

1 A bill to be entitled
2 An act relating to freestanding emergency departments;
3 amending s. 395.002, F.S.; providing and revising
4 definitions; conforming cross-references; amending s.
5 395.003, F.S.; removing an obsolete date related to a
6 prohibition on new emergency departments located off
7 the premises of licensed hospitals; amending s.
8 395.1041, F.S.; prohibiting a freestanding emergency
9 department from holding itself out to the public as an
10 urgent care center; requiring a freestanding emergency
11 department to clearly identify itself as a hospital
12 emergency department using certain signage; requiring
13 a freestanding emergency department to post signs in
14 certain locations which contain specified statements;
15 providing requirements for such signs; providing
16 requirements for the advertisement of freestanding
17 emergency departments; requiring the Agency for Health
18 Care Administration to post certain information on its
19 website describing the differences between a
20 freestanding emergency department and an urgent care
21 center; requiring the agency to update such
22 information on its website at least annually;
23 requiring a hospital to post a link to such
24 information on its website; amending s. 627.6405,
25 F.S.; removing legislative findings and intent;

26 requiring a health insurer to post certain information
 27 regarding appropriate utilization of emergency care
 28 services on its website and update such information
 29 annually; revising a definition; amending ss. 385.211,
 30 390.011, 394.4787, 395.701, 400.9935, 409.905,
 31 409.975, 468.505, 627.64194, and 765.101, F.S.;
 32 conforming cross-references; providing an effective
 33 date.

34
 35 Be It Enacted by the Legislature of the State of Florida:

36
 37 Section 1. Subsections (10) through (32) of section
 38 395.002, Florida Statutes, are renumbered as subsections (11)
 39 through (33), respectively, present subsections (10), (27), and
 40 (29) are amended, and a new subsection (10) is added to that
 41 section, to read:

42 395.002 Definitions.—As used in this chapter:

43 (10) "Freestanding emergency department" means a facility
 44 that:

45 (a) Provides emergency services and care;

46 (b) Is owned and operated by a licensed hospital and
 47 operates under the license of the hospital; and

48 (c) Is located on separate premises from the hospital.

49 (11)~~(10)~~ "General hospital" means any facility which meets
 50 the provisions of subsection (13) ~~(12)~~ and which regularly makes

51 its facilities and services available to the general population.

52 ~~(28)~~(27) "Specialty hospital" means any facility which
53 meets the provisions of subsection (13) ~~(12)~~, and which
54 regularly makes available either:

55 (a) The range of medical services offered by general
56 hospitals, but restricted to a defined age or gender group of
57 the population;

58 (b) A restricted range of services appropriate to the
59 diagnosis, care, and treatment of patients with specific
60 categories of medical or psychiatric illnesses or disorders; or

61 (c) Intensive residential treatment programs for children
62 and adolescents as defined in subsection (16) ~~(15)~~.

63 ~~(30)~~(29) "Urgent care center" means a facility or clinic
64 that provides immediate but not emergent ambulatory medical care
65 to patients. ~~The term includes an offsite emergency department
66 of a hospital that is presented to the general public in any
67 manner as a department where immediate and not only emergent
68 medical care is provided.~~ The term also includes:

69 (a) An offsite facility of a facility licensed under this
70 chapter, or a joint venture between a facility licensed under
71 this chapter and a provider licensed under chapter 458 or
72 chapter 459, that does not require a patient to make an
73 appointment and is presented to the general public in any manner
74 as a facility where immediate but not emergent medical care is
75 provided.

76 (b) A clinic organization that is licensed under part X of
 77 chapter 400, maintains three or more locations using the same or
 78 a similar name, does not require a patient to make an
 79 appointment, and holds itself out to the general public in any
 80 manner as a facility or clinic where immediate but not emergent
 81 medical care is provided.

82 Section 2. Paragraph (c) of subsection (1) of section
 83 395.003, Florida Statutes, is amended to read:

84 395.003 Licensure; denial, suspension, and revocation.—

85 (1)

86 ~~(c) Until July 1, 2006, additional emergency departments~~
 87 ~~located off the premises of licensed hospitals may not be~~
 88 ~~authorized by the agency.~~

89 Section 3. Paragraph (m) is added to subsection (3) of
 90 section 395.1041, Florida Statutes, to read:

91 395.1041 Access to emergency services and care.—

92 (3) EMERGENCY SERVICES; DISCRIMINATION; LIABILITY OF
 93 FACILITY OR HEALTH CARE PERSONNEL.—

94 (m)1. A freestanding emergency department may not hold
 95 itself out to the public as an urgent care center and must
 96 clearly identify itself as a hospital emergency department,
 97 using, at a minimum, prominent lighted external signage that
 98 includes the word "EMERGENCY" in conjunction with the name of
 99 the hospital.

100 2. A freestanding emergency department shall conspicuously

101 post signs at locations that are readily accessible to and
102 visible by patients outside the entrance to the facility and in
103 patient waiting areas which state the following: "THIS IS A
104 HOSPITAL EMERGENCY DEPARTMENT." Unless the freestanding
105 emergency department shares a location and a public entrance
106 with an urgent care center, the signs must also state the
107 following: "THIS IS NOT AN URGENT CARE CENTER. HOSPITAL
108 EMERGENCY DEPARTMENT RATES ARE BILLED FOR OUR SERVICES." The
109 signs must also specify the facility's average facility fee, if
110 any, and notify the public that the facility or a physician
111 providing medical care at the facility may be an out-of-network
112 provider. The signs must be at least 2 square feet in size and
113 the text must be in at least 36 point type.

114 3. Except as provided in this paragraph, any advertisement
115 for a freestanding emergency department must include the
116 following statement: "This emergency department is not an urgent
117 care center. It is part of (insert hospital name) and its
118 services and care are billed at hospital emergency department
119 rates." Any billboard advertising a freestanding emergency
120 department which measures at least 200 square feet must include
121 the following statement in clearly legible contrasting color
122 text at least 15 inches high: "(INSERT NAME OF HOSPITAL)
123 EMERGENCY DEPARTMENT. THIS IS NOT AN URGENT CARE CENTER."

124 4.a. The agency shall post on its website information that
125 provides a description of the differences between a free

126 standing emergency department and an urgent care center. Such
127 description must include:

128 (I) At least two examples illustrating the impact on
129 insured and insurer paid amounts of inappropriate utilization of
130 nonemergent services and care in a hospital emergency department
131 setting compared to utilization of nonemergent services and care
132 in an urgent care center;

133 (II) An interactive tool to locate local urgent care
134 centers; and

135 (III) What to do in the event of a true emergency.

136 b. The agency shall update the information required in
137 sub-subparagraph a. at least annually. Each hospital shall post
138 a link to such information in a prominent location on its
139 website.

140 Section 4. Section 627.6405, Florida Statutes, is amended
141 to read:

142 627.6405 Decreasing inappropriate utilization of emergency
143 care.—

144 ~~(1) The Legislature finds and declares it to be of vital~~
145 ~~importance that emergency services and care be provided by~~
146 ~~hospitals and physicians to every person in need of such care,~~
147 ~~but with the double-digit increases in health insurance~~
148 ~~premiums, health care providers and insurers should encourage~~
149 ~~patients and the insured to assume responsibility for their~~
150 ~~treatment, including emergency care. The Legislature finds that~~

151 ~~inappropriate utilization of emergency department services~~
152 ~~increases the overall cost of providing health care and these~~
153 ~~costs are ultimately borne by the hospital, the insured~~
154 ~~patients, and, many times, by the taxpayers of this state.~~
155 ~~Finally, the Legislature declares that the providers and~~
156 ~~insurers must share the responsibility of providing alternative~~
157 ~~treatment options to urgent care patients outside of the~~
158 ~~emergency department. Therefore, it is the intent of the~~
159 ~~Legislature to place the obligation for educating consumers and~~
160 ~~creating mechanisms for delivery of care that will decrease the~~
161 ~~overutilization of emergency service on health insurers and~~
162 ~~providers.~~

163 (1)(2) A health insurer ~~insurers~~ shall post ~~provide~~ on its
164 website ~~their websites~~ information regarding appropriate
165 utilization of emergency care services which shall include, but
166 need not be limited to:;

167 (a) A list of alternative urgent care contracted
168 providers;;

169 (b) The types of services offered by these providers;;

170 (c) A comparison of statewide average in-network and out-
171 of-network urgent care center and freestanding emergency
172 department charges for the 30 most common urgent care center
173 services;

174 (d) At least two examples illustrating the impact on
175 insured and insurer paid amounts of inappropriate utilization of

176 nonemergent services and care in a hospital emergency department
 177 setting compared to utilization of nonemergent services and care
 178 in an urgent care center;

179 (e) An interactive tool to locate local in-network and
 180 out-of-network urgent care centers; and

181 (f) What to do in the event of a true emergency.

182

183 Health insurers shall update the information required in this
 184 subsection on its website at least annually.

185 (2)(3) Health insurers shall develop community emergency
 186 department diversion programs. Such programs may include, at the
 187 discretion of the insurer, but not be limited to, enlisting
 188 providers to be on call to insurers after hours, coordinating
 189 care through local community resources, and providing incentives
 190 to providers for case management.

191 (3)(4) As a disincentive for insureds to inappropriately
 192 use emergency department services for nonemergency care, health
 193 insurers may require higher copayments for urgent care or
 194 primary care provided in an emergency department and higher
 195 copayments for use of out-of-network emergency departments.
 196 Higher copayments may not be charged for the utilization of the
 197 emergency department for emergency care. For the purposes of
 198 this section, the term "emergency care" has the same meaning as
 199 the term "emergency services and care" as defined ~~provided~~ in s.
 200 395.002(9) s. ~~395.002~~ and includes ~~shall include~~ services

201 provided to rule out an emergency medical condition.

202 Section 5. Subsection (2) of section 385.211, Florida
 203 Statutes, is amended to read:

204 385.211 Refractory and intractable epilepsy treatment and
 205 research at recognized medical centers.—

206 (2) Notwithstanding chapter 893, medical centers
 207 recognized pursuant to s. 381.925, or an academic medical
 208 research institution legally affiliated with a licensed
 209 children's specialty hospital as defined in s. 395.002(28) ~~s.~~
 210 ~~395.002(27)~~ that contracts with the Department of Health, may
 211 conduct research on cannabidiol and low-THC cannabis. This
 212 research may include, but is not limited to, the agricultural
 213 development, production, clinical research, and use of liquid
 214 medical derivatives of cannabidiol and low-THC cannabis for the
 215 treatment for refractory or intractable epilepsy. The authority
 216 for recognized medical centers to conduct this research is
 217 derived from 21 C.F.R. parts 312 and 316. Current state or
 218 privately obtained research funds may be used to support the
 219 activities described in this section.

220 Section 6. Subsection (7) of section 390.011, Florida
 221 Statutes, is amended to read:

222 390.011 Definitions.—As used in this chapter, the term:

223 (7) "Hospital" means a facility as defined in s.
 224 395.002(13) ~~s. 395.002(12)~~ and licensed under chapter 395 and
 225 part II of chapter 408.

226 Section 7. Subsection (7) of section 394.4787, Florida
 227 Statutes, is amended to read:

228 394.4787 Definitions; ss. 394.4786, 394.4787, 394.4788,
 229 and 394.4789.—As used in this section and ss. 394.4786,
 230 394.4788, and 394.4789:

231 (7) "Specialty psychiatric hospital" means a hospital
 232 licensed by the agency pursuant to s. 395.002(28) ~~s. 395.002(27)~~
 233 and part II of chapter 408 as a specialty psychiatric hospital.

234 Section 8. Paragraph (c) of subsection (1) of section
 235 395.701, Florida Statutes, is amended to read:

236 395.701 Annual assessments on net operating revenues for
 237 inpatient and outpatient services to fund public medical
 238 assistance; administrative fines for failure to pay assessments
 239 when due; exemption.—

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

241 (c) "Hospital" means a health care institution as defined
 242 in s. 395.002(13) ~~s. 395.002(12)~~, but does not include any
 243 hospital operated by a state agency.

244 Section 9. Paragraph (i) of subsection (1) of section
 245 400.9935, Florida Statutes, is amended to read:

246 400.9935 Clinic responsibilities.—

247 (1) Each clinic shall appoint a medical director or clinic
 248 director who shall agree in writing to accept legal
 249 responsibility for the following activities on behalf of the
 250 clinic. The medical director or the clinic director shall:

251 (i) Ensure that the clinic publishes a schedule of charges
252 for the medical services offered to patients. The schedule must
253 include the prices charged to an uninsured person paying for
254 such services by cash, check, credit card, or debit card. The
255 schedule may group services by price levels, listing services in
256 each price level. The schedule must be posted in a conspicuous
257 place in the reception area of any clinic that is considered an
258 urgent care center as defined in s. 395.002(30)(b) ~~s.~~
259 ~~395.002(29)(b)~~ and must include, but is not limited to, the 50
260 services most frequently provided by the clinic. The posting may
261 be a sign that must be at least 15 square feet in size or
262 through an electronic messaging board that is at least 3 square
263 feet in size. The failure of a clinic, including a clinic that
264 is considered an urgent care center, to publish and post a
265 schedule of charges as required by this section shall result in
266 a fine of not more than \$1,000, per day, until the schedule is
267 published and posted.

268 Section 10. Subsection (8) of section 409.905, Florida
269 Statutes, is amended to read:

270 409.905 Mandatory Medicaid services.—The agency may make
271 payments for the following services, which are required of the
272 state by Title XIX of the Social Security Act, furnished by
273 Medicaid providers to recipients who are determined to be
274 eligible on the dates on which the services were provided. Any
275 service under this section shall be provided only when medically

276 necessary and in accordance with state and federal law.
277 Mandatory services rendered by providers in mobile units to
278 Medicaid recipients may be restricted by the agency. Nothing in
279 this section shall be construed to prevent or limit the agency
280 from adjusting fees, reimbursement rates, lengths of stay,
281 number of visits, number of services, or any other adjustments
282 necessary to comply with the availability of moneys and any
283 limitations or directions provided for in the General
284 Appropriations Act or chapter 216.

285 (8) NURSING FACILITY SERVICES.—The agency shall pay for
286 24-hour-a-day nursing and rehabilitative services for a
287 recipient in a nursing facility licensed under part II of
288 chapter 400 or in a rural hospital, as defined in s. 395.602, or
289 in a Medicare certified skilled nursing facility operated by a
290 hospital, as defined by s. 395.002(11) ~~s. 395.002(10)~~, that is
291 licensed under part I of chapter 395, and in accordance with
292 provisions set forth in s. 409.908(2)(a), which services are
293 ordered by and provided under the direction of a licensed
294 physician. However, if a nursing facility has been destroyed or
295 otherwise made uninhabitable by natural disaster or other
296 emergency and another nursing facility is not available, the
297 agency must pay for similar services temporarily in a hospital
298 licensed under part I of chapter 395 provided federal funding is
299 approved and available. The agency shall pay only for bed-hold
300 days if the facility has an occupancy rate of 95 percent or

301 greater. The agency is authorized to seek any federal waivers to
 302 implement this policy.

303 Section 11. Paragraph (b) of subsection (1) of section
 304 409.975, Florida Statutes, is amended to read:

305 409.975 Managed care plan accountability.—In addition to
 306 the requirements of s. 409.967, plans and providers
 307 participating in the managed medical assistance program shall
 308 comply with the requirements of this section.

309 (1) PROVIDER NETWORKS.—Managed care plans must develop and
 310 maintain provider networks that meet the medical needs of their
 311 enrollees in accordance with standards established pursuant to
 312 s. 409.967(2)(c). Except as provided in this section, managed
 313 care plans may limit the providers in their networks based on
 314 credentials, quality indicators, and price.

315 (b) Certain providers are statewide resources and
 316 essential providers for all managed care plans in all regions.
 317 All managed care plans must include these essential providers in
 318 their networks. Statewide essential providers include:

- 319 1. Faculty plans of Florida medical schools.
- 320 2. Regional perinatal intensive care centers as defined in
 321 s. 383.16(2).
- 322 3. Hospitals licensed as specialty children's hospitals as
 323 defined in s. 395.002(28) ~~s. 395.002(27)~~.
- 324 4. Accredited and integrated systems serving medically
 325 complex children which comprise separately licensed, but

326 commonly owned, health care providers delivering at least the
327 following services: medical group home, in-home and outpatient
328 nursing care and therapies, pharmacy services, durable medical
329 equipment, and Prescribed Pediatric Extended Care.

330

331 Managed care plans that have not contracted with all statewide
332 essential providers in all regions as of the first date of
333 recipient enrollment must continue to negotiate in good faith.
334 Payments to physicians on the faculty of nonparticipating
335 Florida medical schools shall be made at the applicable Medicaid
336 rate. Payments for services rendered by regional perinatal
337 intensive care centers shall be made at the applicable Medicaid
338 rate as of the first day of the contract between the agency and
339 the plan. Except for payments for emergency services, payments
340 to nonparticipating specialty children's hospitals shall equal
341 the highest rate established by contract between that provider
342 and any other Medicaid managed care plan.

343 Section 12. Paragraph (1) of subsection (1) of section
344 468.505, Florida Statutes, is amended to read:

345 468.505 Exemptions; exceptions.—

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

348 (1) A person employed by a nursing facility exempt from
349 licensing under s. 395.002(13) ~~s. 395.002(12)~~, or a person
350 exempt from licensing under s. 464.022.

351 Section 13. Paragraph (b) of subsection (1) of section
 352 627.64194, Florida Statutes, is amended to read:

353 627.64194 Coverage requirements for services provided by
 354 nonparticipating providers; payment collection limitations.—

355 (1) As used in this section, the term:

356 (b) "Facility" means a licensed facility as defined in s.
 357 395.002(17) ~~s. 395.002(16)~~ and an urgent care center as defined
 358 in s. 395.002.

359 Section 14. Subsection (2) of section 765.101, Florida
 360 Statutes, is amended to read:

361 765.101 Definitions.—As used in this chapter:

362 (2) "Attending physician" means the physician who has
 363 primary responsibility for the treatment and care of the patient
 364 while the patient receives such treatment or care in a hospital
 365 as defined in s. 395.002(13) ~~s. 395.002(12)~~.

366 Section 15. This act shall take effect July 1, 2021.