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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:

13
 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~~

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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

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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

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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

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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~~

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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~~

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

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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.