4. Submit recommendations on or before January 1, 2003,  
128 and biennially thereafter, to the President of the Senate and  
129 the Speaker of the House of Representatives on methods to  
130 improve the workers' compensation health care delivery system.

131  
132 The department, as requested, shall provide data to the panel,  
133 including, but not limited to, utilization trends in the  
134 workers' compensation health care delivery system. The  
135 department shall provide the panel with an annual report  
136 regarding the resolution of medical reimbursement disputes and  
137 any actions pursuant to subsection (8). The department shall  
138 provide administrative support and service to the panel to the  
139 extent requested by the panel.

140 ~~(13) REMOVAL OF PHYSICIANS FROM LISTS OF THOSE AUTHORIZED~~

HB 4181

2012

141 ~~TO RENDER MEDICAL CARE. The department shall remove from the~~  
142 ~~list of physicians or facilities authorized to provide remedial~~  
143 ~~treatment, care, and attendance under this chapter the name of~~  
144 ~~any physician or facility found after reasonable investigation~~  
145 ~~to have:~~

146 ~~(a) Engaged in professional or other misconduct or~~  
147 ~~incompetency in connection with medical services rendered under~~  
148 ~~this chapter;~~

149 ~~(b) Exceeded the limits of his or her or its professional~~  
150 ~~competence in rendering medical care under this chapter, or to~~  
151 ~~have made materially false statements regarding his or her or~~  
152 ~~its qualifications in his or her application;~~

153 ~~(c) Failed to transmit copies of medical reports to the~~  
154 ~~employer or carrier, or failed to submit full and truthful~~  
155 ~~medical reports of all his or her or its findings to the~~  
156 ~~employer or carrier as required under this chapter;~~

157 ~~(d) Solicited, or employed another to solicit for himself~~  
158 ~~or herself or itself or for another, professional treatment,~~  
159 ~~examination, or care of an injured employee in connection with~~  
160 ~~any claim under this chapter;~~

161 ~~(e) Refused to appear before, or to answer upon request~~  
162 ~~of, the department or any duly authorized officer of the state,~~  
163 ~~any legal question, or to produce any relevant book or paper~~  
164 ~~concerning his or her conduct under any authorization granted to~~  
165 ~~him or her under this chapter;~~

166 ~~(f) Self-referred in violation of this chapter or other~~  
167 ~~laws of this state; or~~

168 ~~(g) Engaged in a pattern of practice of overutilization or~~

HB 4181

2012

169 ~~a violation of this chapter or rules adopted by the department,~~  
 170 ~~including failure to adhere to practice parameters and protocols~~  
 171 ~~established in accordance with this chapter.~~

172 (13)~~(14)~~ PAYMENT OF MEDICAL FEES.—

173 (a) Except for emergency care treatment, fees for medical  
 174 services are payable only to a health care provider ~~certified~~  
 175 ~~and~~ authorized to render remedial treatment, care, or attendance  
 176 under this chapter. Carriers shall pay, disallow, or deny  
 177 payment to health care providers in the manner and at times set  
 178 forth in this chapter. A health care provider may not collect or  
 179 receive a fee from an injured employee within this state, except  
 180 as otherwise provided by this chapter. Such providers have  
 181 recourse against the employer or carrier for payment for  
 182 services rendered in accordance with this chapter. Payment to  
 183 health care providers or physicians shall be subject to the  
 184 medical fee schedule and applicable practice parameters and  
 185 protocols, regardless of whether the health care provider or  
 186 claimant is asserting that the payment should be made.

187 Section 2. Paragraph (p) of subsection (5) of section  
 188 440.102, Florida Statutes, is amended to read:

189 440.102 Drug-free workplace program requirements.—The  
 190 following provisions apply to a drug-free workplace program  
 191 implemented pursuant to law or to rules adopted by the Agency  
 192 for Health Care Administration:

193 (5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen  
 194 collection and testing for drugs under this section shall be  
 195 performed in accordance with the following procedures:

196 (p) All authorized remedial treatment, care, and

HB 4181

2012

197 attendance provided by a health care provider to an injured  
198 employee before medical and indemnity benefits are denied under  
199 this section must be paid for by the carrier or self-insurer.  
200 However, the carrier or self-insurer must have given reasonable  
201 notice to all affected health care providers that payment for  
202 treatment, care, and attendance provided to the employee after a  
203 future date certain will be denied. A health care provider, as  
204 defined in s. 440.13(1)(g) ~~440.13(1)(h)~~, that refuses, without  
205 good cause, to continue treatment, care, and attendance before  
206 the provider receives notice of benefit denial commits a  
207 misdemeanor of the second degree, punishable as provided in s.  
208 775.082 or s. 775.083.

209 Section 3. This act shall take effect July 1, 2012.