

1 A bill to be entitled
 2 An act relating to insurer anti-fraud efforts;
 3 reordering and amending s. 626.9891, F.S.; providing
 4 and revising definitions; requiring every insurer to
 5 designate at least one primary anti-fraud employee for
 6 certain purposes; requiring insurers to adopt an anti-
 7 fraud plan; revising insurer requirements in providing
 8 anti-fraud information to the Department of Financial
 9 Services; requiring specified information to be filed
 10 annually with the department; revising the information
 11 to be provided by insurers who write workers'
 12 compensation insurance; requiring each insurer to
 13 provide annual anti-fraud education and training;
 14 requiring insurers who submit an application for a
 15 certificate of authority after a specified date to
 16 comply with the section; providing penalties for
 17 failure to comply with requirements of the section;
 18 amending s. 641.3915, F.S.; deleting obsolete
 19 provisions; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 626.9891, Florida Statutes, is
 24 reordered and amended to read:
 25 626.9891 Insurer anti-fraud investigative units; reporting

26 requirements; penalties for noncompliance.-

27 (1)~~(5)~~ As used in ~~For purposes of~~ this section, the term:

28 (a) "Anti-fraud investigative unit" means the designated
 29 anti-fraud unit or division, or contractor authorized under
 30 subparagraph (2) (a) 2.

31 (b) "Designated anti-fraud unit or division" includes a
 32 distinct unit or division or a unit or division made up of the
 33 assignment of fraud investigation to employees whose principal
 34 responsibilities are the investigation and disposition of claims
 35 who are also assigned investigation of fraud. ~~If an insurer~~
 36 ~~creates a distinct unit or division, hires additional employees,~~
 37 ~~or contracts with another entity to fulfill the requirements of~~
 38 ~~this section, the additional cost incurred must be included as~~
 39 ~~an administrative expense for ratemaking purposes.~~

40 (2)~~(1)~~ By December 31, 2017, every insurer admitted to do
 41 business in this state ~~who in the previous calendar year, at any~~
 42 ~~time during that year, had \$10 million or more in direct~~
 43 ~~premiums written~~ shall:

44 (a)1. Establish and maintain a designated anti-fraud unit
 45 or division within the company to investigate and report
 46 possible fraudulent insurance acts ~~claims~~ by insureds or by
 47 persons making claims for services or repairs against policies
 48 held by insureds; or

49 2.~~(b)~~ Contract with others to investigate and report
 50 possible fraudulent insurance acts by insureds or by persons

51 making claims for services or repairs against policies held by
52 insureds.

53 (b) Adopt an anti-fraud plan.

54 (c) Designate at least one employee with primary
55 responsibility for implementing the requirements of this
56 section.

57 (d) Electronically ~~An insurer subject to this subsection~~
58 ~~shall file with the Division of Investigative and Forensic~~
59 ~~Services of the department, and annually thereafter on or before~~
60 ~~July 1, 1996, a detailed description of the~~ designated anti-
61 fraud unit or division established pursuant to paragraph (a) or
62 a copy of the contract executed under subparagraph (a)2., as
63 applicable, a copy of the anti-fraud plan, and the name of the
64 employee designated under paragraph (c) and related documents
65 required by paragraph (b).

66
67 An insurer must include the additional cost incurred in creating
68 a distinct unit or division, hiring additional employees, or
69 contracting with another entity to fulfill the requirements of
70 this section, as an administrative expense for ratemaking
71 purposes.

72 ~~(2) Every insurer admitted to do business in this state,~~
73 ~~which in the previous calendar year had less than \$10 million in~~
74 ~~direct premiums written, must adopt an anti-fraud plan and file~~
75 ~~it with the Division of Investigative and Forensic Services of~~

76 | ~~the department on or before July 1, 1996. An insurer may, in~~
 77 | ~~lieu of adopting and filing an anti-fraud plan, comply with the~~
 78 | ~~provisions of subsection (1).~~

79 | (3) Each ~~insurers~~ anti-fraud plan ~~plans shall~~
 80 | include:

81 | (a) An acknowledgement that the insurer has established
 82 | procedures for detecting and investigating possible fraudulent
 83 | insurance acts relating to the different types of insurance by
 84 | that insurer ~~A description of the insurer's procedures for~~
 85 | ~~detecting and investigating possible fraudulent insurance acts;~~

86 | (b) An acknowledgment that the insurer has established ~~A~~
 87 | ~~description of the insurer's~~ procedures for the mandatory
 88 | reporting of possible fraudulent insurance acts to the Division
 89 | of Investigative and Forensic Services of the department;

90 | (c) An acknowledgement that the insurer provides the ~~A~~
 91 | ~~description of the insurer's plan for~~ anti-fraud education and
 92 | training required by this section to the anti-fraud
 93 | investigative unit ~~of its claims adjusters or other personnel;~~
 94 | and

95 | (d) A description of the required anti-fraud education and
 96 | training;

97 | (e) A written description or chart ~~outlining the~~
 98 | ~~organizational arrangement~~ of the insurer's anti-fraud
 99 | investigative unit, including the position titles and
 100 | descriptions of staffing ~~personnel who are responsible for the~~

101 ~~investigation and reporting of possible fraudulent insurance~~
102 ~~acts; and~~

103 (f) The rationale for the level of staffing and resources
104 being provided for the anti-fraud investigative unit which may
105 include objective criteria, such as the number of policies
106 written, the number of claims received on an annual basis, the
107 volume of suspected fraudulent claims detected on an annual
108 basis, an assessment of the optimal caseload that one
109 investigator can handle on an annual basis, and other factors.

110 (4) By December 31, 2018, each insurer shall provide staff
111 of the anti-fraud investigative unit at least 2 hours of initial
112 anti-fraud training that is designed to assist in identifying
113 and evaluating instances of suspected fraudulent insurance acts
114 in underwriting or claims activities. Annually thereafter, an
115 insurer shall provide such employees a 1-hour course that
116 addresses detection, referral, investigation, and reporting of
117 possible fraudulent insurance acts for the types of insurance
118 lines written by the insurer.

119 (5) Each insurer is required to report data related to
120 fraud for each line of insurance written by the insurer during
121 the prior calendar year. The data shall be reported to the
122 department by March 1, 2019, and annually thereafter, and must
123 include, at a minimum:

124 (a) The number of policies in effect;

125 (b) The amount of premiums written for policies;

- 126 (c) The number of claims received;
- 127 (d) The number of claims referred to the anti-fraud
128 investigative unit;
- 129 (e) The number of other insurance fraud matters referred
130 to the anti-fraud investigative unit that were not claim
131 related;
- 132 (f) The number of claims investigated or accepted by the
133 anti-fraud investigative unit;
- 134 (g) The number of other insurance fraud matters
135 investigated or accepted by the anti-fraud investigative unit
136 that were not claim related;
- 137 (h) The number of cases referred to the Division of
138 Investigative and Forensic Services;
- 139 (i) The number of cases referred to other law enforcement
140 agencies;
- 141 (j) The number of cases referred to other entities; and
- 142 (k) The estimated dollar amount or range of damages on
143 cases referred to the Division of Investigative and Forensic
144 Services or other agencies.
- 145 (6) In addition to providing information required under
146 subsections (2), (4), and (5), each insurer writing workers'
147 compensation insurance shall also report the following
148 information to the department, on or before March 1, 2019, and
149 annually thereafter August 1 of each year, on its experience in
150 implementing and maintaining an anti-fraud investigative unit or

151 ~~an anti-fraud plan. The report must include, at a minimum:~~

152 (a) The estimated dollar amount of losses attributable to
153 workers' compensation fraud delineated by the type of fraud,
154 including claimant, employer, provider, agent, or other type.

155 (b) The estimated dollar amount of recoveries attributable
156 to workers' compensation fraud delineated by the type of fraud,
157 including claimant, employer, provider, agent, or other type.

158 (c) The number of cases referred to the Division of
159 Investigative and Forensic Services, delineated by the type of
160 fraud, including claimant, employer, provider, agent, or other
161 type.

162 ~~(a) The dollar amount of recoveries and losses~~
163 ~~attributable to workers' compensation fraud delineated by the~~
164 ~~type of fraud: claimant, employer, provider, agent, or other.~~

165 ~~(b) The number of referrals to the Bureau of Workers'~~
166 ~~Compensation Fraud for the prior year.~~

167 ~~(c) A description of the organization of the anti-fraud~~
168 ~~investigative unit, if applicable, including the position titles~~
169 ~~and descriptions of staffing.~~

170 ~~(d) The rationale for the level of staffing and resources~~
171 ~~being provided for the anti-fraud investigative unit, which may~~
172 ~~include objective criteria such as number of policies written,~~
173 ~~number of claims received on an annual basis, volume of~~
174 ~~suspected fraudulent claims currently being detected, other~~
175 ~~factors, and an assessment of optimal caseload that can be~~

176 | ~~handled by an investigator on an annual basis.~~

177 | ~~(c) The inservice education and training provided to~~
178 | ~~underwriting and claims personnel to assist in identifying and~~
179 | ~~evaluating instances of suspected fraudulent activity in~~
180 | ~~underwriting or claims activities.~~

181 | ~~(f) A description of a public awareness program focused on~~
182 | ~~the costs and frequency of insurance fraud and methods by which~~
183 | ~~the public can prevent it.~~

184 | ~~(7)-(4) An~~ Any insurer who obtains a certificate of
185 | authority has 6 ~~after July 1, 1995,~~ shall have ~~18~~ months in
186 | which to comply with subsection (2), and 1 calendar year
187 | thereafter, to comply with subsections (4), (5), and (6) the
188 | ~~requirements of this section.~~

189 | ~~(8)-(7) If an insurer fails to timely submit a final~~
190 | ~~acceptable anti-fraud plan or anti-fraud investigative unit~~
191 | ~~description, fails to implement the provisions of a plan or an~~
192 | ~~anti-fraud investigative unit description,~~ or otherwise refuses
193 | to comply with the provisions of this section, the department,
194 | office, or commission may:

195 | (a) Impose an administrative fine of not more than \$2,000
196 | per day for such failure ~~by an insurer to submit an acceptable~~
197 | ~~anti-fraud plan or anti-fraud investigative unit description,~~
198 | until the department, office, or commission deems the insurer to
199 | be in compliance;

200 | (b) Impose an administrative fine for failure by an

201 insurer to implement or follow the provisions of an anti-fraud
202 plan or anti-fraud investigative unit description; or

203 (c) Impose the provisions of both paragraphs (a) and (b).

204 (9)~~(8)~~ The department may adopt rules to administer this
205 section.

206 Section 2. Section 641.3915, Florida Statutes, is amended
207 to read:

208 641.3915 Health maintenance organization anti-fraud plans
209 and investigative units.—Each authorized health maintenance
210 organization and applicant for a certificate of authority shall
211 comply with the provisions of ss. 626.989 and 626.9891 as though
212 such organization or applicant were an authorized insurer. ~~For~~
213 ~~purposes of this section, the reference to the year 1996 in s.~~
214 ~~626.9891 means the year 2000 and the reference to the year 1995~~
215 ~~means the year 1999.~~

216 Section 3. This act shall take effect September 1, 2017.