

# Florida No-Fault Law Reform

Presented by  
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Casualty Loss Reserve Seminar  
Denver, CO

September 6-7, 2012




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# CAS Antitrust Notice

- The Casualty Actuarial Society is committed to adhering strictly to the letter and spirit of the antitrust laws. Seminars conducted under the auspices of the CAS are designed solely to provide a forum for the expression of various points of view on topics described in the programs or agendas for such meetings.
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- It is the responsibility of all seminar participants to be aware of antitrust regulations, to prevent any written or verbal discussions that appear to violate these laws, and to adhere in every respect to the CAS antitrust compliance policy.




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# Background - Example

Standard Residuals of Paid Development Factors

As of June 30, 2011

Accident Quarter	Months of Development																
	3	6	9	12	15	18	21	24	30	33	36	39	42	45	48	51	
2008-10	-0.27	-0.06	-0.47	-0.82	0.00	0.04	0.08	-0.57	0.48	-0.21	-0.22	-0.32	0.02	0.67	2.60	1.99	5.18
2008-20	0.21	-0.58	-0.57	-0.40	2.93	0.70	0.02	-0.13	-0.14	-0.36	-0.24	0.09	0.19	2.01	3.92	1.85	
2008-30	-0.29	-0.63	-0.40	-0.71	-0.49	-0.87	-0.54	-0.15	-0.71	0.38	0.95	0.31	2.27	4.11	2.41		
2008-40	-0.74	-0.47	-0.59	-0.05	-0.80	-0.67	-0.45	-1.01	-0.48	-0.08	-0.42	2.34	4.18	2.63			
2009-10	-0.37	0.16	-0.60	-0.89	0.39	-1.05	-0.89	-0.35	-0.43	1.69	2.29	3.33	2.40				
2009-20	-0.30	-0.88	-0.70	-0.69	-0.46	-0.47	-0.32	-0.36	0.49	2.30	3.53	3.62					
2009-30	-0.26	0.03	0.37	0.19	-0.12	0.02	-0.26	0.69	1.85	3.99	3.21						
2009-40	-0.42	1.20	0.76	0.40	-0.48	-0.65	1.84	1.16	4.33	2.26							
2010-10	0.41	1.23	0.28	0.05	0.39	0.63	0.71	3.95	2.15								
2010-20	0.18	0.37	0.07	0.33	0.18	1.37	4.22	2.02									
2010-30	0.24	-0.28	0.33	-0.11	-0.01	1.88	1.22										
2010-40	-0.08	0.71	-0.81	-1.10	-0.42	-0.33											
2011-10	-0.04	-0.88	-1.05	-0.26	-0.12												
2011-20	-0.41	-0.30	-0.55	-1.26													
2011-30	0.23	-0.55	0.53														
2011-40	0.20	-0.22															
2012-10	0.51																




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**Background**

- Florida Statute 627.736 part (5) "Charges for Treatment of Injured Persons"
  - Insurers paying 200% of Medicare schedule
  - "Permissive vs. Mandatory"
- Fraud
  - According to NICB, the states that generated the most questionable claims, in order, were:
    - A) New Jersey, New York, Florida
    - B) California, Michigan, Florida
    - C) Florida, New York, California
- Legal

4 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Motor Vehicle Personal Injury Protection Insurance**

- House and Senate approved HB119 on March 9, 2012
- Governor Rick Scott, signed into law on May 4, 2012
- Mostly effective on January 1, 2013 but some earlier
- Effect of law on personal injury protection policies
  - Full effect and force regardless of express inclusion
  - Insurer NOT required to amend or expressly notify to implement

5 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Coverage Benefits**

- Required to purchase a minimum of \$10,000 in PIP coverage
  - Non-emergency treatment are only entitled to up to \$2,500 in PIP benefits (as long as they were initially treated within 14 days of the accident).
  - \$5,000.00 death benefit is over and above and in addition to the \$10,000 medical and disability benefits.
- However, those injured in accidents may only receive the \$10,000 in PIP medical and disability benefits if:
  - Victim(s) receives initial medical treatment for an **emergency medical condition no later than 14 days** (what if they don't?) after the auto accident;
  - follow-up treatment is based on a referral from the healthcare professional that provided initial services;
  - such follow-up care is consistent with the underlying medical diagnosis rendered at the initial visit; and
  - the claimant submits to an **examination under oath (EUO)** if requested by insurer.

6 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Medical Benefits and its Limits**

- Initial and follow up medical care requirements
  - Who can treat and what types of facilities
- Reimbursement is limited to \$10,000 if:
  - A medical doctor, an osteopath, a dentist, a physician's assistant, or an advanced registered nurse practitioner determines that the claimant suffered from an emergency medical condition
  - Chiropractors not authorized to determine "emergency medical condition"
- Massage and acupuncture not covered

7 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Medical Fee Schedule**

- Clarifies reimbursement levels for:
  - Ambulatory surgical centers and clinical laboratories and Durable medical equipment– 200% of appropriate Medicare Part B Schedule
- Medicare fee schedule effective March 1 will be the applicable fee schedule for the remainder of the year until the subsequent update
- Insurers authorized to use Medicare coding policies and payment methodologies of the Centers for Medicare and Medicare Services
- Insurers must include notice of fee schedule in their policies
- Effective January 1, 2013

8 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – What to expect?**

- Insured may purposely not receive treatment within 14 days to avoid PIP hurdles
- Will this squish fraud over to BI/UM?
  - Not required to attend IMEs or EUOs
  - No PIP off set (\$10,000 or \$2,500) for the BI/UM claim

9 August 10, 2012 

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## Florida No-Fault Law Reform

### CS/CS/HB 119 – Fraud Measures

- Long Form Crash Report
  - To be filled by law enforcement officer
  - When there is any indication of pain or discomfort
  - Identify vehicle in which each party was a driver or passenger
- Licensing of Clinics
  - All entities seeking reimbursement must obtain licensure (unless exempt)
- Explicit wording relating to fraud
  - Insurance Fraud Notice

10 August 10, 2012



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## Florida No-Fault Law Reform

### CS/CS/HB 119 – Licensing of Clinics

- Clinics to receive reimbursements under PIP must be licensed under the Health Care Clinic Act unless exempt
- Exemptions:
  - Hospitals or ambulatory surgery center
  - An entity that wholly owns or is wholly owned by a hospital
  - Clinics affiliated with accredited medical school
  - Entities wholly owned by medical doctor, osteopath, physician, dentist, chiropractor and their spouse, parent, child, or sibling

11 August 10, 2012



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## Florida No-Fault Law Reform

### CS/CS/HB 119 – Fraud

- Insurance Fraud Notice
  - *A person who knowingly submits a false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, seeking exemption from licensure as a health care clinic, or demonstrated compliance with the [Health Care Clinic Act] with the intent to use the license, exemption from licensure, or demonstration to provide services or seek reimbursement under the Florida Motor Vehicle No-Fault Law, commits a fraudulent insurance act, as defined in s. 626.989, Florida Statutes. A person who presents a claim for personal injury protection benefits knowing that the payee knowingly submitted such health care clinic application or document, commits insurance fraud as defined in s. 817.235, Florida Statutes.*
- More specific wording defining “fraudulent insurance act”

12 August 10, 2012



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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Fraud and Investigation**

- Anti-fraud measures allows for more time to investigate
  - 30 days from receipt of claim to notify claimant in writing of investigation for fraud
  - After 30 days, 60 days to conduct investigation
  - No later than 90 days from receipt of claim, insurer must deny or pay claim with interest
  - All denied claims for suspected fraud are reported to Division of Insurance Fraud.
- Examination Under Oath (EUO)
  - Requirement to receive PIP benefits
- Independent Medical Examinations (IMEs)
  - 2 strikes and you're out
- Automobile Insurance Fraud Strike Force
  - Purpose: Prevent, investigate, prosecute motor vehicle fraud

13 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Payment and Unfair Claims Settlement Practice**

- 30 days to reimburse Medicaid
- Claimants have additional 15 days to re-submit erroneous claim
- Log of all PIP benefits paid
- Insurer must provide notice within 15 days of exhaustion of PIP benefits
- Electronic submission of records is authorized effective December 1, 2012.
- Failing to pay within time periods required by 627.736 (4) (b)
  - Restitution including interest
  - Restitution is in addition to any other penalties allowed by law
  - May include other administrative penalties

14 August 10, 2012 

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**Florida No-Fault Law Reform**  
**CS/CS/HB 119 – Attorney Fees**

- No caps on fees
- But prohibits multipliers
- Offer of Judgment Statute is applied
- Fees must comply with prevailing professional standards, not overstate or inflate the number of hours reasonably necessary for the case of comparable skill or complexity, and represent legal services that are reasonable to achieve the result obtained

15 August 10, 2012 

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## Florida No-Fault Law Reform

### CS/CS/HB 119 – Effective Dates

- Section 18 states act shall take effect July 1, 2012.
- Section 10 states that amendments to Florida Statute subsections 627.736(1), (4), (5), (6), (7), (8), (9), (10), and (11) and the addition of subsection (17) are effective January 1, 2013.
- Except that new Florida Statute section 627.736(5)(a)(5) on Charges for Treatment of Injured Persons states:
  - Effective July 1, 2012, an insurer may limit payment only if the insurance policy includes a notice at the time of issuance or renewal that the insurer may limit payment pursuant to the schedule of charges specified in this paragraph.
- Section 11 (electronic transmission) of the bill states that the amendments to Florida Statute section 627.736(16) are effective December 1, 2012

16 August 10, 2012



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## Florida No-Fault Law Reform

### CS/CS/HB 119 – Mandatory Rate Filings

10/1/2012

1/1/2014

1/1/2015

Each insurer to submit rate filing. If rate does not provide for at least a 10% reduction of its current rate, then must explain why.

Second rate filing: If insurer does not provide at least a 25% reduction of rate effective on 7/1/2012, then must explain why.

OIR must perform comprehensive PIP data call (analyze impact of reform on PIP market) and publish results by this date.

17 August 10, 2012



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