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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/18/2019	.	
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The Committee on Banking and Insurance (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.42393, Florida Statutes, is created
to read:

627.42393 Individual health insurance policies; limiting
changes to prescription drug formularies.-

(1) Other than at the time of coverage renewal, an
individual insurance policy that is delivered, issued for



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11 delivery, renewed, amended, or continued in this state and that
12 provides medical, major medical, or similar comprehensive
13 coverage may not, while the insured is taking a prescription
14 drug:

15 (a) Remove the prescription drug from its list of covered
16 drugs during the policy year unless the United States Food and
17 Drug Administration has issued a statement about the drug which
18 calls into question the clinical safety of the drug or the
19 manufacturer of the drug has notified the United States Food and
20 Drug Administration of a manufacturing discontinuance or
21 potential discontinuance of the drug as required by s. 506C of
22 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

23 (b) Reclassify the drug to a more restrictive drug tier or
24 increase the amount that an insured must pay for a copayment,
25 coinsurance, or deductible for prescription drug benefits or
26 reclassify the drug to a higher cost-sharing tier during the
27 policy year.

28 (2) This section does not:

29 (a) Prohibit the addition of prescription drugs to the list
30 of drugs covered under the policy during the policy year.

31 (b) Apply to a grandfathered health plan as defined in s.
32 627.402, to benefits set forth in s. 627.6513(1)-(14), or to any
33 individual policy issued or delivered between March 23, 2010,
34 and December 31, 2013, inclusive.

35 (c) Alter or amend s. 465.025, which provides conditions
36 under which a pharmacist may substitute a generically equivalent
37 drug product for a brand name drug product.

38 (d) Alter or amend s. 465.0252, which provides conditions
39 under which a pharmacist may dispense a substitute biological



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40 product for the prescribed biological product.

41 (e) Apply to a Medicaid managed care plan under part IV of
42 chapter 409.

43 (f) Apply if the drug manufacturer increases the list price
44 of the prescription drug on the health insurer's formulary to
45 the health insurer or the pharmacy benefit manager after
46 November 1 of the year before the health insurer's earliest
47 required rate submission date to applicable state and federal
48 rate review authorities for the succeeding calendar or policy
49 year. Any changes in the health insurer's formulary must be
50 documented for internal purposes.

51 Section 2. Subsection (36) of section 641.31, Florida
52 Statutes, is amended to read:

53 641.31 Health maintenance contracts.—

54 (36) A health maintenance organization may increase the
55 copayment for any benefit, or delete, amend, or limit any of the
56 benefits to which a subscriber is entitled under the group
57 contract only, upon written notice to the contract holder at
58 least 45 days in advance of the time of coverage renewal. The
59 health maintenance organization may amend the contract with the
60 contract holder, with such amendment to be effective immediately
61 at the time of coverage renewal. The written notice to the
62 contract holder must ~~shall~~ specifically identify any deletions,
63 amendments, or limitations to any of the benefits provided in
64 the group contract during the current contract period which will
65 be included in the group contract upon renewal. This subsection
66 does not apply to any increases in benefits. The 45-day notice
67 requirement does ~~shall~~ not apply if benefits are amended,
68 deleted, or limited at the request of the contract holder.



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69 (a) With respect to individual health maintenance contracts
70 only, other than at the time of coverage renewal, a health
71 maintenance contract that provides medical, major medical, or
72 similar comprehensive coverage may not, while the subscriber is
73 taking a prescription drug:

74 1. Remove the prescription drug from its list of covered
75 drugs during the contract year unless the United States Food and
76 Drug Administration has issued a statement about the drug which
77 calls into question the clinical safety of the drug or the
78 manufacturer of the drug has notified the United States Food and
79 Drug Administration of a manufacturing discontinuance or
80 potential discontinuance of the drug as required by s. 506C of
81 the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

82 2. Reclassify the drug to a more restrictive drug tier or
83 increase the amount that an insured must pay for a copayment,
84 coinsurance, or deductible for prescription drug benefits or
85 reclassify the drug to a higher cost-sharing tier during the
86 contract year.

87 (b) This subsection does not:

88 1. Prohibit the addition of prescription drugs to the list
89 of drugs covered during the contract year.

90 2. Apply to a grandfathered health plan as defined in s.
91 627.402 or to benefits set forth in s. 627.6513(1)-(14).

92 3. Alter or amend s. 465.025, which provides conditions
93 under which a pharmacist may substitute a generically equivalent
94 drug product for a brand name drug product.

95 4. Alter or amend s. 465.0252, which provides conditions
96 under which a pharmacist may dispense a substitute biological
97 product for the prescribed biological product.



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98 5. Apply to a Medicaid managed care plan under part IV of
99 chapter 409.

100 6. Apply if the drug manufacturer increases the list price
101 of the prescription drug on the health maintenance
102 organization's formulary to the health maintenance organization
103 or the pharmacy benefit manager after November 1 of the year
104 before the health maintenance organization's earliest required
105 rate submission date to applicable state and federal rate review
106 authorities for the succeeding calendar or policy year. Any
107 changes in the health maintenance organization's formulary must
108 be documented for internal purposes.

109 7. Apply to group health maintenance organization
110 contracts.

111 Section 3. This act shall take effect January 1, 2020.

112
113 ===== T I T L E A M E N D M E N T =====

114 And the title is amended as follows:

115 Delete everything before the enacting clause
116 and insert:

117 A bill to be entitled
118 An act relating to consumer protection from nonmedical
119 changes to prescription drug formularies; creating s.
120 627.42393, F.S.; prohibiting specified changes to
121 certain individual health insurance policy
122 prescription drug formularies, except under certain
123 circumstances; providing construction and
124 applicability; providing that such prohibition does
125 not apply for certain prescription drug price
126 increases; requiring that formulary changes be



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127 documented for internal purposes; amending s. 641.31,
128 F.S.; prohibiting certain health maintenance
129 organizations from making specified changes to
130 individual health maintenance contract prescription
131 drug formularies, except under certain circumstances;
132 providing construction and applicability; providing
133 that such prohibition does not apply for certain
134 prescription drug price increases; requiring that
135 formulary changes be documented for internal purposes;
136 providing an effective date.